

MANILA ELECTRIC COMPANY, PLAINTIFF AND APPELLEE, VS. RAMON ROCES, DEFENDANT AND APPELLANT

G.R. No. 45856. June 27, 1938

Ponente: AVANCEÑA, C. J.

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AVANCEÑA, C. J.:

On September 9, 1937, the Manila Electric Company commenced civil case No. 51804 of the Court of First Instance of Manila against Ramon Roces for the purpose of enjoining him from the use of an underground electric cable which crosses Calero Street. The defendant alleged in his answer that it was not he, but Ramon Roces Publications, Inc., which had secured the permit from the municipal board to lay out said underground cable.

By reason of this answer plaintiff asked the permission of the court to amend its complaint, eliminating Ramon Roces as party defendant and substituting Ramon Roces Publications, Inc., in his stead. The court allowed said amendment against the opposition of Ramon Roces, who contended that an amendment of a complaint can not be allowed when it consists in the elimination of the sole party defendant in order to substitute another in his place, particularly, when the party defendant is a natural person sought to be substituted by a corporation.

Ramon Roces appealed from the decision of the court admitting the amended complaint and filed his bill of exceptions, copy of which is attached to the record. The court refused to allow said bill of exceptions for the reason that since Ramon Roces has been eliminated from the case and has been substituted by Ramon Roces Publications, Inc., he had no right to appeal for lack of interest in the case. Nevertheless, if the elimination of Ramon Roces is due to the admission of the amended complaint, he continues to be a party in this case until the order admitting said amended complaint becomes final, Which quality it does not have precisely because it has been appealed. The appealed order is not merely interlocutory because as to Ramon Roces its effect is to terminate the case completely.

The disapproval of the bill of exceptions is hereby declared erroneous and the lower court is ordered to admit and give it due course. So ordered.

Villa-Real, Abad Santos, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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