

cannot be identified among the 2 or 3,000 picules of paddy kept in B's granary, B is deemed the direct possessor of A's paddy, and by the effect of the present Section B's possession is equivalent to ownership. Now suppose that B does not perform his obligation to mill the paddy; A has an action for the return of 100 picules of paddy, or for delivery of their equivalent in milled rice, or for compensation, but he cannot pretend to identify his 100 picules of paddy among the bulk of 2 or 3,000 picules in the possession of B; A has therefore no action for recovery.

105. — The possessor of a specific or identified thing is presumed to be the owner of it.

F. 2230. G. 1006. J. 186 § 1.

Illustration : — If a discussion arises between two persons as to which of them is the owner of a thing, the one who possesses such thing shall be in the position of a defendant; the other one has to afford evidence of his right of ownership against the possessor, failing which the possessor will be left in possession on the ground of the presumption of ownership attached to possession. For instance, A is the possessor of a golden watch ; B contends that he is the owner of that watch. A is not bound to give evidence or explanation of how and when he became possessor of the watch; he must be left in possession until B has first brought conclusive evidence of his right of ownership. Supposing that B was able to produce such evidence, for instance by quoting the number written inside the watch and proving that he bought it from such jeweller at such time, the presumption of ownership in favour of A falls to the ground.

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