

**TEOFILO R. TORRALBA, ROBERTO VILLELA AND JOSEFA BILLONES,
PETITIONERS AND APPELLANTS, VS. TOMAS DEJAN, AMBROSIA
DEJAN, MAGDALENA DEJAN AND MARTINIANO SILARIA,
OBJECTORS AND APPE...**

G.R. No. 8942. December 19, 1914

Ponente: JOHNSON, J.

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JOHNSON, J.:

This was a proceeding for the legalization of the will of Hilaria Dejan. The petition for legalization was presented on the 29th of October 1912. The legalization was opposed by the defendants and appellees.

After hearing the respective parties, the lower court found that said pretended will was not authentic and denied the petition for the legalization of the same. From that decision the petitioners appealed to this court and made several assignments of error. The first assignment of error is that the lower court committed an error in not making a finding of facts upon which his conclusions were based, in accordance with section 133, and others, of the Code of Procedure in Civil Actions.

We have held in numerous cases that the lower court, in deciding cases involving the determination of issues of fact, must make a written finding of facts upon which he based his conclusions. (Braga vs. Millora, 3 Phil. Rep., 458; Enriquez vs. Enriquez, 3 Phil. Rep., 746; Early vs. Sy-Giang, 4 Phil. Rep., 727; City of Manila vs. Insular Government, 9 Phil. Rep., 71; Gavieres vs. Admr. of Peña, 13 Phil. Rep., 449; Aringo vs. Arena, 14 Phil. Rep., 263; Alindogan vs. Insular Government, 15 Phil. Rep., 168; Montelibano vs. Director of Lands, 21 Phil. Rep., 449.; Galves vs. Causing et al., R. G. No. 9262, not reported.)

For the reason that the lower court failed to comply with section 133 of Act No. 190, in making a finding of facts upon which he based his conclusions, it is hereby ordered and decreed that the record be remanded to the lower court, with direction that the judge thereof make a finding of facts based upon the proof already presented, and return such finding to this court, together with the record, within a period of thirty days from the receipt of this order. And without any finding as to costs, it is so ordered.

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

Trent, J., dissents.

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