

## **MARGARITO PEÑALOSA LO INTONG, PLAINTIFF AND APPELLEE, VS. ISIDORA JAMITO ET AL., DEFENDANTS AND APPELLANTS.**

*G.R. No. 9340. March 21, 1916*

Ponente: JOHNSON, J.

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### **JOHNSON, J.:**

This action was commenced in the Court of First Instance of the Province of Ambos Camarines, on the 7th day of June, 1911. It was finally disposed of in the lower court and brought to this court on the 23d of August, 1913. It was submitted to the Supreme Court for decision on the 11th day of January, 1916. The purpose of the action was to recover of the defendants the possession of three parcels of land, which are particularly described in paragraph 2 of the complaint, together with damages growing out of the alleged illegal possession of said property.

The defendants interposed a general and special defense. In their general defense they denied each and every allegation of the complaint. In their special defense, the defendants allege that they are the absolute owners of said parcels of land and have been in the quiet and peaceable possession of the same for a long period of time.

Upon the issue thus presented the plaintiff presented both oral and documentary proof to show that he is entitled to the possession of the land, together with damages.

The defendants presented one witness, during the examination of whom the attorney for the defendants asked one question, to wit: "To whom does the land belong?" to which question the attorney for the plaintiff duly objected. The objection was taken under advisement by the court, was finally sustained, and without hearing any further proof and without giving the defendants a further opportunity to present other and more proof, the court, on the 3d day of July, 1913, rendered a judgment in favor of the plaintiff and against the defendants, ordering the defendants to deliver the possession of the parcels of land in question to the plaintiff, together with the sum of P300 as damages and to pay the costs.

On the 18th day of July, 1913, the attorney for the defendants presented a motion for a new trial, alleging among other things that he had been deprived of the right to present proof in support of his defense. That motion was denied on the 19th of July, 1915. From the decision of the lower court the defendants appealed to this court and among other errors allege that the lower court committed an error in not permitting them to present proof in support of the facts alleged in their answer.

While it is true that the court a quo believed that the defendants did not desire to present more proof, yet in that conclusion it was certainly mistaken, for the reason that immediately upon receiving the decision of the lower court upon the merits, the defendants asked for the right to present additional proof and they still insist upon their right to present proof in support of the facts alleged in their answer.

Without discussing the merits of the question presented or the facts and conclusions contained in the decision of the lower court, we are of the opinion that the defendants had a right to present all the proof which they desired to present in support of the allegations in their answer.

For that reason it is hereby ordered and decreed that the judgment of the lower court be annulled and set aside and that the record be returned to the lower court with direction that the defendants be given an opportunity to present whatever proof germane to the issue which they have and which they desire to present, and without any finding as to costs, it is so ordered.

Torres, Trent, and Araullo, JJ., concur.

Moreland, J., agrees to a new trial.

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