

**SOFIA, MARIA ELOISA, ANGEL, AND JUAN O’FARREL Y
PATIÑO, REPRESENTED BY FERNANDEZ HERMANOS, PLAINTIFFS
AND APPELLEES, VS. FLORENCIA VICTORIA, WIDOW OF MORENO
LACALLE, DEFENDANT A...**

G.R. No. 9487. September 04, 1917

Ponente: JOHNSON, J.

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JOHNSON, J.:

The purpose of the present action was to recover rents due and unpaid for the use and occupation of certain property described in the complaint, together with a certain sum due as taxes, which, it is claimed, the defendant promised to pay under the contract of rent. The action was commenced in the Court of First Instance of the city of Manila in the month of March, 1908. On the 25th day of November, 1909, the respective parties entered into an agreement or stipulation of facts. Upon said stipulation of facts the case was finally submitted to the court, and a judgment was rendered in favor of the plaintiffs and against the defendant for the sum of P3,063.65, with interest at 6 per cent from the 15th day of March, 1908, and costs. From that judgment the defendant appealed.

The record was received in the Supreme Court upon the 4th day of October, 1912, and the case was finally submitted for decision upon the 6th day of August, 1917.

The amount mentioned in the judgment of the trial court was composed of two items: (a) the sum of P1,900, the balance of the rent due and unpaid, (b) the sum of P1,163.65, an amount alleged to be due as a portion of the taxes which the defendant promised to pay upon the rented property.

An examination of the facts agreed upon and upon which the decision was finally based, shows that the defendant acknowledged that there was still due and unpaid under the contract of rent the sum of P1,900 as rent. Said agreement further shows that the defendant promised to pay a proportional amount of the taxes on said property. Said agreement fails, however, to show what was the amount of said taxes which the defendant agreed to pay. Said agreement as to the facts is the only proof presented to the court below. There being no proof of the amount of said taxes due and payable, we are unable to render a judgment for any amount covering that item.

In view, therefore, of the admission of the defendant that she owed to the plaintiff the sum of P1,900, and in view of the fact that there was no proof adduced during the trial of the cause showing the amount of the taxes which she promised to pay, the judgment of the lower court must be modified and the sum of P1,163.65 must be eliminated from said judgment. With that modification, the judgment of the lower court is hereby affirmed, with- out any finding of costs in this instance. So ordered.

Arellano, C. J., Carson, Araullo, Street, and Malcolm, JJ., concur.

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