

[ G.R. No. 3278. January 29, 1907 ]

**MARCELINO REYES, PLAINTIFF AND APPELLEE, VS. LORENZA ALBURO ET AL.,  
DEFENDANTS AND APPELLANTS.**

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

**WILLARD, J.:**

On the 12th of September, 1905, the plaintiff recovered judgment in the court of a justice of the peace against the defendants for the sum of 200 pesos. From this judgment the defendants duly appealed to the Court of First Instance. On the 20th of February, 1906, the plaintiff, alleging that the defendants had not entered their appeal in the Court of First Instance, nor paid the fees of the clerk, made a motion that judgment be entered in accordance with the record of the justice of the peace. The court granted this motion, and an execution was issued and levied upon the property of the defendant for the sum of 205 pesos. From this order or judgment the defendants have appealed.

As was said in the case of *Cornelios vs. Guaranty Trust Co.*,<sup>[1]</sup> No. 3116, decided November 27, 1906, the appeal vacated the judgment of the justice of the peace and the case stood for trial *de novo* in the Court of First Instance. No judgment could be entered in that court based upon the proceedings in the court of the justice of the peace. The order for such judgment and all proceedings subsequent thereto are hereby reversed and set aside and the case is remanded to the court below for further proceedings in accordance with the law. No costs will be allowed to either party in this court. After the expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter the cause remanded to the lower court for proper procedure. So ordered.

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

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<sup>[1]</sup> Not reported.

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