

AN ACT PROVIDING A REMEDY AGAINST JUDGMENTS OBTAINED IN COURTS OF FIRST INSTANCE BY FRAUD, ACCIDENT, OR MISTAKE.

Act No. 75, January 22, 1901

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

SECTION 1. When a judgment has been rendered by a Court of First Instance, and any party to the action has been unjustly deprived of his day in court and the opportunity to be heard thereon, by fraud, accident, mistake, or excusable negligence, or has been prevented from entering an appeal from such judgment by fraud, accident, mistake, or excusable negligence, the Supreme Court sitting in banc may, in its discretion, and on reasonable terms, reverse and set aside the judgment so rendered, provided the party so aggrieved shall make application, as hereinafter provided, to the Supreme Court, within sixty days after the passage of this Act, if the judgment of which complaint is made has been rendered since the thirteenth day of August, eighteen hundred and ninety-eight, and prior to the passage of this Act, and has not been fully executed, and within sixty days after he first knows that such judgment has been rendered against him, in case the judgment complained of shall be rendered after the passage of this Act.

SEC. 2. The person aggrieved by a judgment obtained in the manner stated in the preceding section, may, within the time there limited, file his petition in the Supreme Court, stating the fact of the rendition of such judgment and the circumstances constituting the fraud, accident, mistake, or excusable negligence relied upon as ground for relief, and praying that such judgment may be reversed and set aside, and the cause be determined upon its merits. Upon the filing of such petition in the Supreme Court, that court shall direct that reasonable notice of the pendency of such petition shall be served upon the adverse party, requiring him to appear before that court on a day named in the notice, to make his defense to the petition. Upon the day named, unless a postponement is granted for good cause shown, the merits of the petition shall be summarily heard without further pleadings, upon evidence orally produced by the parties before the court. If the court shall find that the facts set forth in the petition are true, and that the petitioner is entitled to relief, the judgment complained of shall be reversed and set aside, and shall thereafter be of no validity, in cases where the petitioner has been unjustly deprived of his day in court and the opportunity to be heard thereon, by fraud, accident, mistake, or excusable negligence; and shall grant the appeal and proceed to hear and determine the appeal upon its merits, and make the necessary orders therein, as if the same had been regularly brought to said court by appeal, in cases where the petitioner has been prevented from entering an appeal by fraud, accident, mistake, or excusable negligence.

SEC. 3. At the time of filing such complaint, or at any time thereafter before the final hearing, any judge of the Supreme Court may, on motion, grant an injunction restraining the party in whose favor such judgment has been rendered, his agents and attorneys, and the judge of the Court of First Instance who rendered the judgment complained of, from any proceedings to enforce the same, until the further order of the Supreme Court in the premises, which injunction shall be served in such manner as the judge granting it shall direct; but the judge, before issuing such injunction, may, in his discretion, require from the party upon whose application the same is granted, an obligation to the other party, with-sufficient sureties; to be approved by the judge, and conditioned that if the petitioner fails to prosecute his petition to effect, or finally to prevail therein, he will pay the adverse

party the intervening damages and costs accruing to him by reason of such injunction. The damages, if any, accruing under this section, shall be assessed by the Supreme Court and included in its final judgment on the petition. The Supreme Court may issue and enforce any other orders which in its judgment may be necessary to accomplish the full purpose of this Act. A violation of the injunction so granted may be punished by imprisonment of the parties so violating it, at the discretion of the court, and the acts done in violation of such injunction shall be unlawful and of no validity.

SEC. 4. This Act shall be construed not technically, but liberally, so as to secure to the fullest extent the right of fair trial and appeal.

SEC. 5. This Act shall take effect on its passage.

Enacted, January 22, 1901.

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