

JOSEFA ESPIDOL, PACIFICO BAUTISTA IN REPRESENTATION OF HIS WIFE JULITA ESPIDOL, AND PERFECTO MENDOZA IN REPRESENTATION OF HIS DAUGHTER FELISA, PETITIONERS AND APPELLANTS, VS. BU...

G.R. No. 8992. July 28, 1913

Ponente: MORELAND, J.

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MORELAND, J.:

This is a motion in this court for the dismissal of an appeal upon the grounds that the appellant consented to the judgment in the court below and that the bill of exceptions was presented out of time.

As to the first ground, it appears that, although appellant did at first consent in the court below to the order of partition from which this appeal is taken, afterwards, by favor of the court, he withdrew that consent and took an exception and appeal. This disposes of the first ground.

As to the second ground, the allegations of the motion are;

"III. That the appellants, notwithstanding their notice of appeal, did not perfect the same within the time required by law, nor did they obtain an extension of time for that purpose.

"IV. That the undersigned excepted to the order of the 11th of April, which was the order admitting the appeal, on the ground that the appeal was permitted long after the time required by law for making the appeal had expired.

"V. That the appeal should not have been allowed."

As is seen, no fact is alleged to sustain this part of the motion. Counsel presents simply a set of conclusions which he alleges are based upon facts, but which facts are not set forth. Under proper conditions we find no fault with the allegation of a conclusion; but we do complain against the presentation of a conclusion alone. It should be accompanied by the facts upon which the conclusion is based. Without the facts we are unable to say whether the conclusion is a proper one or not. That counsel draws a particular conclusion from particular facts is no guaranty that the court will draw the same conclusion. It is the peculiar duty and province of the court to draw conclusions in cases presented to it, and it can occupy that province and fulfill that duty only by having before it the facts.

For these reasons we call particular attention to the rule that, in future, in all motions to the courts there must, first of all, be set out clearly and explicitly the facts upon which it is hoped to obtain relief; and, wherever the nature of the motion permits it, reference should be made to the pages of the record whereon such facts appear. After stating the facts, counsel may draw such conclusions as may appear to him to be proper; but the facts are first and foremost.

The mere allegation that an appeal was admitted after the legal term therefor had expired throws upon the court the necessity, without fact or guidance, of going through the record from beginning to end to determine whether

there is any fact in the record to support the allegation. With the large amount of work laid upon the courts of these Islands, they should not be required to expend, without necessity, valuable time searching through a wilderness of record for facts and dates to which counsel with slight effort could specifically direct their attention.

Therefore, all motion papers hereafter coming to this court will, except in special cases, be disregarded and the motion denied unless all of the facts upon which the motion is based are set forth therein; and, where the nature of such motions permits it, the motion papers will be required to contain the place in the record where the facts and dates relied upon are to be found. Counsel handling cases in the courts are thoroughly familiar with the record, and the requirements herein set forth place no hardship upon them and add substantially nothing to their work.

The motion to dismiss this appeal is hereby denied. So ordered.

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

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