

**GALLEGOS
vs.
LOPEZ**

No. 2614

SUPREME COURT OF NEW MEXICO

1922-NMSC-001, 27 N.M. 603, 204 P. 71

January 05, 1922

Appeal from District Court, Union County; Leib, Judge.

Action by Leandro M. Gallegos against Rumaldo Lopez. Judgment for defendant, and plaintiff appeals.

SYLLABUS

SYLLABUS BY THE COURT

A general verdict in a replevin case is sufficient, in the absence of a request for special findings.

COUNSEL

O. T. Toombs and Livingston Taylor, both of Clayton, for appellant.

T. A. Whelan, of Clayton, for appellee.

JUDGES

Davis, J. Raynolds, C. J., and Parker, J., concur.

AUTHOR: DAVIS

OPINION

{*604} {1} OPINION OF THE COURT This is an action in replevin by which appellant sought to recover cattle of which he claimed ownership, and which were in possession of appellee. The cattle were taken and returned to him under the writ. Appellee's answer was a general denial. The issue on the trial was as to ownership, each party introducing

evidence to show title in himself. The jury returned a general verdict for appellee, as follows:

"We, the jury in the above entitled cause, find for the defendant."

{2} Upon this verdict judgment was entered, ordering that the cattle be returned to appellee, describing them according to the description in the writ.

{3} The only error assigned is that the verdict is not sufficient to sustain the judgment. Appellant argues that the verdict should contain a description of the property and should have found specifically which of the contending parties was the owner of the cattle, and whether the withholding by appellee was unlawful. There is no merit in the argument. Appellant made no request for special findings. This form of verdict was submitted to the jury by the court, and appellant did not object in any way to it. The general verdict for defendant was a finding for him upon all the issues of fact made by the pleadings. There was no necessity for a description of the cattle. The verdict applied to the cattle in litigation, the description of which he himself furnished {605} in the replevin affidavit. A repetition of the description in such a verdict was both unnecessary and improper.

{4} The judgment of the court below is affirmed; and it is so ordered.