3 Phil. 458

[G.R. No. 1395. March 28, 1904]

JUANA BRAGA, PLAINTIFF AND APPELLEE, VS. JOSE MILLORA, DEFENDANT AND APPELLANT.

D E C I S I O N

JOHNSON, J.:

This action was originally brought in the court of the justice of the peace of the pueblo of Infanta, in the Province of Zambales, by the plaintiff against the defendant, to annul a certain contract alleged to be a contract of mortgage, with the right to repurchase. The judgment was rendered in said court in favor of the defendant, and the plaintiff appealed to the Court of First Instance of the said province. The cause was tried in the Court of First Instance on the 15th day of April, 1903, and on the same day the judge of said court rendered the following judgment:

> "The evidence of both parties and the arguments of the respective parties having been heard, I must and do decide:
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> "That the plaintiff has the right to recover one undivided seventh part of the lands described in said complaint, she being according to the evidence the owner of the said seventh part. The brothers of the plaintiff may institute a suit if they wish to recover the parts which they consider pertaining to them. The defendant must pay the costs of this proceeding."

On the 28th day of April following the defendant excepted to the judgment of the court in

the language following ;

> ” The defendant, being notified of the preceding judgment, presented to the Court of the Province of Zambales an exception against said judgment, and at the same time announced his intention of presenting to the Supreme Court a bill of exceptions in the ordinary manner, as is done in the present instance, and asks that a copy of the same be approved and certified to the Honorable Supreme Court of the Philippines.”

No motion for a new trial was made in the court below, nor was any exception taken other than that against the judgment. By virtue of the provisions of section 497 of the Code of Procedure in Civil Actions, this court, therefore, can only examine the pleadings filed in the case and the judgment rendered by the court below for the purpose of ascertaining whether or not an error of law has been committed. Under such conditions this court has no authority to examine the evidence adduced in the case for the purpose of deciding upon questions of fact. When an exception to the judgment of the court below only is made, this court is limited in its consideration of the case, first to the facts admitted in the pleadings, and, second, the facts found in the decision of the court.

The plaintiff alleged in her first complaint that her brother had mortgaged certain property to the defendant in the sum of 200 pesos; that said mortgage was illegal because the said land belonged to her father and mother; that her father and mother had died, and that the property belonged to her and her brothers and sisters; that the defendant was in possession of the land and refused to deliver possession to the said plaintiff.

The answer filed by the defendant alleges that he had been in possession of the said lands for twenty-two years; that he purchased the land from the brother of the plaintiff instead of securing possession of the same under a mortgage; that the father and mother of the plaintiff never possessed the said land, but that the brother of

the said plaintiff purchased the land of certain persons whose names are given in the said answer; that the document executed and delivered by the brother of the plaintiff to the said defendant was a public deed executed by the said brother to the defendant to the said lands; that the plaintiff had lost the said document during the insurrection of 1898; that the said defendant in the year 1892, in conformity with the "royal decree" of the 31st of August, 1888, had solicited a composition of the title to said land of the Spanish Government then existing in the Philippine Islands in accordance with the provisions of said decree; that the Government had granted to the said defendant an absolute fee or title to the said land. A copy of this grant by the Government to the defendant was made a part of the said answer.

To this answer the plaintiff replied, reaffirming the allegation that the land belonged to her father, and stating, further, that he had been in possession of the land from 1855 to 1884; that her said brother was the administrator of the said land, and as such administrator had mortgaged the same to the said defendant; that her brother had not sold the land to the said defendant; that the composition that the defendant had made with the Spanish Government in the year 1892, by which he had received title to the land in conformity with the royal decree of the 31st of August, 1888, did not give to the said defendant title to the said land, for the reason that he had not complied with all of the requisites of the law required in such cases.

It will be seen from the pleadings that the plaintiff based her right to the land upon the fact (*a*) that the land belonged to her father at the time of his death, and (*b*) that the alleged mortgage by her brother did not deprive her of that right.

The answer of the defendant denied (*a*) that the land ever belonged to her father; (*b*) that he did not secure possession by virtue of a mortgage from her brother, and (*c*) by a deed of conveyance; and set up the further fact that after the lapse of several years he had obtained, upon application, title to the land from the Spanish Government then existing in the Philippine Islands. The only new fact contained in the reply of the plaintiff upon which an issue had not been raised by the

petition and answer was the fact that the title which the defendant had obtained from the Government was not perfect, because the requirements of the law had not been complied with.

The judge in his decision below makes no finding of facts upon any one of the issues presented by the pleadings in this case, and inasmuch as this court has no authority to examine the evidence adduced in the said cause, it has no means of ascertaining, therefore, whether or not there was any evidence adduced upon these issues, and can not therefore ascertain which of the parties is entitled to relief.

It was the practice under the Spanish Government, prior to the American occupation in these Islands, for the Courts of First-Instance to make a complete and full finding of facts upon which they reached their conclusions. This practice, in our judgment, was wise.

The United States Philippine Commission, in enacting the new Code of Procedure in Civil Actions, evidently had the former practice in mind and therefore adopted the same practice.

Section 133 of the Code of Procedure in Civil Actions provides:

> "Upon the trial of a question of fact, the decision of the court must be given in writing and filed with the clerk; but the statement of facts must contain only those facts which are essential to a clear understanding of the issues presented and of the facts involved."

The provisions of this section would seem to indicate that the judge must make a finding of facts in his decision. If, however, there is any doubt about this being the correct conclusion from the provisions of this section, by taking its provisions in connection with the provisions of section 134 of the same code, there certainly can be no doubt about its correctness.

Section 134 of the same code provides that the parties themselves may agree upon the facts involved in the litigation and submit the same

to the court without the introduction of testimony, and concludes with the statement that “when an agreed statement of facts is entered into by the parties, no other finding of facts need be made by the court.”

Reading these two sections together it is clear that the law requires that the trial court shall make a finding of fact or facts in its decision in every case where a question of fact is presented. The trial court, in its decision, should first make a finding of the material facts admitted by the pleadings, and second, of the material facts presented in the issue and sustained by the evidence.

This rule, if enforced, will greatly simplify the work of the appellate court in reviewing cases brought before it. In this way the appellate court will have notice of what witnesses were believed by the trial court and what were not. Under a motion for a new trial made in the trial court, the appellate court is obliged to examine all of the proof given below. The statements of witnesses when reduced to writing, unless the witnesses have been subjected to a severe cross-examination, stand upon equal footing, and apparently are entitled to the same consideration before the appellate court. The trial court sees the witnesses, has an opportunity to hear them and observe their demeanor, and is thereby better able to determine which are truthful and which are not. If the trial court makes no finding of facts, the appellate court will at times be unable to determine what witnesses should be believed and what witnesses should not be believed in cases of contradictory testimony.

If the foregoing rule is enforced with reference to the necessity of making a finding of facts in the decision, it will also be of great assistance to the litigants. They may thus be enabled, instead of printing many pages of proof, to take their case to the appellate court simply upon the pleadings and judgment of the court below and thus save much expense and delay.

If the facts stated in the decision, taken in connection with the facts admitted in the pleadings, are not sufficient as a matter of law to support the judgment, it will be reversed if an exception is

properly made thereto.

It may be argued that the statement found in the judgment of the court below that “the plaintiff has the right to recover one undivided seventh part of the land described in the said complaint, she being, according to the evidence, the owner of the said seventh part,” is a finding of fact, and therefore is a compliance with the law. This statement is not a finding of fact but a mere statement of a conclusion from facts. The ultimate facts from which this conclusion was drawn by the court below should have been stated in the judgment, in order that the appellate court may know whether this conclusion is justifiable. There is a wide distinction between facts and a conclusion from facts. It is difficult, at times, to distinguish a conclusion of fact from a conclusion of law. At times, the conclusion of fact may be also a conclusion of law—for example, to say that a right once belonging-to A is now the property of B, is a conclusion of law as well as a conclusion of fact. (Adams *vs.* Holley, 12 Howard’s Practice, 326.) To charge that A is guilty of fraud is to charge a conclusion of law as well as to state a conclusion of facts. The statement in the decision of the court in this case ” that the plaintiff has the right to recover one undivided seventh part of the lands described in said complaint, she being, according to the evidence, the owner of the said seventh part,” is also a conclusion of fact as well as a conclusion of law. No court is justified in reaching that conclusion without having certain ultimate facts presented to it. No court would be justified in finding that A was guilty of fraud in the absence of hearing proof upon certain ultimate facts. There may be much evidence introduced for the purpose of establishing certain ultimate facts, which ultimate facts, taken together, justify a conclusion—for example, that A is guilty of fraud.

There is much conflict among the authorities with reference to whether or not certain statements are conclusions of law or conclusions of fact. A statement of fact in a pleading may be a conclusion of fact or law if found in a judgment or decision. For example, if A alleges in his pleading that he is the owner of certain personal property and therefore entitled to the possession of the same, it is a statement

of a fact,, whereas, if the same statements were found in the judgment of the court it might be regarded as a conclusion of fact. So also of duress; to allege in the complaint that the plaintiff was compelled to pay a sum of money is a conclusion of law (Commercial Bank *vs.* City of Rochester, 41 Barber, 341; 41 N. Y., 619), while to say that he was threatened by the defendant with death or with great bodily injury, and in fear of same paid a sum of money, etc., or that he was illegally imprisoned and to procure a release, paid, etc., would doubtless be held to be a statement of facts. It is not possible to formulate a definition or a statement that will always enable us to distinguish what is meant by a conclusion of law in contradistinction from a conclusion of fact; yet, in inspecting pleadings or judgments, it will seldom be difficult to make the distinction.

By the foregoing rule that the courts below must make a finding of fact is not meant that they must recite all of the evidence given in the case, but simply the essential ultimate facts which are supported by the evidence from which the conclusion of facts may be drawn.

Therefore, inasmuch as the trial court has failed to make a finding of the ultimate facts upon which he drew his conclusions in this case, and inasmuch as the facts admitted by the pleadings are contrary to the said conclusions, this cause is hereby remanded to the Court of First Instance of the Province of Zambales, and a new trial is hereby ordered.

For the conclusions in this case, reliance is had upon the following cases heretofore decided by this court: Martinez vs. Martinez[1] (1 Off. Gaz., 268), Regalado *vs.* Luchsinger & Co.[2] (1 Off. Gaz., 513).

Arellano, C. J., Torres, Willard, Mapa, and *McDonough, JJ.,* concur.

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[1] 1 Phil. Rep., 647.

[2] 1 Phil. Rep., 619.

DISSENTING

COOPER, *J.* **:**

Section 133 of the Code of Civil Procedure provides that:

> "Upon the trial of a question of fact, the decision of the court must be in writing and filed with the clerk, but the statement must contain only those facts which are essential to a clear understanding of the issues presented and of the facts involved."

The wording of the statute is peculiar. It does not in express terms require the trial court to make a finding of facts. The main purpose of the section seems to be to require the decisions to be in writing and there is an inhibition contained in the provision against the decision containing irrelevant matter. It may be inferentially concluded that the court is required to make a finding.

But admitting that a party has a right to require the trial court to make a finding of fact, the request should be made by the party desiring such finding; or, if a general finding is made by the court, as was done in this case, and the parties desire a more specific finding, a request should be made therefor. In either case an exception should be taken to the refusal of the court either to make a finding of facts or to make a more specific finding.

There was no such request made in the lower court, nor was there any exception taken to the judgment of the court for the failure of the court to make such finding. In fact no such objection has been made even in this court by an assignment of error, brief, or otherwise. Therefore the question does not arise whether the trial court has complied with the requirements of section 133.

The judgment of the Court of First Instance was as follows:

> "The proof adduced by both parties having been heard and the arguments of the respective counsel, I ought to adjudge and do adjudge that the plaintiff has the right to recover an undivided one-seventh part of the lands described in the complaint, she being, according to said proofs, the owner of such seventh part. The brothers of the plaintiff may institute a suit if they wish to recover the part

> which belongs to them. The defendant is ad judged to pay the costs of the suit."

The question and only question at issue in the case was as to the ownership of the land in dispute and the court has found that the plaintiff is "according to said proofs, the owner of such seventh part."

This was a direct finding of the only issue in the case that is, the issue of ownership.

Such a finding is not a conclusion of law but is the finding of the ultimate fact in the case.

The supreme court of Minnesota has passed upon the precise question in the case of Common vs. Grace (36 Minn., 276). The finding of the lower court in that case was that:

> "John Grace was, at the time of his death, the owner in fee simple of the real estate."

The appellant made a request in the court below for additional findings. Upon the refusal of the lower court to make such additional findings, it was assigned as error on appeal. Mitchell, *J.*, says :

> "The facts required to be found are the ultimate facts forming the issues presented by the pleadings and which constitute the foundation of a judgment and not those which are simply evidentiary of them. The court is not required to find merely evidentiary facts or to set forth and explain the means or processes by which it arrived at such findings. Neither evidence, argument, nor comment has any legitimate place in the findings of facts. The test of the sufficiency of the findings of fact by a court, we apprehend, is, would they answer if presented by a jury in the form of a special verdict, which is required to present the conclusions of fact as established by the evidence, and not the evidence to prove them, and to present those conclusions of fact so that nothing remains to the court but to draw from them conclusions of law. In the case at bar the finding of fact that John Grace was at the time of his death the owner in fee simple of the real estate in question was the ultimate fact upon which the decision of the case depended. It covered the only issue in the case and was a sufficient foundation for a judgment in favor of defendants. It could only be arrived at upon the hypothesis that the

> deeds in dispute were duly executed, and the finding necessarily implied and included this."

In the case of Daly vs. Soroco (80 Cal., 367) it is said:

> "The appellant further contends that the cause should be reversed because the court failed to find upon certain other issues presented. His right to maintain the action was based wholly on his ownership and right of possession, and these being found against him, it is immaterial to him whether the court found as to other facts or not, as the judgment must have been against him whatever the other finding might have been."

These cases seem to be conclusive upon the question, and if they, as well as the authorities generally in the United States, are to be followed upon this question, the findings contained in the judgment were sufficient to support it, and the judgment of the Court of First Instance should be affirmed.

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