

MANUEL DIAZ, PETITIONER AND APPELLANT, VS. THE PEOPLE OF THE PHILIPPINES, RESPONDENT AND APPELLEE.

G.R. No. 46285. October 12, 1939

Ponente: MORAN, J.

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MORAN, J.:

The sole question raised in the present petition for certiorari is whether or not the Court of Appeals can still entertain a motion for new trial, on the ground of newly-discovered evidence, after entry of final judgment rendered by it.

Petitioner herein, Manuel Diaz, having been convicted in the Court of First Instance, appealed to the Court of Appeals. On March 31, 1938, judgment of affirmance was promulgated by the Court of Appeals. On June 7, 1938, final judgment was entered. Thereafter, petitioner filed before this Court a petition for certiorari which was denied on July 1, 1938. On July 13, petitioner filed before the Court of Appeals a motion for new trial on the ground of newly discovered evidence. The motion was denied and, on motion for reconsideration, the resolution of denial was affirmed.

Motions for new trial, on the ground of newly discovered evidence, can only be presented to the Court of Appeals before the final entry of its judgment for conviction. (Section 42, Code of Criminal Procedure.) In the instant case, the motion for new trial was presented to the Court of Appeals after entry of its final judgment. The petition for certiorari might render open for review by this Court the judgment of the Court of Appeals, but then only on questions of law. Upon entry of its final judgment, all questions of facts are definitely and conclusively settled, even as the petition for certiorari takes its course before this Court. As a motion for new trial on the ground of newly discovered evidence has for its purpose the setting aside of the judgment on questions of facts, the entry of final judgment of the Court of Appeals renders it powerless to entertain said motion.

Resolution is affirmed, with costs against the petitioner.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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