PHILIPPINE ENGINEERING COMPANY, PLAINTIFF AND APPELLEE, VS. ANTONIO E. ARGOSINO, DEFENDANT AND APPELLANT.

G.R. No. 23599. December 07, 1925

Ponente: OSTRAND, J.

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OSTRAND, J.:

On February 12, 1922, the defendant executed a promissory note in favor of the plaintiff for the sum of P11,852.83, and on default of payment this action was brought on June 28, 1924 to recover the amount of the note with interest. The defendant's answer to the complaint is a general denial. The case was set down for hearing on August 30, 1924, but was continued until September 25, 1924, at the instance of the defendant. On the latter date, the defendant's attorney again asked for a continuance stating that he had reason to believe that his client who was living in Lopez, Tayabas, was sick and unable to come to Manila. The court denied the motion and after receiving the evidence of the plaintiff, rendered judgment on September 29, 1924 in favor of said plaintiff for the full amount of the promissory note in question, the defendant being notified of said decision on October 7, 1924.

On November 3d, the defendant's attorney filed a motion which in translation reads as follows:

> "The undersigned attorney hereby appears and in representation of the defendant, respectfully asks this court that a new trial of the present case be granted for the reason that when the case was called for trial, the defendant was sick and for the further reason that the evidence does not justify the decision of the court and that said decision is contrary to law."

The motion was not verified, nor was it accompanied by an affidavit of merit. It was denied by the court, and the defendant appeals from the order of denial.

The appeal is so manifestly frivolous that the appellant's arguments merit no discussion.

The order appealed from is therefore affirmed with double costs against the appellant. So ordered.

Avanceña, C. J., Street, Malcolm, Villamor, Romualdez, and Johns, JJ., concur.

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