

GABRIELA ALINO ET AL., PETITIONERS, VS. HON. IGNAOIO VILLAMOR, JUDGE OF FIRST INSTANCE OF CAVITE, RESPONDENT.

G.R. No. 1336. May 14, 1903

Ponente: LADD, J.

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LADD, J.:

This a petition for a mandamus to a judge of First Instance, requiring him to certify a bill of exceptions containing, among other things, the argument of counsel for the opposite party at the trial of the main action, and the evidence taken at the trial. It appears from the petition that the only exception taken was to the judgment.

(1) The judge very properly refused to embody the argument of counsel in the bill of exceptions. The object of a bill of exceptions is simply to present in an intelligible form the facts necessary to enable the appellate court to review the rulings, orders, or judgments excepted to, and to this purpose, what was said by counsel at the trial by way of argument is obviously wholly foreign and irrelevant, (*Gonzaga vs. Norris*, decided December 3, 1902.[1])

(2) If an exception to a judgment is based on the ground that there is no evidence whatever to support the findings of fact made by the court, the evidence necessarily forms a part of the bill of exceptions. (*Prautch, Scholes & Co. vs. Dolores Hernandez*, decided February 10, 1902.[2]) But if no such claim is made, the evidence is not properly included in the bill of exceptions. (*Thunga Chui vs. Que Bentec*, decided September 5, 1902.[3]) There is nothing in this petition from which we can infer that it is claimed that there is no evidence to support the judgment, and it does not appear, therefore, on the petitioner's own showing, that the judge ought to have included the evidence in the bill of exceptions.

For these reasons the petition is denied.

Arellano, C. J., Cooper, Willard, and Mapa, JJ., concur.

Torres, J., did not vote.

McDonough, J., did not sit in this case.

[1] 1 Phil. Rep., 529.

[2] 1 Phil. Rep., 3705.

[3] 1 Phil. Rep., 356.

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