

[ G.R. No. 2336. March 31, 1906 ]

**JOAQUIN PELLIOENA CAMACHO, PLAINTIFF AND APPELLEE, VS. LEONOIO GONZALEZ LIQUETE, DEFENDANT AND APPELLANT.**

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

**WILLARD, J.:**

The defendant on the 19th day of January, 1904, was the managing editor of "La Democracia" a daily newspaper published in Manila. In the issue for that day there appeared an article addressed to the plaintiff. The plaintiff, considering that the article was libelous, brought this action to recover damages. Judgment was entered in his favor for the sum of \$500, money of the United States. The defendant moved for a new trial in the court below, which was denied, and the case has been brought here by bill of exceptions.

It is very clear that the article published was libelous. In fact, the appellant in his brief in this court refers to it as severe and' mortifying to the plaintiff.

The defendant in his answer set up a counterclaim for damages caused by the publication by the plaintiff in "El Noticiero," a newspaper published in Manila, of which the plaintiff was director and proprietor, of an article on the 18th day of January, 1904, which the defendant claimed was a libel against him. In his brief in this court the defendant also apparently claims that publication of this article by the plaintiff on the 18th day of January justified the defendant in publishing the article in question in his paper on the 19th. There was no evidence in the case to show that the defendant was the person referred to in the article published by the plaintiff, and, even if he were, publication of a libel by the plaintiff is no legal justification for the publication of another libel by the defendant. (Oausin vs. Ricamora,<sup>[1]</sup> No. 2033, 4 Off. Gaz., 218.)

The answer in the case was filed on the 21st of March, 1904. The defendant, who had been appointed a member of the Honorary Commission which was sent to the Exposition at St.

Louis, left the Islands on the 23d of April, 1904.

The case was brought on for trial in July of that year, while the defendant was absent in the United States. Prior to the hearing the defendant's counsel moved for a continuance on the ground of the defendant's absence from the Islands. This motion was denied. After the plaintiff had terminated his evidence the defendant renewed the motion. Plaintiff's counsel stated that they had no objection to a continuance if the court saw fit to grant it. The court, however, refused to grant a continuance, and entered judgment as above stated. To the refusal of the court to grant the continuance the defendant excepted. This exception can not be sustained. The action of the court falls within the provisions of section 141 of the Code of Civil Procedure, and the ruling of the court upon the motion to postpone the trial was not subject to exception.

The damages assessed by the court below in favor of the plaintiff were \$500, money of the United States. We fix the damages at \$250. (Loyzaga vs. Cavanna,<sup>[1]</sup> No. 1745 December 14, 1905.)

The judgment of the court below is modified by changing the recovery from \$500, money of the United States, to P250. As so modified it is affirmed. No costs will be allowed to either party in this court. After the expiration of twenty days judgment will be entered in accordance herewith and the case remanded to the lower court for execution. So ordered.

*Arellano, C. J., Torres, Mapa, Johnson, and Carson, JJ., concur.*

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<sup>[1]</sup> 5 Phil Rep., 31.

<sup>[1]</sup> Not reported.

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