

SHANNON RICHMOND, PLAINTIFF AND APPELLEE, VS. FRANCISCO ANCHUELO, DEFENDANT AND APPELLANT.

G.R. No. 1785. July 17, 1905

Ponente: WILLARD, J.

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WILLARD, J.:

The defendant, who was blind, employed the plaintiff, a doctor, to treat his eyes. Plaintiff did so, without success, and brought this action to recover for his services. The principal question in the case is, What was the contract between the parties?

The plaintiff claimed that he was to receive 200 pesos in any event, and if he effected a cure he was to receive 500 pesos more. The defendant claimed that if a cure was effected plaintiff was to receive 200 pesos, but if no cure was effected he was to receive nothing. The court below found upon the evidence in favor of the plaintiff, and we think this finding is supported by the proof.

At the trial the defendant presented a witness, Jose Pastor, and offered to prove by him that the defendant, on returning from the plaintiff's office, had stated to the witness that the plaintiff had agreed to cure him for 200 pesos, and not to charge anything if no cure was effected. The judge excluded this evidence, to which ruling the defendant excepted.

It will be noticed that the witness did not offer to testify to anything which the plaintiff had said, but offered to testify to what the defendant said that the plaintiff had said. The witness did not know that the plaintiff had made these statements; he only knew that the defendant said that the plaintiff had made them. Such evidence is inadmissible, according to the provisions of section 276 of the Code of Civil Procedure.

The judgment of the court below is affirmed, with the costs of this instance against the appellant. After the expiration of twenty days judgment will be entered in accordance herewith, and the case remanded to the court below for execution. So ordered.

Arellano, C. J., Torres, Mapa, and Johnson, JJ., concur.

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