

ALFREDO CATOLICO, PETITIONER, VS. IRINEO RANJO, JUDGE OF THE COURT OF FIRST INSTANCE OF CAGAYAN, CIRILO LASAM, FELIX BAUTISTA AND MELQUIADES BAUTISTA, RESPONDENTS.

G.R. No. L-1827. August 31, 1949

Ponente: TORRES, J.

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TORRES, J.:

The decision of this Court in the above-entitled case, promulgated on May 31, 1949,[1] having become final, the clerk of this Court made of record the taxation of costs pursuant to the bill of costs filed by respondents Felix B. Bautista and Melquiades B. Bautista. In accordance with said taxation of costs the respondents shall recover from the petitioner the amount of P40.00, and Felix B. Bautista and Melquiades B. Bautista in their written request asked the clerk of this Court that the sum of P40 be awarded to them as costs.

A writ of execution addressed to the sheriff of Manila was therefore issued on the 16th of this month, commanding said official that, of the personal property of Alfredo Catolico, the petitioner herein, the sum of P40 Philippine currency be caused to be made as costs allowed to the respondents in the above-entitled case, aside from his lawful fees, and "to pay the said sum to respondents Cirilo Lasam, Felix Bautista and Melquiades Bautista."

On August 17, 1949, respondents Felix Bautista and Melquiades Bautista in their communication addressed to the clerk of this Court called the latter's attention to the fact that the costs of P40 mentioned in the writ of execution issued on August 16, 1949, "should be paid to respondents Felix B. Bautista and Melquiades B. Bautista, excluding respondent Cirilo T. Lasam," inasmuch as said costs belong exclusively to respondents Bautista, and respondent Cirilo T. Lasam having filed a separate answer from that of respondents Bautista, "is entitled to costs different from those claimed by us."

The point thus raised by respondents Felix B. Bautista and Melquiades B. Bautista in their said communication of August 17, 1949 is now before us for solution.

Section 11 of Rule 131 of the Rules of Court reads:

"Costs in Court of Appeals and in Supreme Court.—In an action or proceeding pending in the Court of Appeals or in the Supreme Court, the prevailing party may recover the following costs, and no other:

"(a) For his own attendance, and that of his attorney, down to and including final judgment, twenty pesos in the Court of Appeals, and forty pesos in the Supreme Court."

Nowhere in the above-quoted section or in any other provision of the Rules governing the payment or collection of costs appears any provision which might indicate, even by inference, that in the matter of collection of costs, each of the individuals constituting the "prevailing party" shall collect the sum of P40, exclusive of the right of the other person or persons pertaining to the same party to collect another sum or sums of P40.

It is, therefore, the opinion of this Court that section 11 of Rule 131 in providing for the recovery of the sum of P40 by the "prevailing party" means that said amount shall be recovered collectively, not individually, by the said prevailing party. So ordered.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Tuason, Padilla, Montemayor, and Reyes, JJ., concur.

[1] 83 Phil., p. 885.

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