

THE AMERICAN SURETY COMPANY OF NEW YORK AND THE FIDELITY AND DEPOSIT COMPANY OF MARYLAND, PLAINTIFFS AND APPELLANTS, VS. PRUDENCIO BATANGAN, DEFENDANT AND APPELLEE.

G.R. No. 6002. March 18, 1911

Ponente: CARSON, J.

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CARSON, J.:

The facts in this case and the principles on which it must be decided are well stated in the opinion of the court below.

The trial court, however, was manifestly led into error as to the law applicable to the case by the imperfect and incorrect official Spanish version of the last paragraph of section 41 of Act No. 1402. The English version provides that: "The officer shall be liable for all losses, resulting: from any cause, except an act of God or the public enemy, unless relieved therefrom as herein provided." In the Spanish version the words "an act of God" are inaccurately rendered by the technical term "fuerza mayor" (force majeure).

The loss in question in this case was occasioned by an armed band of robbers, and the trial judge was of opinion that under the circumstances the officer was not liable therefor, because, as he held, the existence of fuerza mayor (force majeure) was undoubtedly established by the proof of the robbery by an armed band. But under the provisions of Act No. 63, and its amendments, the English text of the Act must "govern," and it is hardly necessary to point out that the depredations of an armed band of robbers can not be said to have resulted from "an act of God."

Upon the facts as found by the trial judge, which are fully sustained by the evidence of record, the judgment entered in the court below must be reversed, and twenty days hereafter judgment will be entered in favor of the plaintiffs for the sum of P3,443.38, With legal interest from the date of the complaint. Thereafter let the record be returned, as provided by law, to the court whence it came for execution. So ordered.

Arellano, C. J., Mapa, Moreland, and Trent, JJ., concur.

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