

6 Phil. 477

[ G.R. No. 2886. October 02, 1906 ]

**VALENTIN REYES, PLAINTIFF AND APPELLEE, VS. JUANA TANCHIATCO ET AL.,  
DEFENDANTS AND APPELLANTS.**

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

**WILLARD, J.:**

The parties to this action made a contract on the 9th of October, 1902, by the terms of which the defendant sold to the plaintiff "las cañas que contienen las matas o ponos" upon a certain tract of land described in the contract. The plaintiff agreed to pay 500 pesos for the bamboo, 300 pesos of which he paid at the time the contract was made, and promised to pay 200 pesos by the 1st of February following. It was agreed that he should not commence the cutting of the bamboo until the last installment had been paid. This last installment he did not pay until the 7th day of April, when it was received by the defendants. He commenced the cutting in the latter part of April or the first part of May and continued it through the succeeding months until the 8th day of August, when the defendants prevented him from cutting any more. The plaintiff testified that at the time he was so prohibited by the defendants he had cut about one-half of the bamboo which he was entitled to cut and he brought this action to recover damages for the interference by the defendants with his right to cut the remaining bamboo. He recovered judgment in the court below and the defendants have brought the case here by bill of exceptions.

The principal dispute between the parties is as to whether the contract fixed any time by which he must finish the cutting. The contract was written in Tagalog and contains a clause, the correct translation of which in Spanish is as follows: "Con la condicion de que el corte de cañas sera desde el 1.

de Febrero de 1903 hasta el ultimo de Abril venidero." The contract does not say, as claimed by the plaintiff, that he was entitled to commence cutting between the first day of February and the last day of April, leaving the time when he should finish the cutting unprovided for.

There was evidence in the case tending to show that in contracts of this kind for the cutting of bamboo the time when the cutting is to be made has an important bearing upon the future growth of the bamboo. By the terms of the contract the plaintiff was bound to finish the cutting before the first of May. He did not do it and is, therefore, not entitled to recover any damages. He testified at the trial that he had a verbal agreement with the defendants that the time should be extended until June or July. This was denied by one of the defendants, but, even if it was on this point so found in favor of the plaintiff, it would not help him any because, as a matter of fact, the defendants did let him continue to cut until the 8th of August.

The judgment of the court below is reversed, and the case remanded with directions to the court below to enter judgment in favor of the defendants upon the merits. No costs will be allowed to either party in this court. After the expiration of twenty days let judgment be entered in accordance herewith, which ten days thereafter shall be remanded to the lower court for execution thereof. So ordered.

*Arellano, C. J., Torres, Mapa, Johnson, Carson, and Tracey, JJ., concur.*

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