

GO BON CHIAT, PLAINTIFF-APPELLANT, VS. PEDRO VALMORIDA, DEFENDANT-APPELLEE.

G.R. No. L-4605. April 24, 1953

Ponente: BENGZON, J.

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BENGZON, J.:

This record is here pursuant to plaintiff's prayer in the court below that if "be forwarded to the Hon. Supreme Court, together with all the evidence oral or documentary in order that the Court may pass upon the question of law as well as the issues of facts that may be raised in this appeal."

It appears that, on Jan. 19, 1950 Go Bon Chiat an administrator of the estate of the deceased Go Bongco filed a complaint in the court of first instance of Misamis Oriental, to recover from Pedro Valmorida a portion of a certain parcel of land in the poblacion of Balingasag, same province, alleging that Go Bongco was owner of the whole parcel by virtue of a decision he had obtained in a litigation against one Go Bianchong alias Go Siogan, and that defendant was unlawfully detaining a part thereof.

The defendant answered that he had purchased the lot from Eduardo B. Co, heir of Go Bongco, and that the decision invoked by plaintiff had never become final, was never executed, and was null and void.

On March 28 and 29, 1950 trial was had and the plaintiff presented his testimonial and documentary evidence (p. 8, Record on Appeal). The next day, the defendant, reserving his right to present evidence, moved for dismissal of the complaint, because the decision which plaintiff invoked had been appealed and plaintiff did not prove that it was affirmed and executed, and also because plaintiff's evidence did not sufficiently identify the land he (defendant) possessed with the lot awarded in the former decision.

Plaintiff replied to the motion. Defendant submitted a rejoinder.

The Court in a decision dated April 14, 1950, analysing the evidence, dismissed the case saying in part,

"In this light of the evidence presented by the plaintiff, the Court is at a loss to conclude: (1) whether the plaintiff is the real owner of the land in question, (2) whether or not, the decision appearing in Exhibit B, refers to the land in question in the present case, (3) whether or not, said decision, Exhibit B, was confirmed, whether or not, said decision was ever executed, and (5) that Exhibits C and D, are not clear evidence of the fact that said decision in Civil Case No. 4438, if it became final, was really executed."

The plaintiff on May 3, 1950, filed a motion for new trial alleging excusable mistake or negligence and enclosing the affidavits of three persons plus some documents purposely to remedy the deficiencies in his proofs. But the court denied the petition explaining that even with the additional evidence the right of the plaintiff had not been sufficiently established. Hence this appeal.

In support of his assignments of error plaintiff extensively discusses questions of fact, quoting portions of the stenographic notes, and citing his documentary exhibits. The defendant's brief meets the issue of sufficiency of the evidence.

Wherefore, inasmuch as the value of the property in litigation is only a little over five thousand pesos (p. 2, Record on Appeal) and factual points are involved, the controversy does not fall within our appellate power to review and should be referred to the Court of Appeals in accordance with law. The consequent delay is regrettable, but this Court can only take action on a case when its turn comes up for consideration, and we are not at liberty to skip the matter of jurisdiction. Besides parties are supposed to observe the lines of demarcation separating the two appellate fields of adjudication in order that no loss of time shall result from their taking steps in the wrong direction.

Let the record be sent to the Court of Appeals.

Paras, C. J., Feria, Pablo, Tuason, Montemayor, Jugo, Bautista Angelo, and Labrador, JJ., concur.

Reyes, J., no part.

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