

MARCIANO ARGUELLES, AS ADMINISTRATOR OF THE ESTATE OF GREGORIO AGUILERA, DECEASED, AND GREGORIO. AGUILERA AND OTHER HEIRS, APPELLANTS, VS. JOSE T. PATERNO, CREDITOR AND APPELLEE.

G.R. No. 9748. September 23, 1914

Ponente: MORELAND, J.

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MORELAND, J.:

This is a motion to be permitted to annex to the appellee's brief a certified typewritten copy of an order made in the above-entitled proceedings for the purpose of using it as a part of the record on the determination of the appeal.

The moving party says in his petition:

"I. That the appellee on page 6 of his brief expressed his desire to annex to said brief and make a part thereof a certified copy of certain proceedings in the court below which, although they are not printed as a part of the record in this case, are necessary to the complete and proper understanding of the case.

"II. That having obtained the said certified copy the appellee presents his brief with certified copies of said proceedings annexed thereto.

"For the reasons expressed the appellee prays the Supreme Court that said certified copy be received, accepted, and considered as a part of the record in the case."

If this motion were granted it would result in presenting to this court for consideration on appeals in special proceedings typewritten parts of the record made in the court below. Rule 16 of the Supreme Court provides:

"In appeals in special proceedings the appellant shall within twenty days after the return is filed in this court file with the clerk a statement of the errors on which he intends to rely and of the parts of the record which he thinks necessary for the consideration thereof and forthwith serve on the adverse party a copy of such statement. The adverse party within twenty days thereafter may designate in writing additional parts of the record which he thinks material, and if he shall not do so he shall be held to have consented to a hearing of the parts designated by the appellant. The clerk shall at once make an estimate of the expense of printing twenty-five copies of the parts so indicated and notify the appellant thereof. The appellant shall within the time fixed by Rule 13 after the date of such notice deposit with the clerk the estimated expense thereof; the clerk shall thereupon prepare only such parts as have been so designated, and the court will consider nothing but those parts of the record and the errors so stated."

If this motion were granted, it would nullify this rule, for the parties would be authorized to leave the record unprinted and to annex to their briefs certified typewritten copies of such portions of the record as they desired to present to this court. They would thus relieve themselves of the necessity of printing the record as required by the rule set forth. This cannot be permitted. The court will consider on appeals in special proceedings nothing which has not been made a part of the printed record. If, after the printed record is made up, it is desired to add anything

thereto, and the party wishing to make such addition has legal grounds therefor, a motion can be made to that end, which motion will be given such consideration as the facts demand.

We have recently held in the case of the Bank of the Philippine Islands vs. Estate of Carranceja (27 Phil. Rep., 500), promulgated August 15, 1914, that in an appeal in special proceedings an order made by the lower court which was not made part of the record on appeal in the manner required by the rules would not be considered by this court.

The motion is denied.

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

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