

ILDEFONSO TAMBUNTING, PLAINTIFF AND APPELLEE, VS. ARSENIA TAMBUNTING DE OLIVEROS, DEFENDANT AND APPELLANT.

G. R. No. 10365. September 29, 1915

Ponente: JOHNSON, J.

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JOHNSON, J.:

The expediente (record) in this case was received in the Supreme Court on the 22d of October, 1914. The appellant "presented her printed bill of exceptions on the 4th of December, 1914. On the 5th of February, 1915, the appellant presented a printed "pieza de cuentas adicional," composed of one hundred and twenty-nine pages. On the 12th of April, 1915, the appellant presented her printed brief. On the 28th of June, 1915, the appellee presented his printed brief.

Later, on the 31st of July, 1915, the appellant presented an additional brief, which she called a "memorandum de la apelante." On the 3d of August, 1915, the attorney for the appellee presented a motion, asking the court to strike from the record the so-called "memorandum of the appellant" dated July 31, 1915, based upon the following grounds: (First) that there is no authority in law, or in the rules of this honorable court, for the presentation of an additional brief on behalf of the appellant, and that the presentation of such brief deprives the appellee of the right conferred upon him by the rules to close the argument; (second) that even if otherwise admissible, the said memorandum should be stricken from the files, because it violates the rules of the court, by the inclusion therein of documents which are not a part of the record on appeal and which appellee has had no opportunity to meet at the trial.

Rule 21 of the Supreme Court provides that: "Within thirty days of mailing or delivering the printed record (the bill of exceptions), the appellant shall serve upon the appellee three printed copies of his brief and of his assignment of errors, and file twenty-five copies thereof with the clerk."

Rule 22 provides that: "Within thirty days of the receipt of the brief of the appellant, the appellee shall serve on the appellant three printed copies of his brief, and file twenty-five copies thereof with the clerk."

Considering the provisions of Rules 21 and 22, we are of the opinion that additional briefs, by either party, should not be filed without permission of the court, to the end that causes may be dispatched as speedily as possible. If one additional brief may be filed without the permission of the court, another may be, and so on indefinitely; thus preventing the formation of an issue between the parties for the decision of the court.

Therefore the motion to strike from the files the additional brief presented by the appellant, is hereby granted, with costs. So ordered.

Arellano, C. J., Torres, Carson, Trent, and Araullo, JJ., concur.

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