

2 Phil. 667

[ G.R. No. 1233. November 07, 1903 ]

**VICENTE MIRANDA, PLAINTIFF AND APPELLEE, VS. MUNICIPALITY OF NAVOTAS, DEFENDANT AND APPELLANT.**

**D E C I S I O N**

**WILLARD, J.:**

The trial of this case in the court below was fixed for November 25. The lawyer for the defendant was notified thereof on November 11. On the 24th of November he filed a motion for a postponement of the trial on the ground that he would be engaged in a criminal case in Manila on that day. The judge denied the motion. The case was tried on the 25th in the absence of the defendant, proof presented by the plaintiff, and a decision in his favor rendered by the court.

The defendant assigns as error the refusal of the court to continue the case, and its trial in his absence. The decision of this court in *Veloso vs. Ang Seng Teng*, decided October 29, 1903,<sup>[1]</sup> fully covers this case and is conclusive against the defendant upon this point. It may be added, moreover, that the reasons stated by the judge below in his decision and in his order denying the motion for a new trial fully justified him. in refusing the postponement.

The third, fourth, and fifth assignments of error can not be sustained.

The defendant moved for a new trial on the ground of accident, but not on the ground that the evidence was not sufficient to justify the judgment. The bill of exceptions contains none of the evidence. By the terms of section 497 of the Code of Civil Procedure we could not review it even if it were here. The findings of fact stated in the decision are sufficient to support the judgment. The only exception in the record is to the judgment; questions as to the admissibility of evidence presented by the plaintiff are not open to us. The judgment is affirmed with costs of this instance against the appellant, and, upon the expiration of twenty days, reckoned from the date of this decision, judgment shall be rendered and the case

returned to the court below for execution accordingly.

*Arellano, C. J., Torres, Cooper, Mapa, and McDonough, JJ., concur.*

*Johnson, J.,* did not sit in this case.

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<sup>[1]</sup> Page 622, *supra*.

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