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**[ G.R. No. 1096. May 03, 1903 ]**

**MARTIN BALATBAT, PLAINTIFF AND APPELLEE VS. VALENTIN TANJUTCO, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**WILLARD, J.:**

Section 133 of the Code of Civil Procedure requires the judges of the Court of First Instance to file decisions in writing, in which shall be stated the facts found by them to be true. We have held that if these facts stated in the decision, and those admitted by the pleadings, are not, as a matter of law, sufficient to support the judgment, it must be reversed. (Thunga Chui vs. Que Bentec, September 5, 1902;[1] Martinez vs. Martinez, Janauary 23, 1903)[2]

The complaint, as amended, alleged that the plaintiff and the contenants in 1898 or 1899 sold the land in questionto the defendant, with an agreement that they might redeem it, and asked that they be allowed to redeem it by paying 400 pesos.

The defendant denied all the allegations of the complaint.

The only facts found by the court are:

1. That the defendant paid Dona Inocencia Soco, as a coowner with the plaintiff of the land in controversy, 10 pesos. Giving to the custom of the province referred to in judgment, and relied upon by the plaintiff in his brief in this court, all possible force, this evidence has no tendency to show that 400 pesos was the price at which the land could be redeemed by the terms of the alleged agreement.
2. That Dona Simona Espinosa formerly was the owner of the land; that she had sold it, with an agreement of repurchase, to Prudencio Tanjutco, a brother of the defendant; that she and her coowners, the plaintiff and others, had redeemed it and had been in possession of it for four years.

This in no way tends to prove that after such redemption they again sold it to the defendant with a right to repurchase it for 400 pesos;

3. That the defendant had been called upon to produce the writing which contained the agreement relied upon, and had refused to produce it.

The facts hereinbefore set out, being the only ones found by the court, do not tend to prove that any such writing ever existed. A failure to comply with this request could not take the place of a finding that such a contract existed, nor a finding as to its contents.

For these reasons a new trial will have to be granted.

In view thereof, we will add that the claim of *res adjudicata* made by the defendant can not be supported. Pass- ing the question of identity of parties and other questions, the identity of subject-matter between the former case and the present one was not established. In the complaint in the first case the only description of the land was that it was in the barrio of San Agustin. That the defendant's suggestion in that case as to the proper description was not accepted by the plaintiff is proved by the judgment, in which it is said that the plaintiff neither in his complaint nor during the trial had described the land which he claimed the right to redeem.

The judgment of the court below is reversed and a new trial granted, with costs of this instance against the appellee.

*Arellano, C. J., Cooper, Mapa,* and *Ladd, JJ.,* concur.

*Torres* and *McDonough, JJ.,* did not sit in this case.

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[1] Phil. Rep., 356.

[2] Phil. Rep., 647.

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