

ROSARIO OLIVEROS, ET AL., PETITIONERS, VS. TEODORO OLIVEROS, ET AL., RESPONDENTS.

G. R. No. 12466. October 20, 1959

Ponente: PARAS, C.J.

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PARAS, C.J.:

The instant petition for certiorari and mandamus seeks to annul two orders of the respondent Judge dated April 27, 1957, which denied two motions of the petitioners, one a motion for permission to appeal as paupers from the decision rendered in Civil Case No. 3742, Rosario Oliveros, et al. vs. Teodoro Oliveros, and the other a motion for permission to attach to the records of said case certain documents which were offered but rejected as evidence. The petitioners attached to their motion for permission to appeal as paupers and their motion for reconsideration a certificate of the Register of Deeds to the effect that they had no real property registered in their names, the affidavits of the municipal treasurer of Cadiz, Negros Occidental, of the municipal mayor, and of the petitioners, all reciting that the latter are paupers and unable to pay the expenses for prosecuting the appeal.

In the absence of a showing to the contrary, the evidence submitted by the petitioners in support of their right to appeal as paupers should have been given weight. As correctly stated by the petitioners, the conclusion appearing in the order of denial that "el hecho de que una persona no tenga registrada ninguna propiedad en los archivos del Registro de Propiedad no implica pobreza ni indigencia", is a mere hypothesis. It cannot prevail over the affidavits evidencing the fact that the petitioners are paupers. The constitutional provision that "free access to the courts shall not be denied to any person by reason of poverty" requires in our opinion a spirit of liberality in the matter of petitions to sue in forma pauperis.

With respect to the order of disallowing the incorporation in the records of certain documents which were offered in evidence but denied admission, we rule that the respondent Judge abused his discretion. It has become elementary that trial courts should permit all exhibits presented by parties litigant to be attached to the records, not admitted, so that, in case of appeal, the appellate court may be able to examine the same and determine the propriety of their rejection.

Wherefore, the orders complained of are set aside and the respondent Judge directed to allow the petitioner to appeal as paupers in Civil Case No. 3742 and to attach to the records thereof the exhibits mentioned in their motion dated April 23, 1957. So ordered.

Bengzon, Padilla, Montemayor, Bautista Angelo, Labrador, Endencia, Barrera, and Gutierrez David, JJ. concur.

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