

1 Phil. 356

**[ G.R. No. 929. September 05, 1902 ]**

**THUNGA CHUI, PLAINTIFF AND APPELLEE, VS. QUE BENTEC, DEFENDANT AND APPELLANT.**

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

**WILLARD, J.:**

The bill of exceptions in this case contains the complaint, answer, and judgment. It states that the defendant excepted to the judgment, and that he took no other exception during all the proceedings in the court below. He now moves this court that the bill of exceptions be amended by adding thereto all the evidence taken at the trial.

In the exercise of its appellate jurisdiction this court considers three classes of cases, namely, appeals in criminal cases, appeals in special proceedings, and bills of exceptions.

In a prosecution for a public offense it considers upon an appeal all the evidence adduced in the court below, besides both questions of law and fact, and forms its own opinions as to the guilt or innocence of the accused. The practice has not been changed in this respect from that which existed during the Spanish domination. In criminal cases of this character it is necessary that all the evidence be returned to this court.

In appeals in special proceedings, this court has also by the provision of the Code of Civil Procedure now in force the power to pass upon all questions both of law and fact, (Act 498.)

The Code indicates what parts of the evidence are to be returned to this court in the different classes of appeals in special proceedings. (Arts. 779, 781,782.)

But in ordinary civil actions the power of this court on appeal has been limited and its practice radically changed. It has become for such cases only a court for the correction of errors of law, and no longer, except in the three cases mentioned in article 497, has the power to pass upon questions of fact raised by the testimony. The article says: "The

Supreme Court shall not review the evidence taken in the court below, nor retry the questions of fact.”

Outside of the three excepted cases mentioned in said article 497, our power in cases like the one at bar is limited to a consideration of error of law committed by the court below. And, moreover, we are allowed to consider such errors of law only when they have been duly excepted to.

If no errors of law are committed during the progress of the case or in the judgment, it will not avail the defeated party to bring it here on the ground that the judge should have believed his witnesses rather than those of the other side, unless his case falls within the exceptions mentioned in said article 497. Neither will it avail him to bring the case here, even if errors of law were committed, unless he duly excepted to the erroneous rulings of the court at the time they were made.

In the case at bar it appears that the defendant excepted to the judgment which the court rendered. Upon that exception he is entitled to discuss here the question as to whether or not, assuming that the facts recited in the judgment are true, the plaintiff was entitled as a matter of law to recover the amount of \$1,035.40 and interest. He is entitled to argue that the facts stated by the judge do not justify the judgment ordered by him. Upon such an exception he can not argue that the facts are not as stated by the judge. He can not go into the question as to whether upon the evidence the judge should not have found the facts the other way. The case does not come within any of the three exceptions mentioned in article 497, and we are, therefore, expressly forbidden to retry questions of fact. So that, even if the evidence which the appellant asked to have sent up were all here, we would have no power to consider it. Neither would we have any power to examine it for the purpose of seeing if the court committed any error of law in receiving or excluding evidence, for the bill of exceptions states that the defendant took no exceptions to such erroneous rulings, if any there were.

For the reasons above stated the motion is denied. The appellant is allowed thirty days from the entry of this order in which to file and transmit copies of his brief to the adverse party.

*Arellano, C. J., Cooper, Smith, Mapa, and Ladd, JJ., concur.*

*Torres, J., withdrew from this case.*

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