

ENRIQUE SERRANO ET AL., PLAINTIFFS AND APPELLANTS, VS. LEANDRO SERRANO, DEFENDANT AND APPELLEE.

G.R. No. L-3908. November 01, 1907

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

On the 6th of March, 1906, the plaintiffs, as executors, presented to the Court of First Instance of Ilocos Norte a complaint asking that judgment be rendered against the defendant ordering him (1) to immediately deliver to the plaintiffs the real property, or land, and other property set forth in the complaint, together with a drag net and a carriage, upon the same being previously declared to be the property of the late Margarita Sivila, and that the partition thereof, as set forth in the said writing, be annulled in order that the same should be included in the inventory of the property of the estate of the deceased; and, further, to return the fruits of the aforesaid land since the year 1890 to date, or the value thereof, amounting to P75,000; (2) to pay to the plaintiffs the sum of P15,000 by way of expenses, loss, and damages, as set forth in the complaint; and (3) to pay to the plaintiffs such loss and damage as may be proper, in addition to the foregoing, and the costs of the proceedings.

On the 21st of April of the same year the defendant demurred to the complaint on the ground that the court of the Province of Ilocos Norte had no jurisdiction over the above-entitled case, because the complaint referred to property situated in the Province of Ilocos Sur, with the exception of one piece situated in the Province of Ilocos Norte, and because personal property is claimed, therein, and that both the plaintiffs and the defendant are residents of the Province of Ilocos Sur. On January 21, 1907, the following decision was rendered:

"Whereas the real property claimed herein is mostly situated in the Province of Ilocos Sur, and whereas both the plaintiffs and the defendant reside in said province, action should be taken there as desired by the defendant, and not in that of Ilocos Norte, notwithstanding the fact that the plaintiffs act in the capacity of executors of an estate which is in the last-named province, to wit, Ilocos Norte, since the place where the real property and the defendant are is preferable to that of the plaintiff. Therefore, the demurrer is sustained and the plaintiffs are directed to take action before the Court of First Instance of Ilocos Sur."

On the same date the plaintiffs excepted to the above decision and on the following day, the 26th, they filed their bill of exceptions.

Upon considering this appeal we declare that the same has been prematurely interposed, and that the bill of exceptions was improperly approved, for the reason that, in accordance with sections 101 and 123 of the Code of Civil Procedure, a bill of exceptions can only be considered after final judgment, "for a review by the Supreme Court of all rulings, orders, and judgments made in the action to which the party has duly excepted at the time of making such ruling, order, or judgment." (Sec. 143.) Therefore the appeal is hereby dismissed, Avith costs. So ordered.

Torres, Johnson, Carson, Willard, and Tracey, JJ., concur.

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