

PABLO PERLAS, PLAINTIFF AND APPELLANT, VS. ALFRED EHRMAN ET AL., AS PHILIPPINE TRUSTEES DOING BUSINESS UNDER THE NAME OF CALAMBA SUGAR ESTATE, AND ITS MANAGER L. WEINZHEIMER, DE...

G.R. No. 30711. September 26, 1929

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

This case has its origin in a milling contract between the plaintiff, as producer of sugar cane, and the defendant, as a central engaged in the milling thereof. At the hearing¹ of the case, the parties, realizing that the only question between them was one of accounts, asked the court that it be submitted to the decision of three referees, one appointed by each party and the third by the two members thus chosen; that the decision of the majority be considered final and binding upon the parties; that the case be decided by the court in accordance with said report, and that its decision be final. The majority of the referees submitted their report with one of them dissenting, and the court, after further considering the evidence presented to the referees, accepted the majority report and rendered its decision in accordance therewith. An appeal was taken from this decision.

In the first place, the validity of the act of the referees is attacked because two of them did not take the oath of office before discharging their duty. It appears that this question of the failure of the two referees to take the oath of office was not raised until the granting to the appellant of the period within which to present his bill of exceptions. Furthermore, in the absence of positive evidence that the two referees did not take the oath of office, this defect is a mere irregularity which cannot vitiate the proceedings, inasmuch as the parties did not raise the question before the referees proceeded with the hearing of the case, or before the court rendered its decision, but only during the extension of time granted to present the bill of exceptions.

It having been agreed by the parties that the opinion of the majority of the referees should be final and conclusive, and that the decision of the court in view of this report should likewise, be final, and, above all, the court's decision having been based not only upon said report but also upon the evidence itself adduced before said referees, the judgment appealed from must be affirmed. We find no merit in the other assignments of error in this instance.

The judgment appealed from is hereby affirmed, with costs against the appellant. So ordered.

Johnson, Street, Villamor, Johns, Romualdez, and Villa-Real, JJ., concur.

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