

**FORTUNATO SALINDON Y RUIZ, ADMINISTRATOR OF THE
INTESTATE ESTATE OF MARIA PILAR LUCERO, APPELLANT, VS.
FELIPE ZAMORA, CLAIMANT AND APPELLEE.**

G.R. No. 5687. February 18, 1911

Ponente: MAPA, J.

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MAPA, J.:

After the judgment appealed from had been rendered, the appellant herein moved for a new trial, and on his motion being overruled he excepted to the ruling and duly presented the proper bill of exceptions. He did not, however, base his motion for a new trial on the ground of the judgment being contrary to the weight of the evidence or upon its being insufficiently supported thereby; at least, neither the original bill of exceptions nor the printed copy thereof show any evidence of his having done so. In both documents it is stated that a new trial was asked for, but the ground on which his request was based was not stated. For this reason we can not review the evidence, according to the definite provisions of the law which expressly prohibit the review of questions of fact on appeal, in cases brought before this court by bill of exceptions, when the appealing party does not ask in first instance for a new trial on that ground, which is the formula adopted by the law for the expression of the appellant's disapproval of the trial judge's findings of fact. The appeal not having been prepared in the form expressly prescribed by law, it is understood that the right to a review of the evidence was waived by the appellant, and that only the questions of law raised by the bill of exceptions are submitted for the decision of this court. (Sec. 497, Code of Civil Procedure, amended by Act No. 1596.)

The question involved in the case at bar is the collection of medical fees amounting to P340, to the payment of which the estate represented by the appellant was sentenced in first instance. In the judgment appealed from it was found to be proven that the plaintiff was called to render medical attendance to Maria Pilar Lucero, the predecessor in interest of the said estate, whom he found dangerously ill; that he in fact attended her during several days, visited her two or three times, prescribed proper treatment and gave special care and attention to her case; that on the night of the patient's death the plaintiff was again called, as was also another physician with whom he held a consultation with regard to the patient's condition; and that both these physicians remained in the patient's house and attended her continuously until her death on the early morning of the following day. It is also stated in the judgment that several physicians testified at the trial that the bill of P340 presented by the plaintiff for his professional services aforementioned, was very reasonable.

Such being the facts, and we can not take account of others for the reason before indicated, we see no occasion for reversing the judgment of the Court of First Instance pronounced in favor of the plaintiff.

The judgment appealed from is affirmed, with the costs of this instance against the appellant. So ordered.

Arellano, C. J., Carson and Moreland, JJ., concur.

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