

**MARCELO MANTILE ET AL., PLAINTIFFS AND APPELLEES, VS.
ALEJANDRO CAJUCUM ET AL., DEFENDANTS AND APPELLANTS.***G.R. No. 5117. January 31, 1910*

Ponente: JOHNSON, J.

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From the record it appears that the plaintiffs commenced an action in the Court of First Instance of the Province of Nueva Ecija. The purpose of the action does not clearly appear from the bill of exceptions presented in this cause. It does appear, however, from the record, that in said action the acting judge issued an injunction against the defendants herein upon the 26th day of June, 1908, notice of which injunction was served upon the defendants on the 3d day of July, 1908. Later, and upon the 6th day of July, 1908, the attorney for the plaintiffs presented an affidavit before the Hon. Julio Llorente, by which affidavit it appears that the defendants had disobeyed the order or injunction issued by the court on the said 26th day of June.

The attorney for the plaintiffs, by virtue of said affidavit, asked that the court require the defendants to appear and show why they should not be punished for violation of said order or injunction. The defendants appeared, in accordance with the citation of the judge, and admitted that the acts complained of by the plaintiffs had been done by their aparceros upon the 1st day of June, 1908.

After hearing the evidence, the court found them guilty of a violation of his order and sentenced each of them to pay a fine of P200. From this order of the court the defendants appealed and presented the bill of exceptions in the present cause.

The bill of exceptions presented is an attempt to bring to this court for review the judgment of the lower court in a contempt proceeding, which alleged contempt grew out of another case regularly pending in the lower court. The contempt complained of by the plaintiffs and for which the defendants were sentenced is a contempt committed under section 232 of the Code of Procedure in Civil Actions.

Section 240 of said code provides that the review of contempt proceedings, under the circumstances of the present case, by the Supreme Court shall be had only after final judgment in the action in the Court of First Instance and when the case is regularly passed to the Supreme Court by bill of exceptions, as in this Act provided. This precise question was discussed by this court in the case of *Repide vs. Sweeney* (3 Phil. Rep., 738), where it was decided that the review of the judgment in contempt proceedings could not be brought to the Supreme Court by a separate bill of exceptions, and that the review by the Supreme Court of the contempt proceedings should wait until the principal cause should be brought to this court regularly by bill of exceptions.

Section 240 affords the parties punished in the contempt proceedings, under the facts in the present cause, a remedy pending the appeal of the principal cause. For these reasons, therefore, the present bill of exceptions is dismissed without any special finding as to costs.

Arellano, C. J., Torres, Mapa, Carson, and Elliott, JJ., concur.

CONCURRING**MORELAND, J.,**

I concur in the foregoing decision solely because of the binding force and the positive provisions of section 240 of the Code of Civil Procedure and the former decision of this court in the case of Repide vs. Sweeney (3 Phil. Rep., 738).

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