

PARSONS HARDWARE CO., INC. PLAINTIFF AND APPELLEE VS. EMLLIANO MORELOS ET AL. DEFENDANTS AND APPELLANTS.

G. R. No. 34573. December 10, 1931

Ponente: JOHNSON, J.

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JOHNSON, J.:

This action was commenced in the Court of First Instance of Manila on March 9, 1928. Its purpose was to recover on a promissory note a certain sum of money, together, with attorney's fees, interest and costs.

The defendants denied generally and specifically each and every allegation of the complaint. By way of special defense they alleged that the automobile, which they had given as security for the payment of the promissory note was sold at public auction for P200.00 only, when the real value thereof was P3,000.00; and that said sale was illegal and not made in compliance with the requirements of the law.

Upon the issue thus presented the cause was brought on for trial. After hearing the evidence the honorable E. P. Revilla, judge, reached the conclusion that the plaintiff was entitled to recover, and that the said automobile was sold at public auction in accordance with the requirements of the law, with due notice to the defendants; and rendered a judgment ordering them to pay to the plaintiff jointly and severally the sum of P3,777.84, of when the sum of P3,434.40 shall bear interest at the rate of 12% from the 11th day of June, 1927, and the costs. The dispositive t of the decision reads as follows!

"Por tanto, se dicta eentencia condenando a los demandados Emiliano Morelos, Crisanta Guzman de Morelos y Lim Chu Ching a pagar, mancomunada y solidariamente, a la demandante la cantidad total de P3,777.84 con intereses a razon de 12%% al año sobre la suma de P3,434.40 desde el día 11 de junio de 1927 y las costas del juicio."

From that judgment the defendants appealed, and now present questions of law and fact. Thsi principal contention is that the sale at public auction of the automobile is illegal and not made in compliance with the requirements of the law.

We have made a careful examination of the evidence, and are fully persuaded that the findings and conclusions of the lower court are supported by a great preponderance of the evidence. The judgment appealed from is in accordance with the facts and the law, and the same should be and is hereby affirmed, with costs. It is so ordered.

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

Avanceña, C. J., Villamor, Ostrand, and Villa-Real, JJ., concur.

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