

ABINTESTATO DEL FINADO FULGENCIO DAIRO. PURITA PANAGUITON, ADMINISTRADORA Y APELANTE, CONTRA FLORENTINO PATUBO, RECLAMANTE Y APELADO.

G.R. No. L-1769. May 13, 1949

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1. ACCION CONTRA LA ALBACEA O ADMINISTRADORA; PRUEBAS; ADMISIBILIDAD.—La apelante sostiene que el Juzgado a quo no debio haber permitido declarar al reclamante para probar el otorgamiento de los tres pagares, fundandose en las disposiciones de la Regla 123, articulo 26(c) y las decisiones ya citadas. Se declara: Que si hubo error, fue un error no perjudicial, en este caso particular, puesto que dicha prueba era innecesaria. Puesto que la administradora no nego especificamente bajo juramento la autenticidad y debido otorgamiento de dichos pagares, se consideran admitidos. El articulo 8, Regla 15, dispone que cuando una accion o defensa se funda en un documento escrito y se copia o se une al escrito correspondiente, la autenticidad y debido otorgamiento del documento se consideraran admitidos a menos que los haya especificamente negado, bajo juramento en su escrito por la parte adversa.

Moran, Pres., Paras, Feria, Bengzon, Tuason, Montemayor, y Reyes, MM., estan conformes.

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