

ENRIQUE AYLLON, IN LIEU OF VICTORIA AYLLON, PLAINTIFF AND APPELLANT, VS. MIGUEL SIOJO, DEFENDANT AND APPELLEE.

G.R. No. 8472. November 28, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

This is an appeal from a judgment of the Court of First Instance of the city of Manila reversing, in effect, and vacating and setting aside a previous judgment of the court.

It appears that an action was commenced by the plaintiff against the defendant herein for the recovery of P2,000 for the use and occupation of certain lands belonging to the plaintiff situated in the municipality of San Isidro, Province of Nueva Ecija. An answer was interposed containing a general denial and also a counterclaim demanding judgment for a considerable sum of money against the plaintiff. The action having been tried and duly submitted, the court on the 30th day of April, 1912, entered a judgment as follows:

"It is accordingly considered and adjudged that plaintiff have and recover from the defendant the said sum of P2,000, with interest thereon at 6 per cent per annum from February 16, 1911, together with costs; and that defendant take nothing by his counterclaim.

"The question of ousting defendant from the land is one of which the justice of the peace has original jurisdiction and no order will be made relative to the same in this proceeding."

On the 8th day of July thereafter the court made the following order:

"Since filing the judgment of April 30, 1912, and in the course of investigating other cases, a new phase of this case has occurred to us which was not presented in the arguments of either counsel.

"Defendant's possession is presumed to have been in good faith (Civil Code, arts. 434, 436), especially in view of the admitted fact that no formal summons was ever served upon him. Such being the case, he is not liable for rents. (Civil Code, art. 451; Valencia vs. Jimenez, 11 Phil. Rep., 492; Cleto vs. Salvador, 11 Phil. Rep., 416; Waite vs. Williams, 5 Phil. Rep., 571; Araujo vs. Celis, 16 Phil. Rep., 329; Saul vs. Hawkins, 1 Phil. Rep., 275.)

"It would seem, therefore, that the judgment ought to be modified by eliminating therefrom any allowance for rents, and awarding no recovery to either party.

"It is therefore ordered that within ten days from this date the plaintiff show cause why the judgment should not be so modified; and if no such cause is shown within said time, the judgment will stand modified in accordance with the foregoing authorities.

"Let a copy of this order be served upon counsel for each party."

Pursuant to that order the parties appeared on the day specified and after certain proceedings the court rendered a judgment on the 8th day of August containing the following decree: "It is Accordingly considered and adjudged

that plaintiff take nothing by his complaint, and defendant nothing by his counterclaim, that neither party recover costs, and that the judgment of April 30 be modified accordingly."

Due and timely objections and exceptions were made and taken to the action of the trial court vacating and setting aside its judgment of April 30.

It appears in the record of the case that an appeal from the judgment of April 30 was immediately taken by the defendant and a bill of exceptions was made, approved and filed on the 27th day of June. The plaintiff in the action objected to the jurisdiction of the court and its power to vacate on the 8th of August a judgment rendered on the 30th of April, from which an appeal had been immediately taken, and in regard to which a bill of exceptions had been approved and filed on the 27th of June, he asserting and maintaining that, by the proceedings on appeal, the trial court lost jurisdiction of the cause and that, upon the approval of the bill of exceptions, the cause became a cause pending on appeal in the Supreme Court, over which the Court of First Instance had no jurisdiction.

We are of the opinion that the order vacating, in effect revoking, the judgment of the 30th of April must be reversed. It is clear to us that the approval of a bill of exceptions divests the court from which the appeal is taken of all jurisdiction over the judgment and the action in which it is rendered so far as the rights of the parties under the judgment are concerned. While the trial court still retains power and authority to do all of the acts necessary to prepare and send the record to the Supreme Court, and, under certain circumstances, to issue an execution upon the judgment, and to do certain other acts connected therewith, still it has no power to change the nature of a judgment or to do anything which affects the substantial rights of the parties thereunder. That power, by virtue of the appeal, is lodged exclusively in the appellate court.

The mere fact that the bill of exceptions, although approved on the 27th of June, still remained in the clerk's office of the trial court on the 8th of August, is of no significance in this case. The approval of the bill of exceptions deprived the trial court of its jurisdiction over the judgment so far as it adjudicates the substantive rights of the parties.

The order and judgment appealed from are hereby reversed and the cause is left in the state and condition in which it was when the bill of exceptions was approved.

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

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