

MAXIMIANO ANUPOL, PLAINTIFF AND APPELLANT, VS. FELIX YUSON, DEFENDANT AND APPELLEE.

G. R. No. 34520. December 05, 1931

Ponente: MALCOLM, J.

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MALCOLM, J.:

From a judgment absolving the defendant from plaintiff's complaint, with costs against the plaintiff, the latter has taken the present appeal. The sole question presented for determination is whether lot No. 2329 is an accretion formed by the action of the Rio Grande, and whether this accretion adjoins plaintiff's property or defendant's property.. The trial Judge, the Honorable Eduardo Gutierrez David, made a succinct statement of facts which we believe conforms to the evidence of record. The trial Judge placed reliance on the croquis made by the surveyor Silverio Choco who went upon the land personally and on the testimony of this surveyor, and we think this was proper procedure. We are shown no reason for interposing our opinion on the facts for the opinion of the trial Judge on the same facts. A preponderance of the evidence is not in favor of the plaintiff.

Overruling the six errors assigned, the judgment appealed from will be affirmed, with the costs of this instance against the appellant.

Ten days from the publication of this decision, judgment will be entered, and five days thereafter, the record will be remanded to the court below.

Avanceña, C. J., Street, Romualdez, and Imperial, JJ., concur.

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