

LAZARO MOSSO, PLAINTIFF AND APPELLANT, VS. UY KEE BENG, OWNER-MANAGER OF THE UY KEE BENG HARDWARE, DEFENDANT AND APPELLEE.

G.R. No. L-17490. February 27, 1962

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal from a decision of the Court of First Instance of Manila dismissing the complaint of plaintiff Lazaro Mosso, with costs against defendant Uy Kee Beng.

On September 11, 1956, plaintiff filed with the Department of Labor a claim for compensation, separation and overtime pay for services rendered to the Uy Kee Bend Hardware, a business establishment owned, managed and operated by the defendant at No. 857 Rizal Avenue, City of Manila, from April 1946 to August 4, 1956. After appropriate proceeding; a hearing officer of said Department, Regional Office No. 3, dismissed the claim. On appeal, however, the decision of said officer was reversed by an Associate Commissioner of the Labor Standards Commissions, who awarded P14,403.16 to plaintiff for overtime services rendered by him. On further appeal to said Commission en banc, the award was reduced to P5,315.54. Defendant appealed from the decision of the Commission, en banc, to the Court of First Instance of Manila, which, as above stated, dismissed the complaint, upon the ground that the evidence for the defense was more worthy of credence than that introduced by the plaintiff. In due course, plaintiff gave a notice of appeal to the Supreme Court, where, however, he, subsequently, filed a motion stating that his intent was to appeal to the Court of Appeals and praying, therefore, that the case be remanded to that Court. This motion having been denied and a petition for reconsideration of our action thereon having had the same result, plaintiff filed his brief, in which he maintains that the decision of the Court of First Instance is contrary to law and that said court had committed a grave abuse of defendant, because, inter alia, the daily time records relied upon by the latter were "obtained thru threats" and the entries contained therein were false, and also, because the testimony of appellee and his witnesses is unworthy or credence. Thus, plaintiff-appellant raises questions of fact, which, in view of the amount involved in this case may be passed upon by the Court of Appeals only and is beyond our appella jurisdiction.

WHEREFORE, let the record of this case be, as it is hereby certified to the Court of Appeals, for determination by the same, in pursuance of Section 31 of Republic Act No. 296, as amended.

IT IS SO ORDERED.

Bengzon, Padilla, Bautista Angelo, Labrador, Reyes, Barrera, Paredes, Dizon and De Leon, JJ., concur.

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