

STERLING V. BURRAN, 1938-NMSC-006, 42 N.M. 216, 76 P.2d 469 (S. Ct. 1938)

**STERLING
vs.
BURRAN et ux.**

No. 4338

SUPREME COURT OF NEW MEXICO

1938-NMSC-006, 42 N.M. 216, 76 P.2d 469

January 17, 1938

Appeal from District Court, Lincoln County; Numa C. Frenger, Judge.

Rehearing Denied February 28, 1938.

Action of replevin by Oleta Bell Sterling against R. E. Burran and wife to recover possession of cattle. From a judgment for plaintiff for only a part of such cattle, plaintiff appeals.

COUNSEL

C. C. McCulloh, of Santa Fe, and H. B. Hamilton, of Santa Rosa, for appellant.

John E. Hall, of Carrizozo, for appellee.

JUDGES

Brice, Justice. Sadler, Bickley, and Zinn, JJ., concur. Hudspeth, C. J., did not participate.

AUTHOR: BRICE

OPINION

{*216} {1} The appellant (plaintiff below) filed an action of replevin to recover possession of certain cattle. The case was tried to {*217} the court and resulted in a judgment for plaintiff, but for only a part of such cattle. The plaintiff appealed.

{2} No findings of fact were requested or made by the court. No ruling made during the progress of the trial was excepted to or objected to by the plaintiff. There was a general exception in the body of the judgment.

{3} The court had jurisdiction of the subject matter and of the parties and there was no fundamental error. Under these circumstances there is no question for this court to review. *Stidd v. Marks*, 36 N.M. 188, 10 P.2d 1103; *Reagan v. Dougherty*, 40 N.M. 439, 62 P.2d 810. The judgment of the district court is affirmed.

{4} It is so ordered.