

**JOSE BASA (ALIAS LIM CHIAN), PLAINTIFF AND APPELLANT, VS.
GAVINA RAQUEL Y SALUD ET AL., DEFENDANTS AND APPELLEES.***G.R. No. 20969. January 29, 1924*

Ponente: STREET, J.

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This action was instituted in the Court of First Instance of the Province of Cavite by Jose Basa (alias Lim Chian), against Gavina Raquel y Salud and the two codefendants named in the complaint, for the purpose of obtaining a declaration of nullity of a conveyance of certain property described in the complaint which had been sold by the corporation of Dominican Fathers to the said Gavina Raquel y Salud, to compel said corporation to execute a deed of conveyance to the same property in favor of the plaintiff in conformity with an alleged contract made by an authorized agent of said corporation with the plaintiff, and to recover a sum of money as damages for breach of contract.

It appears that the property which is the subject of this action formerly belonged to the corporation of Dominican Fathers, whose procurator is the defendant Fray Pedro Prat. It also appears that the defendant Alfredo Chicote was acting as attorney of the aforementioned Pedro Prat and as agent of the corporation of Dominican Fathers at and prior to the time of the incidents which gave rise to this action. The corporation, it seems, had decided to sell the property in question, and it appears to have been understood that the plaintiff, who was occupying the property as a renter, would be given preference in the matter of the purchase of the property. On March 14, 1922, one Julian Visencio, a clerk or employee in the office of Sr. Chicote in Manila, sent a telegram to the plaintiff in Cavite in words to the following effect: "Come. Urgent to arrange purchase of house from Sr. Chicote."

In response to this telegram the plaintiff provided him- self with the sum of P11,500, which was understood to be the amount of the purchase price, and came to Manila for the purpose of effecting the purchase of the property. However, the plaintiff alleges that he did not succeed in getting admission at once to the office where the transaction would have been consummated, and while he was waiting the defendant, Gavina Raquel y Salud, obtained admission and purchased the property for the sum stated, thereby causing a disappointment of the hopes and expectations that had been entertained by the plaintiff.

The defense in brief is that the plaintiff has no writing evidencing the agreement for the purchase of this land, sufficient to satisfy the requirement of section 335 of the Code of Civil Procedure. This point is undoubtedly well taken, and the trial judge committed no error in excluding the oral testimony which the plaintiff's attorney wished to offer in court concerning the alleged agreement.

The telegram to which reference has been made is not a sufficient memorandum because it does not describe the property nor state the purchase price; and it is not signed by any person who had authority to bind the seller.

For the reasons stated, the order dismissing the complaint will be affirmed, with costs against the appellant. So ordered.

Araullo, C. J., Johnson, Malcolm, Avancena, Ostrand, Johns, and Romualdez, JJ., concur.

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