

94 Phil. 769

[ **G.R. No. L-6089. April 20, 1954** ]

**VICENTE YLANAN, PLAINTIFF AND APPELLEE, VS. AQUILINO O. MERCADO,  
DEFENDANT AND APPELLANT.**

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

**LABRADOR, J.:**

This is an appeal from an order of the Court of First Instance of Cebu dismissing the above-entitled case, which had been appealed to said court from the municipal court of Cebu City. The appeal was certified to this Court by the Court of Appeals on the ground that only questions of law are raised in the appeal.

The action brought in the Municipal Court of Cebu City seeks to recover from the defendant the sum of P180.50, the balance of the value of furniture and other goods sold and delivered by the plaintiff to the defendant. The main issue of fact involved in the trial was the authenticity of the signature of one Aquilino O. Mercado to Exhibit A. Judgment was entered in said court in favor of the plaintiff and against the defendant for the sum of P180.50 as prayed for in the complaint. The decision was rendered on November 18, 1949, and the defendant received notice thereof on November 21, 1949. On December 2, 1949, defendant presented a motion for the reconsideration of the decision, alleging that the same was not justified in view of the fact that the signature to Exhibit A is forged, according to the testimony of an expert witness. It was also alleged that for the sake of justice and equity the court should order the National Bureau of Investigation to examine the disputed signature in Exhibit A. This motion for reconsideration was denied, and the defendant appealed to the Court of First Instance. The appeal was perfected within fourteen days if the

period of time taken by the court in deciding the motion for reconsideration is not taken into account. After the defendant had filed an answer in the Court of First Instance, plaintiff moved to dismiss the appeal on the ground that it was filed beyond the period prescribed in the rules. In support thereof it was claimed that the motion for reconsideration filed in the municipal court was a *pro forma* motion, which did not suspend the period for perfecting the appeal. The Court of First Instance sustained the motion to dismiss the appeal, holding that the ground on which the motion for reconsideration is based is not one of those required for a motion for new trial under section 1 of Rule 37 of the Rules of Court.

The only question at issue in this Court is whether the motion for reconsideration filed in the municipal court is a *pro forma* motion. The question must be decided in the negative. The motion was based on the claim that the finding of the trial court as to the authenticity of the disputed signature to Exhibit A was not justified by the evidence submitted, which is the testimony of the expert witness denying such authenticity. This is a motion which points out why the finding of the court is not justified by the evidence, and is clearly not a *pro forma* motion for new trial or reconsideration. The Court of First Instance erred in holding that it did not suspend the period for perfecting the appeal.

The order of dismissal is hereby reversed, and the case is ordered remanded to the Court of First Instance for further proceedings.

*Paras, C. J., Pablo, Bengzon, Montemayor, Reyes, Jugo, Bautista Angelo, Concepcion, and Diokno, JJ., concur.*