

GUST LACKMAN, Appellant, vs. **J. J. W. JOHNS**, Appellee.

[January Term, A. D. 1905.]

Appeal from the Court of Quarter Sessions and Common Pleas, Sinoe County.

Damages.

In an action of damages for the unlawful killing of a hog, the allegation of a sum as special damages must be proven by unimpeached evidence, otherwise only the assessed valuation can be recovered.

This case was tried in the Court of Quarter Sessions and Common Pleas for Sinoe County and judgment given against defendant, now appellant. From inspection of the record we find that the cause of action grew out of an injury alleged to have been done to the plaintiff, now appellee, by the unlawful killing of a hog by the defendant, now appellant. The action was brought to redress said wrong and the plaintiff, now appellee, in his declaration plead special damages in the sum of \$150.00 for the injury complained of. The jury to whom was entrusted the duty to ascertain the damages, if any, the plaintiff, now appellee, had sustained, awarded the sum of \$81.00 as damages, and upon this verdict the court gave judgment accordingly. From this judgment, as well as from other rulings of the court below, the defendant, now appellant, excepted and appealed to this judicature for a rehearing of the case.

There are three distinct exceptions set forth in the bill of exceptions, but this court finds it unnecessary to consider them distinctly, since they virtually raise one and the same point, and therefore we propose to consider them collectively. The main exception is to the amount awarded by the jury and confirmed by the judgment of the court. Before proceeding to traverse the evidence upon which the verdict purports to be founded, we would observe that actions of damages are legally brought to redress injuries which the law has not provided some other remedy for. The object of such actions, speaking in a general sense, is to compel the wrongdoer to make satisfaction for wrongs he has committed upon the person, property or relation of the party

entitled to bring the action. Generally speaking, it does not partake of the nature of a criminal prosecution, whose object is to inflict punishment. But there are exceptions to the general rule, as will be found laid down in the statutes of Liberia ; as, for example, in an action of damages for the seduction of a wife or daughter ; the illegal taking away or harboring a wife, child or apprentice under twenty-one years of age ; or enticing an idiot or insane person from his or her legally appointed guardian or trustee; the breach of contract of promise or engagement to marry, etc.

Actions of this kind, though sounding in damages, partake of the nature of criminal prosecutions, and a jury in assessing damages in suits founded upon the foregoing causes, will not only take into consideration the actual loss or inconvenience of the plaintiff and award such sum as would adequately satisfy such loss or inconvenience, but may exceed this bound and award a greater sum, as, what is called in law, *exemplary damages*. But the case under review does not fall within this category; that is, it does not belong to that class of injuries for the redress of which the jury is not only to consider the actual loss or inconvenience sustained' by the plaintiff and award accordingly, but may give exemplary damages. It is true in this case that the plaintiff, now appellee, plead *special damages*; this, however, he was bound to prove substantially or the jury would not be justified in relying upon his claim as a just and equitable satisfaction for the injury complained of. It is a settled principle of law that special damages when relied upon must be specially pleaded and proven. The mere fact of alleging a sum in the complaint as requisite to satisfy the injury complained of, will not warrant a jury to take cognizance thereof unless it is proven by unimpeached testimony at the trial.

In the case under review there was no evidence submitted to show that plaintiff, now appellee, had been damaged to the amount pleaded in the complaint. This, as we have said, was necessary in a case where special damages are relied upon. The jury was then bound to award such damages as was shown by the evidence that the plaintiff, now appellee, had actually sustained. According to the evidence the value of the hog killed was assessed by appraisers to be \$8.00. This court cannot see upon what evidence the verdict of the jury was predicated, and regards the damages awarded as excessive. The verdict being illegal, it follows that the judgment, which is

predicated upon said verdict, must necessarily be illegal also, and this court adjudges that said verdict and judgment are illegal.

The judgment of the court below is hereby reversed. This court further adjudges that the plaintiff, now appellee, shall recover from the defendant, now appellant, the sum of eight dollars for his damages, and all legal costs in the action. The clerk of this court is hereby authorized to issue a mandate, under his hand and the seal of his office, to the judge of the court below, informing him of this decision.