

100 Phil. 529

[ G.R. No. L-9672. December 21, 1956 ]

**VICENTA CORPUS, ET AL., PETITIONERS, VS. JOSE A. V. CORPUS, ET AL.,  
RESPONDENTS.**

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

**BAUTISTA ANGELO, J.:**

On December 20, 1951, petitioners filed a complaint in the Court of First Instance of Masbate for the recovery of certain parcels of land and for an accounting of all the produce derived therefrom by respondents and praying that the latter be ordered to pay the sum of P100,000 as damages. Respondents, in their answer, set up certain special defenses and a counterclaim. In due course, both parties submitted their evidence and, during the hearing, they stipulated that the expenses each party had incurred in the prosecution of the case amounted to P10,000. Thereafter, the court rendered judgment dismissing the complaint, but it added "with costs as stipulated by the parties in the amount of P10,000 against plaintiffs."

On June 17, 1955, petitioners took steps to appeal from this decision by filing the notice, of appeal, record on appeal and the appeal bond of P60 as required by the rules, but respondents opposed the approval of the appeal bond alleging that the same was grossly insufficient to guarantee the costs of P10,000 awarded to respondents in the decision. This objection was sustained, the court requiring petitioners to put up an appeal bond of P10,000. Petitioners filed a motion for reconsideration, and when this was denied, they interposed the present petition for certiorari seeking (1) to set aside the order of the lower court declaring their appeal bond of P60 insufficient and requiring them instead to file an appeal bond of P10,000, and (2) to order the lower court to approve their appeal bond of P60 and to give due course to their appeal.

The question to be determined is: Is the lower court justified in requiring petitioners to put up an appeal bond of P10,000 instead of the reglementary bond of P60 considering the

circumstances of this case?

The law governing the appeal bond to be filed by the appellant in a case pending in a court of first instance is section 5, Rule 41, of the Rules of Court, which provides;

“SEC, 5.—*Appeal bond*.—The appeal bond shall be in the amount of sixty pesos (P60) unless the court shall fix a different amount, or unless a supersedeas bond is filed. The appeal bond shall be approved by the court and is conditioned for the payment of costs which the appellate court may award against the appellant,”

It therefore appears that the appeal bond shall be, as a rule, in the amount of P60 unless the court shall fix a different amount. And it has been held that “An appeal bond is sufficient when it is in substantial conformity with the provisions of the law, as long as the legal effect is to insure to the appellee the payment of all costs required by law” (*Oontreras vs. Dinglasan*, 79 Phil., 42, as stated in *Moran*, *Comments on the Rules of Court*, Vol. I, 1952 ed., p, 911). On the other hand, the only costs that a winning party may recover when the same are awarded in a decision, are only those fixed by the statute, and in this jurisdiction, these costs are the ones prescribed in Rule 131 of our Rules of Court. Thus, in said Rule 131 it is expressly provided that the prevailing party may only recover the costs fixed therein “and no other” (sections 9, 10 and 11). The only exception to the rule is when the court shall fix a different amount (section 5, Rule 41).

“Costs ordinarily may be imposed and recovered only in cases where there is statutory authority therefor, and only in the instances, to the extent, and in the manner provided for by the statute. The power to make rules or orders for the imposition of costs exists only where it is given or ratified by statute.” (20 C. J. S., p. 259.)

The question that now arises is: Is there any special reason or justification for the lower court to fix an appeal bond in the amount of P10,000?

We find none for, according to the record of this case, the complaint was dismissed and no special reason was stated therein for the adjudication of costs other than those specified in the law. It is true that in the dispositive part of the decision the court, in dismissing the

complaint, added “with costs as stipulated by the parties in the amount of P10,000 against plaintiffs”, but such finding is erroneous as it does not find support in the evidence. The only stipulation on the matter is that the parties and their counsel had spent P10,000 in connection with the case (Annex C) and there is nothing therein from which it may be inferred that the parties have agreed that such amount should be charged as costs against the defeated party. At most, this amount may be awarded as damages, but not as costs. There is therefore no special reason for requiring petitioners to put up an appeal bond in excess of the P60 fixed in Section 5, Rule 41 of the Rules of Court.

Petition is granted. The order of the trial court requiring petitioners to put up an appeal bond of P10,000 is hereby set aside and, instead, said court is ordered to approve the appeal bond of P60 filed by said petitioners and to give course to their appeal in accordance with law. No pronouncement as to costs.

*Paras, C. J., Bengzon, Padilla, Montemayor, Concepcion, J. B. L., Reyes, Endencia, and Felix, JJ., concur.*

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