

CRISANTO LICHAUCO ET AL., PETITIONERS AND APPELLEES, VS. MARIANO LIM ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. 2801. May 05, 1906

Ponente: CARSON, J.

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CARSON, J.:

The errors assigned by the appellants and submitted for our consideration in this case are as follows:

- (1) The court erred in that it failed to rule upon the motion of counsel for appellants submitted on November 25, 1904, until November 29, 1904, that being the day assigned the appellants for the presentation of evidence in support of their contention.
- (2) The court erred in denying the motion of the appellants for an adjournment of the hearing and the continuation of the period for presenting proof before the commissioner for the Court of Land Registration in the Province of Pangasinan.
- (3) The court erred in denying the appellants' motion for a new survey of the hacienda called "El Porvenir."
- (4) The court erred in pronouncing judgment without having first decided the exceptions presented by counsel for the appellants to the rulings of the court on the 29th day of November and the 3d day of December, 1904 respectively.

The motion referred to in the first assignment of error was a motion for the adjournment of a hearing which had been set for the 29th day of November, 1904, which it appears was heard and denied on that date. The appellants were in no wise prejudiced by the fact that the court did not decide their motion until the fourth day after it was filed, nor indeed was the court required to do so. It was sufficient that before proceeding with the hearing the parties had an opportunity to be heard on the motion to adjourn, and that a ruling on said motion was duly entered.

Under the provisions of section 141 of the Code of Civil Procedure the denial of the motion for an adjournment set out in the second assignment of error was not a proper subject of exception, being a ruling of the court on a matter addressed to its discretion in the due performance of its duty.

In regard to the third assignment of error, it is to be noted that while section 36 of Act No. 496 authorizes the court to require that a new survey be made for the purpose of determining boundaries of lands sought to be brought under the provisions of the Land Registration Act, nevertheless the issuance of such order rests in the sound discretion of the court. There does not appear to have been any sufficient reason for the issuance of such order in this case, because the hacienda "El Porvenir" was surveyed in 1886 by the duly appointed official surveyors of the Spanish Government, and there was not sufficient evidence introduced by the appellants to raise a reasonable doubt as to accuracy. Furthermore, the application does not appear to have been made in due time, not having been submitted until after the lapse of the period allowed for the taking of evidence.

The fourth assignment of error seems to rest on a misconception of the purpose for which exceptions are made.

An exception is entered to a ruling, order, or decision of the trial court with a view to securing the submission of the matters involved therein to the court to which the cause may be appealed, and it is no part of the duty of the trial court to decide exceptions to its rulings during the course of the trial.

The judgment of the lower court is affirmed, with the costs of this instance against the appellants. After the expiration of twenty days judgment will be entered in accordance herewith and ten days thereafter the record remanded to the court from whence it came for proper action. So ordered.

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

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