

ANDRES SERRANO ET AL., PLAINTIFFS AND APPELLEES, VS. PONCIANO REYES, DEFENDANT AND APPELLANT.

G.R. No. L-5465. October 05, 1910

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 16th of August, 1907, the plaintiffs commenced an action against the defendant to recover an amount due under a certain building contract.

The defendant filed an answer in which he admitted some of the facts alleged in the petition, denied others and also set up a special defense.

After hearing the evidence, the Honorable Manuel Araullo rendered a judgment in which the facts were set out in detail in favor of the plaintiffs and against the defendant.

After the rendition of this judgment the plaintiffs made a motion for a new trial, which was granted on the 28th of August, 1908.

After hearing the proof in the new trial, the Honorable Manuel Araullo rendered another judgment on the 16th of February, 1909, in favor of the plaintiffs and against the defendant for the sum of P2,000, and costs. From this second judgment the defendant appealed and made several assignments of error in this court, some relating to questions of law and some to questions of fact. No motion for a new trial was made in the lower court; we can not, therefore, examine the evidence adduced on the trial of the cause. In the absence of a motion for a new trial, in conformity with the provisions of paragraph 3, section 497 of the Code of Procedure in Civil Actions, and an exception to the denial of the same by the trial court, the Supreme Court can not review the evidence and it is useless to include it in the bill of exceptions. (*Prautch vs. Hernandez*, 1 Phil. Rep., 705; *Pastor vs. Gaspar*, 2 Phil. Rep., 592; *Co-Tiangco vs. To-Jamco*, 3 Phil. Rep., 210; *Gonzaga vs. Canete*, 3 Phil. Rep., 394; *Domenech vs. Montes*, 3 Phil. Rep., 412; *Alcantara vs. Montenegro*, 3 Phil. Rep., 440; *Bermejo vs. Dorado*, 4 Phil. Rep., 555; *Tongco vs. Manio*, 4 Phil. Rep., 609; *Artadi & Co. vs. Chu Baco*, 8 Phil. Rep., 677; *Ferrer vs. Neri*, 9 Phil. Rep., 324; *Un Pak Leung vs. Nigorra*, 9 Phil. Rep., 381; *Remo vs. Espinosa*, 10 Phil. Rep., 136; *Martinez vs. Campbell*, 10 Phil. Rep., 626; *Sandeliz vs. Reyes*, 12 Phil. Rep., 506; *Montañano vs. Suesa*, 14 Phil. Rep., 676.

After an examination of the questions of law presented by the assignments of error, we have reached the conclusion that no error was committed in respect of them by the lower court. The judgment of the lower court is therefore hereby affirmed, with costs.

Arellano, C. J., Torres, Moreland, and Trent, JJ., concur.

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