

MIGUEL PAVON, PLAINTIFF AND APPELLEE, VS. PHILIPPINE ISLANDS TELEPHONE AND TELEGRAPH COMPANY, DEFENDANT AND APPELLANT.

G.R. No. 4357. November 21, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

The appellee has moved to dismiss the appeal in this case on the ground that, it having been commenced originally in the court of a justice of the peace, no appeal now lies to this court in view of the provisions of section 16 of Act No. 1627, which is in part as follows:

"* * * Judgments rendered by the Court of First Instance on appeal shall be final and conclusive except in cases involving the validity or constitutionality of a statute or municipal ordinance."

This case does not come within the exception.

The act was approved on the 30th day of March, 1907, and it took effect as to this section on the 1st of July, 1907. This action was commenced in the court of a justice of the peace on the 22d day of December, 1906. Judgment having been rendered therein in favor of the plaintiff, the defendant appealed to the Court of First Instance and on the 15th day of February, 1907, the plaintiff gave notice that he would rely in the latter court upon the complaint presented before the justice of the peace. On the 16th day of March, 1907, the defendant filed its answer. It does not appear when the case was tried, but judgment was not entered therein until the 23d day of August, 1907. It is seen, therefore, that the case was pending in the Court of First Instance before section 16 above mentioned took effect, but it was not decided until after that section became the law. There is nothing in the act to indicate that it was not intended to apply to pending cases. Therefore, when the judgment was rendered on August 23 there was no law in force allowing an appeal from that judgment to this court.

The fact that at the time the defendant removed the case into the Court of First Instance the law then in force gave him such right is not important. He acquired thereby no vested right to an appeal.

"The right to an appeal is and always has been statutory, and does not exist in common law. It is a remedy which the legislature may in its discretion grant or take away, and it may prescribe in what cases, and under what circumstances, and from what courts, appeals may be taken; and unless the statute expressly or by plain implication provides for an appeal from a judgment of a court of inferior jurisdiction, none can be taken." (Sullivan vs. Haug, 82 Mich., 548, 555.)

The case at bar is upon its face apparently identical with the case of Grover vs. Coon (1 N. Y., 536).

The motion is granted and the appeal is dismissed, with costs.

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

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