

THE CITY OF MANILA, PETITIONER AND APPELLEE, VS. THE INSULAR GOVERNMENT, RESPONDENT AND APPELLANT.

G.R. No. 2870. October 18, 1907

Ponente: CARSON, J: This is an appeal from a decree of the Court of Land Registration confirming the title of the petitioner to certain lands situated within the limits of the city of Manila, and ordering registration thereof. Appellant assigns as error the failure of the trial court to make a finding of facts. In the case of Juana Braga tfs. Jose Millora (3 Phil. Rep., 458) this court held that— "First. Upon deciding a case involving the determination of issues of fact, it is the duty of the trial court to make written findings (a) of the material facts admitted by the pleadings and (b) of the material facts presented in the issue and sustained by the evidence, and a failure to do so is reversible error. "Second. The statement in a pleading that the plaintiff, according to the evidence, is the owner of the property in litigation, is not a finding of fact, but a statement of a conclusion drawn from facts." In the case at bar, wherein the title to certain property was drawn in question by the pleadings, the court below limited its findings to a statement that the ownership of the applicant was, in its opinion, proven (justificado) by means of the documents and testimony adduced at the trial. Hence, in accordance with the principles laid down in the case just cited, appellant's assignment of error for lack of a finding of facts should be sustained. It is contended that the case at bar should be distinguished from the case just cited, in that the latter was an appeal in an ordinary civil action in a Court of First Instance and in such cases the trial court is required to make findings of fact by the provisions of sections 133 and 134 of the Code of Civil Procedure, while the case at bar is an appeal from the Court of Land Registration, which, it is alleged, is not required by law to make findings of fact in its decisions. It is true that there is no express provision in the Land Registration Act imposing on the judges of the Court of Land Registration the duty of making findings of fact in their decisions, but we think that the existence of such a duty may fairly be inferred from the provisions of that act and its amendments. The manifest purpose of the legislator, as appears from many of the provisions of the Land Registration Act, which organized the Land Registration Court, was to assimilate the practice and procedure in that court to the practice and procedure in the Court of First Instance in all respects, save only where express provision to the contrary is made by law or where the organization and jurisdiction of the respective courts necessitate a different rule. Section 2 of the act provides that— "The court shall from time to time make general rules and forms for procedure, conforming as near as may be to the practice in special proceedings in Courts of First Instance, but subject to the express provisions of this act and to general laws." Section 5 provides that— "Citations, orders of notice, and all other process issuing from the court * * * shall be served in the manner provided for the service of process in the Code of Procedure in Civil Actions and Special Proceedings." Section 14 provides for appeals to the Courts of First Instance in certain cases wherein the case on appeal is tried "as other actions are tried in that court," and that in such cases "all competent testimony which has been taken in writing before the Court of Land Registration may be used on the trial in the Court of First Instance." Section 17 provides for the enforcement of the orders, judgments, or decrees of the Court of Land Registration "in the same manner as orders, judgments and decrees are enforced in the Courts of First Instance." Section 18 provides that— "Costs shall be taxed in contested cases in the Court of Land Registration in the same manner, and for the same items of costs, as in the Courts of First Instance where no different provision is made." And section 3(5) provides that where there is reference of the case to one of the examiners of title as referee, "the court shall render judgment in accordance with the report as though the facts had been found by the judge himself, unless the court shall, for cause shown, set the report aside or order it to be recommitted to the referee for further finding." Act No. 1108, amending the Land Registration Act, repeals section 14 of that act and provides as follows: "Every order, decision, and decree of the Court of Land Registration may be reviewed by the Supreme Court in the same manner as an order, decision, decree, or judgment of a Court of First Instance might be reviewed, and for that purpose sections 141, 142, 143, 496, 497 (except that portion thereof relating to assessors) * * * of Act No. 190, entitled 'An act providing a Code of Procedure in Civil Actions and Special Proceedings in the

Philippine Islands," are made applicable to all the proceedings of the Court of Land Registration and to a review thereof by the Supreme Court, except as otherwise provided in this section." Section 497 of the Code of Civil Procedure provides that—"If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the findings of fact were plainly and manifestly against the weight of evidence, and the judge overruled such motion, and due exception was taken to his overruling the same, the Supreme Court may review the evidence and make such findings upon the facts and render such final judgment as justice and equity require." Act No. 1648, amending the Land Registration Act, and providing that in certain instances cases arising in said court shall be assigned to the judges of the Courts of First Instance, provides that—"Any judge of the Court of First Instance outside of the city of Manila shall, whenever directed in writing to do so by the Secretary of Finance and Justice, hear and make findings of fact in land-cases, at the time and places prescribed by law. * * *" In the light of the foregoing citations from the Land Registration Act, we think that it has always been the duty of a judge of the Court of Land Registration to base his decisions, in cases involving issues of fact, upon findings of fact, and since the date of the enactment of the amendment provided for in Act No. 1108 there seems to be no room for doubt. It is true that sections 133 and 13-1 of Act No. 190, which impose upon the judges of the Courts of First Instance the duty of making findings of fact, are not, in express terms, made applicable to proceedings in the Court of Land Registration; but they became so by necessary implication from the provisions making applicable the provisions of section 497, which limits the authority of the Supreme Court, to review evidence, taken in the Courts of First Instance, to cases where exception was taken to the ruling of a court upon a motion for a new trial, upon the ground that the findings of fact were plainly and manifestly against the weight of the evidence, and to cases of motions for a new trial upon the ground of newly discovered evidence. It is further suggested that the practice adopted in the case of *Braga vs. Millora*, wherein the record was remanded for a new trial, should not be adhered to in the case at bar, because a motion for a new trial on the ground that the findings of fact were plainly and manifestly against the weight of the evidence was submitted to the trial court in the latter case, while no such motion appears to have been submitted in the former case. It is urged that where an exception has been noted to an order overruling such a motion it is the duty of this court to make for itself a finding of facts, and to render judgment thereon, without burdening the parties with the expense and trouble of a second trial. It must be admitted that we are confronted with difficulties and plausible objections whichever mode of procedure be adopted, but we think that the reasoning of the opinion of this court in the case of *Braga vs. Millora*, in support of the rule which holds the failure of the court to make a finding of facts to be reversible error, applies with equal force whether a motion for a new trial has or has not been submitted in the court below. Unless the trial court makes some finding of facts upon the testimony taken at the trial, this court can give little practical effect to the provisions of law which require due weight to be given to the fact that the trial judge heard the witnesses testify, and was thus especially qualified to pass upon their credibility and the weight which should be given to their testimony. It is true that in cases where the findings of fact appeared to be imperfect or erroneous, and an order denying a motion for a new trial had been duly excepted to, this court has frequently reviewed the testimony of record, made proper findings of fact for itself, and rendered final judgment upon these findings. We think, however, that a distinction as to procedure should be drawn between such cases and cases wherein no findings whatever have been made, or attempted to be made, by the trial court. Without discussing the question whether a motion for a new trial, based on the ground that the findings of fact are plainly and manifestly against the weight of the evidence, can be said to have any meaning or effect where no findings of fact have been made by the trial court, we think that the authority granted to this court, to review the evidence and make such new findings of fact "as justice and equity may require," was predicated on a condition of the record wherein the reviewing court has before it not only the testimony of the witnesses but also the findings of fact by the trial judge who heard these witnesses testify. If in the opinion of this court the trial judge errs in any of his findings or in his appreciation of the value of the testimony submitted on any point, this court is authorized to make a correct finding and draw the proper conclusion therefrom, but this is a very different proceeding from that involved in a review of all the testimony submitted at the trial, for the purpose of making an entirely new and original finding of facts, without the aid of the previous exercise of the discretion of the trial court as to the various findings, and without any guide as to the views of the trial judge touching the credibility of the various witnesses who appeared before him. The final decree entered in this case by the Court of Land Registration is reversed and a new trial ordered, without costs to either party in this

instance. So ordered. Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur. DISSENTING WILLARD, J.

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CARSON, J:

This is an appeal from a decree of the Court of Land Registration confirming the title of the petitioner to certain lands situated within the limits of the city of Manila, and ordering registration thereof. Appellant assigns as error the failure of the trial court to make a finding of facts. In the case of Juana Braga tfs. Jose Millora (3 Phil. Rep., 458) this court held that—

"First. Upon deciding a case involving the determination of issues of fact, it is the duty of the trial court to make written findings (a) of the material facts admitted by the pleadings and (b) of the material facts presented in the issue and sustained by the evidence, and a failure to do so is reversible error.

"Second. The statement in a pleading that the plaintiff, according to the evidence, is the owner of the property in litigation, is not a finding of fact, but a statement of a conclusion drawn from facts."

In the case at bar, wherein the title to certain property was drawn in question by the pleadings, the court below limited its findings to a statement that the ownership of the applicant was, in its opinion, proven (justificado) by means of the documents and testimony adduced at the trial. Hence, in accordance with the principles laid down in the case just cited, appellant's assignment of error for lack of a finding of facts should be sustained.

It is contended that the case at bar should be distinguished from the case just cited, in that the latter was an appeal in an ordinary civil action in a Court of First Instance and in such cases the trial court is required to make findings of fact by the provisions of sections 133 and 134 of the Code of Civil Procedure, while the case at bar is an appeal from the Court of Land Registration, which, it is alleged, is not required by law to make findings of fact in its decisions.

It is true that there is no express provision in the Land Registration Act imposing on the judges of the Court of Land Registration the duty of making findings of fact in their decisions, but we think that the existence of such a duty may fairly be inferred from the provisions of that act and its amendments.

The manifest purpose of the legislator, as appears from many of the provisions of the Land Registration Act, which organized the Land Registration Court, was to assimilate the practice and procedure in that court to the practice and procedure in the Court of First Instance in all respects, save only where express provision to the contrary is made by law or where the organization and jurisdiction of the respective courts necessitate a different rule. Section 2 of the act provides that—

"The court shall from time to time make general rules and forms for procedure, conforming as near as may be to the practice in special proceedings in Courts of First Instance, but subject to the express provisions of this act and to general laws."

Section 5 provides that—

"Citations, orders of notice, and all other process issuing from the court * * * shall be served in the manner provided for the service of process in the Code of Procedure in Civil Actions and Special Proceedings." Section 14 provides for appeals to the Courts of First Instance in certain cases wherein the case on appeal is tried "as other actions are tried in that court," and that in such cases "all competent testimony which has been taken in writing before the Court of Land Registration may be used on the trial in the Court of First Instance." Section 17 provides for the enforcement of the orders, judgments, or decrees of the Court of Land Registration

"in the same manner as orders, judgments and decrees are enforced in the Courts of First Instance." Section 18 provides that—

"Costs shall be taxed in contested cases in the Court of Land Registration in the same manner, and for the same items of costs, as in the Courts of First Instance where no different provision is made."

And section 3(5) provides that where there is reference of the case to one of the examiners of title as referee, "the court shall render judgment in accordance with the report as though the facts had been found by the judge himself, unless the court shall, for cause shown, set the report aside or order it to be recommitted to the referee for further finding."

Act No. 1108, amending the Land Registration Act, repeals section 14 of that act and provides as follows:

"Every order, decision, and decree of the Court of Land Registration may be reviewed by the Supreme Court in the same manner as an order, decision, decree, or judgment of a Court of First Instance might be reviewed, and for that purpose sections 141, 142, 143, 496, 497 (except that portion thereof relating to assessors) * * * of Act No. 190, entitled 'An act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands,' are made applicable to all the proceedings of the Court of Land Registration and to a review thereof by the Supreme Court, except as otherwise provided in this section."

Section 497 of the Code of Civil Procedure provides that—

"If the excepting party filed a motion in the Court of First Instance for a new trial, upon the ground that the findings of fact were plainly and manifestly against the weight of evidence, and the judge overruled such motion, and due exception was taken to his overruling the same, the Supreme Court may review the evidence and make such findings upon the facts and render such final judgment as justice and equity require."

Act No. 1648, amending the Land Registration Act, and providing that in certain instances cases arising in said court shall be assigned to the judges of the Courts of First Instance, provides that—

"Any judge of the Court of First Instance outside of the city of Manila shall, whenever directed in writing to do so by the Secretary of Finance and Justice, hear and make findings of fact in land-cases, at the time and places prescribed by law. * * *"

In the light of the foregoing citations from the Land Registration Act, we think that it has always been the duty of a judge of the Court of Land Registration to base his decisions, in cases involving issues of fact, upon findings of fact, and since the date of the enactment of the amendment provided for in Act No. 1108 there seems to be no room for doubt. It is true that sections 133 and 13-1 of Act No. 190, which impose upon the judges of the Courts of First Instance the duty of making findings of fact, are not, in express terms, made applicable to proceedings in the Court of Land Registration; but they became so by necessary implication from the provisions making applicable the provisions of section 497, which limits the authority of the Supreme Court, to review evidence, taken in the Courts of First Instance, to cases where exception was taken to the ruling of a court upon a motion for a new trial, upon the ground that the findings of fact were plainly and manifestly against the weight of the evidence, and to cases of motions for a new trial upon the ground of newly discovered evidence.

It is further suggested that the practice adopted in the case of *Braga vs. Millora*, wherein the record was remanded for a new trial, should not be adhered to in the case at bar, because a motion for a new trial on the ground that the findings of fact were plainly and manifestly against the weight of the evidence was submitted to the trial court in the latter case, while no such motion appears to have been submitted in the former case. It is urged that where an exception has been noted to an order overruling such a motion it is the duty of this court to make for itself a finding of facts, and to render judgment thereon, without burdening the parties with the expense and trouble of a second trial.

It must be admitted that we are confronted with difficulties and plausible objections whichever mode of procedure be adopted, but we think that the reasoning of the opinion of this court in the case of Braga vs. Millora, in support of the rule which holds the failure of the court to make a finding of facts to be reversible error, applies with equal force whether a motion for a new trial has or has not been submitted in the court below.

Unless the trial court makes some finding of facts upon the testimony taken at the trial, this court can give little practical effect to the provisions of law which require due weight to be given to the fact that the trial judge heard the witnesses testify, and was thus especially qualified to 'pass upon their credibility and the weight which should be given to their testimony.

It is true that in cases where the findings of fact appeared to be imperfect or erroneous, and an order denying a motion for a new trial had been duly excepted to, this court has frequently reviewed the testimony of record, made proper findings of fact for itself, and rendered final judgment upon these findings. We think, however, that a distinction as to procedure should be drawn between such cases and cases wherein no findings whatever have been made, or attempted to be made, by the trial court.

Without discussing the question whether a motion for a new trial, based on the ground that the findings of fact are plainly and manifestly against the weight of the evidence, can be said to have any meaning or effect where no findings of fact have been made by the trial court, we think that the authority granted to this court, to review the evidence and make such new findings of fact "as justice and equity may require," was predicated on a condition of the record wherein the reviewing court has before it not only the testimony of the witnesses but also the findings of fact by the trial judge who heard these witnesses testify.

If in the opinion of this court the trial judge errs in any of his findings or in his appreciation of the value of the testimony submitted on any point, this court is authorized to make a correct finding and draw the proper conclusion therefrom, but this is a very different proceeding from that involved in a review of all the testimony submitted at the trial, for the purpose of making an entirely new and original finding of facts, without the aid of the previous exercise of the discretion of the trial court as to the various findings, and without any guide as to the views of the trial judge touching the credibility of the various witnesses who appeared before him.

The final decree entered in this case by the Court of Land Registration is reversed and a new trial ordered, without costs to either party in this instance. So ordered.

Arellano, C. J., Torres, Johnson, and Tracey, JJ., concur.

DISSENTING

WILLARD, J.:

Where a motion for a new trial, on the ground of the insufficiency of the proof, has been presented and an order overruling said motion has been duly excepted to, the appellant has the right to insist that this court review the testimony Avhen it is brought here and make a finding of facts in its decision. The failure of the trial court to make a finding of facts in such cases is not a sufficient ground for the reversal of its judgment, the error thus committed not being prejudicial to the appellant. (Sec. 501, Code of Civil Procedure.)

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