

**GERARDO GUSTILO ET AL., PLAINTIFFS AND APPELLEES, VS.  
ALEJANDRO RODRIGUEZ, AS ADMINISTRATOR OF THE INTESTATE  
ESTATE OF THE DECEASED VICTORIANO RODRIGUEZ, DEFENDANT  
AND APPELLANT.**

*G. R. No. 25888. November 06, 1926*

Ponente: VILLAMOR, J.

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**VILLAMOR, J.:**

The plaintiffs seek to recover of the defendant administrator of the intestate estate of the deceased Victoriano Rodriguez, one-sixth part of the price of the Kanlaon Hacienda which said deceased Victoriano Rodriguez sold to the Gomez Brothers in 1916. The plaintiffs allege that they have a share in one-sixth part of said hacienda as heirs of the deceased Luis Gustilo, who originally held said share in partnership with Victoriano Rodriguez and pray that, after deducting<sup>1</sup> the amounts received by said plaintiffs on account of said share, they be paid the sum of P19,500, with legal interest at the rate of 6 per cent per annum from January 1, 1917 until fully paid, with the costs of the action.

The defendant, in turn, alleges that the price of the said Kanlaon Hacienda should be reduced to P90,000 only, one-sixth of which is P15,000, for the reason that P45,000 was the value of the improvements made by the Gomez Brothers, and deducting from the sum of P15,000 the amounts received by the plaintiffs, it leaves a balance of only P4,707.16 due the intestate estate of Victoriano Rodriguez.

After due trial the court found that the price of said hacienda with the improvements thereon, according to the contracts of lease dated Iloilo, May 28, 1912 and January 21, 1913, respectively, was P135,000 and that the plaintiffs' share is one-sixth of the total price of the sale, or P22,500, from which must be deducted: (a) The share of P5,625 which belongs to Gerardo Gustilo, which was previously transferred to the deceased Victoriano Rodriguez, and (b) the sum of P6,292.84 which the plaintiffs have received on account on different occasions.

The court likewise found that Gerardo Gustilo was entitled, as a legatee, to a third of the residue of the share of his deceased sister Adelina Gustilo, or, P940.72 of said share.

By virtue of the foregoing, the court rendered judgment ordering the defendant, in his capacity as administrator of the intestate estate of Victoriano Rodriguez, to pay the plaintiffs the sum of P10,582.16, with legal interest from the date of the filing of the complaint, February 22, 1925, provided that Gerardo Gustilo's share in this judgment shall be the sum of P940.72, with legal interest and costs of the action.

The defendant appealed from this judgment.

The appellant's assignments of error raise questions of fact which we are unable to consider for the reason that we have not all the evidence presented in this case before us. Part of the documentary, and all of the oral, evidence have not been brought to this court and, according to our jurisprudence, we cannot review the same and must abide by the facts as stated in the decision appealed from.

In view, therefore, of the facts stated in the judgment appealed from, we are of the opinion that the conclusion reached by the trial court is in accordance with the law and therefore the judgment appealed from must be, as it is hereby, affirmed with the costs against the appellant. So ordered,

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

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