

5 Phil. 182

[G.R. No. 1595. October 28, 1905]

**CARMEN AYALA DE ROXAS, PLAINTIFF AND APPELLEE, VS. JUANA VALENCIA,
DEFENDANT AND APPELLANT.**

D E C I S I O N

JOHNSON, J.:

This was an action by the plaintiff to recover possession of a parcel of land in the city of Manila occupied by the defendant.

During the trial in the court below the plaintiff offered certain documents, showing her title to the land in question. The defendant introduced several witnesses for the purpose of showing that she had been in possession of the land in question since 1858 and that she went into possession of said parcel of land by virtue of a certain document showing that she had purchased said land of one German Bate. This document was offered in evidence as proof of defendant's title to said parcel of land, which document, however, the court refused to admit in evidence, upon the ground that the said document only referred to defendant's right to the house erected upon said parcel of land. The defendant claimed that said document showed her right to the possession not only of the house, but the said parcel of land as well.

The defendant duly excepted to this ruling of the court and assigns such ruling as an error in this court. The alleged document does not appear here as a part of the bill of exceptions, the defendant evidently believing that because the court refused the admission of the same as evidence in the court below that she had no authority to make the same a part of the bill of exceptions. The document should have been attached to the record and made a part of the bill of exceptions.

By reason of the fact that the defendant claims that said document clearly shows her title to the parcel of land in question and by reason of the fact that said document is not here, we are unable to decide what bearing said document has upon the question of the right of possession to said parcel of land. We are of the opinion that the inferior court committed an error in refusing to admit said document in evidence as proof, and therefore hereby revoke the sentence of the inferior court and order that after the expiration of twenty days judgment be entered in accordance herewith, and said cause be returned to that court for trial *de novo*. So ordered.

Arellano, C.J., Torres, Mapa, and Carson, JJ., concur.
Willard, J., did not sit in this case.
