

7 Phil. 161

[G.R. No. 3062. December 07, 1906]

**MARIA MAGALLANES, PLAINTIFF AND APPELLANT, VS. TEODORA CANETA,
DEFENDANT AND APPELLEE.**

D E C I S I O N

WILLARD, J.:

The plaintiff in the court below made a motion for a new trial on the ground of newly discovered evidence. A denial of such motion and an exception thereto do not authorize this court to review the evidence upon which the judgment was based. No motion for a new trial was made upon the ground that the judgment was not justified by the evidence. The only question before us, therefore, is whether the facts admitted in the pleadings and those stated in the decision of the court below justify the judgment in favor of the defendant. An examination of that decision will show that the result at which the judge arrived was fully justified by the facts stated by him in his decision.

The cause of action arose in 1894 and the court below applied the statute of limitations found in the Civil Code. The appellant seems to claim in this court that the statute of limitations applicable is that found in the Code of Civil Procedure. This contention can not be sustained. Section 38 provides that the statute of limitations found in that code is not applicable to causes of action that accrued prior to its promulgation.

The judgment of the court below is affirmed, with the costs of this instance against the appellant.

After expiration of twenty days let judgment be entered in accordance herewith, and ten days thereafter let the case be remanded to the court below for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.

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

Date created: May 05, 2014