

JOSE A. PATERNO, PLAINTIFF AND APPELLEE, VS. THE CITY OF MANILA, DEFENDANT AND APPELLANT.

G. R. No. 5771. September 09, 1910

Ponente: TRENT, J.

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TRENT, J.:

The plaintiff, Jose A. Paterno, is the owner of a certain parcel of land, together with the improvements thereon, which appears in the tax book of the city assessor and collector's office as lot No. 2, block 71, district of Santa Cruz, Manila. This property was assessed for the years 1901-2 at the sum of \$16,752 United States currency. According to the assessment revision of 1903, the valuation placed on said property was \$10,587 United States currency. The tax paid upon the former assessment was \$418.80 for both years. According to the revised assessment it should have been \$264.67. The plaintiff claims that under the provisions of Act No. 975 of the Philippine Commission the difference, equivalent to \$154.13 United States currency, or P308.26, should be refunded. Judgment for the said amount of P308.26 has been rendered by one of the Courts of First Instance of the city of Manila in favor of the plaintiff, and from this judgment the defendant has appealed.

Counsel for appellant in his printed brief makes no specific assignment of errors, but argues in a general way two questions. The appellee insists that this appeal should be dismissed and the judgment affirmed for the reason that the appellant has not complied with the rules of this court with reference to the specification of alleged errors. Rules 19 and 20 are as follows:

"19. Prefixed to the brief of the appellant, but stated separately, shall be an assignment of errors intended to be urged. Each specification of error shall be separately, distinctly, and concisely stated without repetition, and they shall be numbered consecutively. All briefs shall be printed and shall exhibit an abstract of the argument on the points of law or fact to be discussed, with reference to the pages of the record and the authorities relied upon in support of each point. The brief of the appellant shall also contain a concise statement of the facts in the case.

"20. No error not affecting the jurisdiction over the subject-matter will be considered unless stated in the assignment of errors and relied upon in the brief."

The above rules were promulgated by this court by virtue of the power conferred upon it by section 6 of the Code of Civil Procedure. This section provides as follows:

"The judges of the Supreme Court shall prepare rules regulating the conduct of business in the Supreme Court and in the Courts of First Instance. The rules shall be uniform for all Courts of First Instance throughout the Islands. Such rules, when duly made and promulgated and not in conflict with the laws of the United States or of the Philippine Islands, shall be binding and must be observed, but no judgment shall be reversed by reason of a failure of the court to comply with such rules unless the substantial rights of a party have been impaired by such failure."

In the case of *La Capellania del Convento de Tambobong vs. Antonio* (8 Phil. Rep., 683), judgment having been

rendered against the petitioner as to a part of the land described in the petition, the plaintiff appealed, and this court, speaking through Mr. Justice Willard, with reference to assignment of errors, said (p. 684):

"But in this court he (the appellant) has neither assigned as error, nor argued in his brief, the rulings adverse to him made in the court below. His appeal must, therefore, be considered as abandoned."

It was the duty of the appellant to prefix to its brief an assignment of errors. Each specification of error should have been distinctly and concisely stated. The rules of this court are few and simple. They are the laws of the court and must be obeyed until repealed, unless it can be shown that they are in conflict with the laws of the United States or of the Philippine Islands. Rules 19 and 20 are not repugnant to any law in force in this jurisdiction.

"A rule of court can not operate so as to render valid anything which is void in law, nor can it supersede a statute. But where a court is authorized to establish its own rules, such rules, when not repugnant to or in conflict with the organic laws, have all the force of law, and likewise as to an inferior court whose rules are prescribed by an appellate court." (David vs. Aetna Ins. Co., 9 Iowa, 45; Walker vs. Ducros, 18 La. Ann., 703; Pratt vs. Pratt, 157 Mass., 503; Wood vs. Wood, 1 Ohio Dec, 589; Rio Grande Irr. Co. vs. Gilder sleeve, 174 U. S., 603.)

The appellant has not complied with these plain provisions providing for a uniform practice in this court. These rules mean something, otherwise they would not have been promulgated. They have been promulgated for several years and every practicing attorney should be familiar with them.

For these reasons we are of the opinion, and so hold, that this appeal should be dismissed and the judgment affirmed, with costs against the appellant. So ordered.

Arellano, C. J., Torres, Johnson, and Moreland, JJ., concur.

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