

4 Phil. 203

[G.R. No. 2342. February 10, 1905]

CONCEPCION CALVO, PLAINTIFF AND APPELLEE, VS. ANGELES O. DE GUTIERREZ ET AL., DEFENDANTS AND APPELLANTS.

D E C I S I O N

CARSON, J.:

The appellants in this cause submit a motion for a stay of execution, pending appeal from the judgment of the Court of First Instance.

It appears that the trial judge ordered that execution should not stay unless the appellants filed a bond to secure compliance with the final judgment in the cause, and that this order was issued in conformance with section 144 of the Code of Civil Procedure, which rests the issuance of such orders in the discretion of the judge of the Court of First Instance wherein the cause was tried.

This court will not interfere to modify, control, or inquire into the exercise of this discretion, which is conferred by statute, unless it be alleged and proven that there has been an abuse or an excess of authority on the part of the judge in whose discretion the authority to grant such stays has been vested, or that since the issuance of the order conditions have so far changed as to necessitate the intervention of the appellate court to protect the interests of the parties against contingencies which were not contemplated by the trial judge at the time of the issuance of the order. (Jerome vs. McCarter, 21 Wallace, 17 U. S.) No such grounds are alleged in this motion, and it is therefore denied, with costs to the plaintiff.

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

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