

5 Phil. 29

[G.R. No. 2036. September 18, 1905]

**MARIA MANONA, PLAINTIFF AND APPELLEE, VS. DIONISIO OBLERO,
DEFENDANT AND APPELLANT.**

D E C I S I O N

WILLARD, J.:

This action was commenced on the 13th of March, 1902, before a justice of the peace of the Province of Pangasinan, who entered judgment in favor of the plaintiff on the 22d day of March, 1902. The defendant appealed to the Court of First Instance. In that court the plaintiff relied upon the complaint which she had filed before the justice of the peace, and the defendant presented a new answer to that complaint. Judgment was entered in favor of the plaintiff, and defendant moved for a new trial, which was denied. He excepted to the order denying the motion for a new trial, and also to the judgment, and has brought this case here by bill of exceptions.

The bill of exceptions purports to contain all the evidence presented at the trial in the Court of First Instance, but, as a matter of fact, none of the evidence is found in the bill of exceptions, and none of it has been returned to this court. The appellant appears to claim in his brief that the appellee consented to the omission of the evidence by stating that she had no objection to the allowance by the court of the bill of exceptions. This statement, however, can not be considered as such an agreement. The proofs not being here, we can not consider the points made by the appellant to the effect that the evidence in the case showed that he was the owner and entitled to the possession of the property in dispute.

The appellant assigns as error the fact that the Court of First Instance decided the case upon the evidence presented before the justice of the peace. The record does not support this claim. It is stated in the judgment of the Court of First Instance that that judgment was rendered after hearing the *witnesses* of each party, and the arguments of counsel.

The judgment of the court below is affirmed, with the costs of this instance against the appellant, and after the expiration of twenty days judgment should be entered in accordance herewith, and the cause remanded to the court below for execution of said judgment.

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