

6 Phil. 750

[G.R. No. 3388. November 22, 1906]

**TATSUSABURO YEGAWA, PLAINTIFF AND APPELLEE, VS. GEORGE GREEN ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

JOHNSON, J.:

On the 16th day of March, 1904, the defendants herein entered into a certain contract with the Government of the United States, represented by Lieutenant-Colonel M. C. Martin, constructing quartermaster of the United States , Army, for the erection and construction of sixty-five frame buildings at Fort Wm. McKinley, near the city of Manila, P. I.

On the 20th day of April, 1904, the defendants herein made and entered into a certain agreement with the plaintiff wherein and whereby said plaintiff agreed to erect and construct sixteen of the said frame buildings, in accordance and in conformity with the plans and specifications for the construction thereof contained in the contract of the defendants herein and the said constructing quartermaster.

By the terms of the contract between the plaintiff and the defendants herein, the plaintiff agreed to do and perform all the manual labor required to erect and construct said sixteen frame buildings for the sum of 1,450 pesos for each of the said frame buildings.

Under the terms of the contract between the plaintiff and the defendants herein, it was the duty of the defendants to furnish and place upon the ground where said frame buildings were to be constructed, all the necessary material for the construction of the same.

By the terms of the contract between the plaintiff and the defendants herein it was the duty of the plaintiff to complete his part of the contract within eight months from the said 20th day of April, 1904.

The defendants herein not having complied with their contract with the said constructing

quartermaster, were prohibited on the 5th day of January, 1905, from continuing the erection of all of the said sixty-five frame buildings. By reason of this prohibition on the part of the constructing quartermaster of the United States Army, the plaintiff was also thereby prohibited from completing his contract with the defendants.

The plaintiff claims that he was unable to comply with the terms of his contract with the defendants for the reason that the defendants failed to deliver the material necessary for the construction of the said sixteen frame buildings in accordance with the terms of their contract and instituted an action in the Court of First Instance of the city of Manila to recover the amount due him by reason of the breach of the contract on the part of the said defendants.

Upon this question of the noncompliance of the defendants with the terms of the contract which prevented the plaintiff from completing his contract within the time fixed, the lower court found from the evidence as a fact:

“That the plaintiff had been unable, to comply with the terms of his contract with the defendants owing to the failure of the defendants to supply the transportation of material required under the contract.”

This finding of the court is fully supported by the evidence adduced during the trial and waff practically admitted by the defendants, This breach on the part of the defendants is in itself sufficient to justify a recovery on the part of the plaintiff.

Much evidence was adduced during the trial to show the quantity of labor furnished by the plaintiff under the contract and the percentage of completion of the same. Upon this question the lower court made the following finding:

“From the evidence presented in the case, after duly considering the same and computing the percentage of the work completed on each building and making an average thereof, I find that there was completed, at the time the plaintiff ceased work under his contract, 61 per cent of the total amount of work to be performed by him under the contract.”

The total amount which the plaintiff was to receive under the contract, had he fulfilled the

same, was the sum of 23,200 pesos. Sixty-one per cent of this amount is 14,152 pesos, the amount due the plaintiff for the work actually performed by the plaintiff. By reason of the breach of the contract on the part of the defendants, the plaintiff was entitled to at least this amount. The evidence shows, however, that the plaintiff had received from the defendants the sum of 12,228 pesos. Deducting "the amount which he had actually received from the amount to which he was entitled, we have the sum of 1,924 pesos. The lower court rendered judgment in favor of the plaintiff for this amount and costs. The plaintiff failed to show any special damages resulting to him by reason of the breach of the contract on the part of the defendants.

The judgment of the lower court is hereby affirmed with costs. After the expiration of ten days let judgment be entered in accordance herewith and ten days thereafter the case be returned to the lower court for proper action. So ordered.

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