

BASILIA AHAG, PLAINTIFF AND APPELLEE, VS. TELESFORO CABILING, DEFENDANT AND APPELLANT.

G.R. No. 6029. February 21, 1911

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the Province of Leyte, the Hon. Mariano Cui presiding, ordering the defendant to deliver possession of the lands described in the complaint of the plaintiff and to pay to her as damages for the wrongful detention of the same the sum of P1,375, with costs.

Without discussing the merits, we are of the opinion that, while defendant's motion, consented to by Francisco Galos, asking leave to bring in said Francisco Galos under the provisions of section 121 of the Code of Civil Procedure, and which, for his full protection under the provisions of articles 1478 to 1483, inclusive, of the Civil Code, he ought to do, should have been granted. This motion was somewhat late; not enough, however, to prejudice the plaintiff. The proofs already presented by the plaintiff may stand as if taken on the retrial, he having the privilege of presenting such other proofs as he may deem advisable.

The oral proofs of both parties are scanty and some what vague and unsatisfactory. Upon the new trial care should be taken to make the proofs clear and definite. When, in the course of the examination of a witness, an exhibit is presented to him by counsel for any purpose, that exhibit should be specifically described and identified so that when the evidence arrives here on appeal this court may. know to what particular exhibit counsel and the witness are referring in their questions and answers. In several places in the evidence now before us counsel and witness, in questions and answers, speak of and refer to exhibits without identifying them. It is utterly impossible for us to know to what exhibits they were referring¹. As a necessary consequence, such evidence is wholly worthless.

Moreover, when there is presented in evidence an exhibit written in any language other than Spanish, if there is an appeal, that exhibit should be translated into Spanish by the official interpreter of the court, or a translation should be agreed upon by the parties, and both original and translation sent to this court. In the case before us there is an untranslated exhibit written in the Visayan language.

The judgment of the learned trial court is set aside and the cause remanded for a new trial, with the privilege to the appellant to bring in as a party Francisco Galos, in accordance with the provisions of law above referred to.

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

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