

FLORENTINO PAMINTUAN, PLAINTIFF AND APPELLANT, VS. TOMAS GARCIA (DECEASED) ET AL., DEFENDANTS. TOMAS GARCIA (DECEASED) AND JOSE M. DIZON, APPELLANTS.

G.R. No. 11984. March 10, 1919

Ponente: CARSON, J.

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CARSON, J.:

Limiting ourselves strictly to the question submitted by agreement of counsel for the various parties to these proceedings dated January 17, 1919, I am of opinion and so hold, that the language used in the disposing part of our decree entered while the case was pending on appeal,[1] wherein we said "por consiguiente creemos que los frutos naturales o civiles que dichos bienes han producido, o que hay an podido producir, pertenecen a la sucesion de Tomds Garcia" is not susceptible of interpretation so as to include "industrial fruits."

The terms "natural," "industrial" and "civil fruits" are highly technical, and are authoritatively denned in the Civil Code, article 355 (Cf. Escriche, Diccionario de Legislation y Jurisprudencia, Vol. II, p. 1102) ; and there can be no question as to the meaning which should be given them when they occur in a decree entered by this court.

The decree in question has long since become final, and whether it was or was not error to omit therefrom a provision recognizing the right of the estate of Tomas Garcia to industrial as well as natural fruits is not now open to question. Well founded objection to the decree upon this ground should have been submitted on motion for reconsideration before the decree became final, and this court is not authorized under the stipulation of the parties above mentioned to review that question.

Arellano, C.J., Torres Street, Malcolm, and Avanceña, JJ., concur.

Araullo, J., did not take part.

Motion denied.

[1] Decision on motion of August 24, 1918, not published.

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