

RUFINA, WIDOW OF PIMENTEL, ET AL., PLAINTIFFS AND APPELLEES, VS. EULALIO VENIDA, AS ADMINISTRATOR OF THE INTESTATE ESTATE OF PABLO VENIDA, DECEASED, DEFENDANT AND APPELLANT.

G. R. No. 25084. September 04, 1926

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

On February 19, 1915, the Court of First Instance of Camarines Norte rendered judgment in case No. 1747 of that court, ordering Pablo Venida to pay Ramon Pimentel the sum of P7,781.52 with interest at the rate of 6 per cent per annum from July 9, 1905, to the date of the filing of the complaint and, furthermore, to pay the sum of P550, the value of 50 piculs of abaca which had not been delivered and the costs of the action. This judgment became final, no appeal having been taken by the defeated party.

The present action was brought by the widow and children of Ramon Pimentel to recover the sums specified in the said judgment. Pablo Venida having died, the claim was presented to the committee on appraisal and claims in the intestate proceeding for the settlement of the estate of Pablo Venida.

The committee admitted the claim declaring that the estate of the deceased Pablo Venida owed the heirs of Ramon Pimentel the sum of P16,850.90. From this admission of the claim, the administrator of the estate appealed, alleging that the commissioners failed to furnish him with a copy of their report and that the report does not show by whom the said claim was admitted.

The appeal of the administrator and the original action of the plaintiffs were tried in the present case.

The court below after considering the action of the plaintiffs and the grounds for the appeal of the defendant, reached the conclusion that the plaintiffs have proven their right, but not the defendant administrator, in regard to the defenses set up by him, and therefore rendered judgment against the defendant Eulalio Venida, as administrator of the estate of Pablo Venida, for the payment to the plaintiffs of the following sums: P7,781.52 with interest at 6 per cent per annum from July 9, 1905, until the execution of this judgment; P550 for 50 piculs of abaca which had not been delivered, with interest at 6 per cent per annum from the date of the filing of the complaint until the execution of the judgment; P44 the amount of the costs in case No. 1747, with interest at 6 per cent per annum also from the date of the filing of the complaint until the execution of the judgment and the payment of the costs of the action.

The defendant appealed and now alleges that the trial court erred in sustaining the validity of the judgment rendered by the Court of First Instance of Ambos Camarines in civil case No. 1747, entitled Ramon Pimentel vs. Pablo Venida.

The appellant contends that the said judgment had been rendered without jurisdiction over the person of the defendant, because he had not been summoned in the case.

Two witnesses were presented by the defendant, namely, Pablo Venida and Proceso Venida, in order to prove that the defendant Pablo Venida had not been notified nor had he had any knowledge of the case. The contention of the appellant is untenable. The plaintiffs presented as evidence a certified copy of the record of the proceedings had in said case No. 1747 and it appears that the complaint was filed on June 10, 1914; on January 9, 1915, the attorneys for the then plaintiff filed a motion alleging that the defendant was duly summoned on August 11, 1914, and as the period prescribed by the rules for entering an appearance had elapsed without the defendant having appeared up to that date, they prayed that the defendant be declared in default. On January 16, 1915, the court granting the said motion and finding the reasons alleged therein just and proper, issued an order declaring Pablo Venida in default and ordered the inclusion of this case in the court calendar upon the instance of the plaintiff. On February 19, 1915, the plaintiffs presented his evidence and the court thereupon rendered judgment against the defendant for the payment to the plaintiffs of the sums above-mentioned.

In regard to the alleged prescription of the action by the plaintiffs, suffice it to say that the judgment sued on in this case was rendered on February 19, 1915, and the complaint herein having been filed on March 24, 1924, it is clear that the period of ten years provided in section 43, paragraph No. 1, of the Code of Civil Procedure has not yet elapsed. The other error alleged by the appellants refers to the credibility of the witnesses. We are of the opinion that the trial court did not commit an error in weighing said evidence, and the judgment appealed from being in accordance with law, it must be, as it is hereby, affirmed, with the costs against the appellant. So ordered.

Avanceña, C. J., Street, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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