

AN ACT AMENDING ACT NUMBERED ONE HUNDRED AND NINETY, ENTITLED "AN ACT PROVIDING A CODE OF PROCEDURE IN CIVIL ACTIONS AND SPECIAL PROCEEDINGS IN THE PHILIPPINE ISLANDS," BY PROVI...

Act No. 1596, February 25, 1907

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By authority of the United States, be it enacted by the Philippine Commission, that:

SECTION 1. Section four hundred and ninety-seven of Act Numbered One hundred and ninety, entitled "An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," is hereby amended so as to read as follows:

"SEC. 497. Hearings confined to matters of law, with certain exceptions.—In hearings upon bills of exception in civil actions and special proceedings, the Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact, except as in this section hereinafter provided; but shall determine only questions of law raised by the bill of exceptions. But the Supreme Review Court may review the evidence taken in the court below and, after giving due weight to the fact that the judge who tried the case saw the witnesses when they testified, affirm or reverse by a preponderance of the evidence, or modify by such preponderance, the judgment there rendered, as justice may require, in the following cases:

"(1) If before the final determination of an action pending in the Supreme Court on bill of exceptions, new and material evidence be discovered by either party, which could not have been discovered before the trial in the court below, by the exercise of due diligence, and which is of such a character as probably to change the result, the Supreme Court may receive and consider such a new evidence, together with that adduced on the trial below, and may grant or refuse a new trial, or render such other judgment as ought, in view of the whole case, to be rendered, upon such terms as it may deem just. The party seeking a new trial, or a reversal of the judgment on the ground of newly discovered evidence, may petition the Supreme Court for such new trial, and shall attach to the petition affidavits showing the facts entitling him to a new trial and the newly discovered evidence. Upon the filing of such petition in the Supreme Court, the court shall, on notice to both parties, make such order as to taking further testimony by each party, upon the petition, either orally in court, or by depositions, upon notice, as it may deem just. The petition, with the evidence, shall be heard at the same time as the bill of exceptions;

"(2) If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the evidence was insufficient to justify the decision, and the judge overruled said motion, and due exception was taken to his overruling the same, the Supreme Court may review the evidence and make such findings upon the facts by a preponderance of the evidence, and render such judgment, as justice and equity may require. But, if the Supreme Court shall be of the opinion that this exception is frivolous and not made in good faith, it may impose double or treble additional costs upon the excepting party, and may order them to be paid by the counsel prosecuting the bill of exceptions, if in its opinion justice so requires."

SEC. 2. Section one hundred and forty-six of Act Numbered One hundred and ninety is hereby amended so as read as follows:

"Sec. 146. Method of procedure in applications for new trial.— . The application shall be made by motion in writing, stating the ground, therefor, of which the adverse party shall have such reasonable notice as the judge may direct. When the application is made for a cause mentioned in the first or second subdivisions of the last section, it must be made upon affidavits, and counter affidavits from the adverse party may likewise be received.

"The overruling or granting of a motion for a new trial shall not be a ground of exception, but shall be deemed to have been an act of discretion on the part of the judge, within the meaning the second sentence of section one hundred and forty-one. If, however, the motion for a new trial was made on the ground that the evidence was insufficient to justify the decision, an exception may be taken to the order overruling such motion, and such exception may be reviewed by the Supreme Court us in oilier cases."

SEC. 3. The public good requiring the speedy enactment of this bill, the passage of the same is hereby expedited in accordance with section two of "An Act prescribing the order of procedure by the Commission in the enactment of laws," passed September twenty-sixth, nineteen hundred.

SEC. 4. This Act shall take effect on its passage, and cases now pending in the Supreme Court shall also be subject to its provisions.

Enacted, February 25, 1907.

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