3 Phil. 746

**[ G.R. No. 1385. April 22, 1904 ]**

**RAFAEL ENRIQUEZ ET AL., PLAINTIFFS AND APPELLEES, VS. FRANCISCO ENRIQUEZ ET AL., DEFENDANTS AND APPELLANTS.**

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

**MAPA, J.:**

There has been no motion for a new trial in this case. Consequently we can not review the evidence or retry any issue of fact, but can simply decide the questions of law raised by the bill of exceptions. (Code of Civil Procedure, sec. 497.) For this purpose we must rely solely upon facts found by the trial court in connection with those alleged in the pleadings.

One of the questions presented by the complaint is the nullity of the power of attorney executed by Don Antonio Enriquez in favor of Francisco Enriquez, March 5, 1883. The plaintiffs allege that this power of attorney is false and expressly demand that it be annulled upon the ground that it was not really executed by Don Antonio Enriquez, who at the date in question, and before and after it, was mentally and physically incapable of executing the said power of attorney.

The judgment appealed does not decide this question, nor does it contain any finding of fact with reference thereto which might serve us as a basis for the decision of this question. It is true that the court apparently did not deem it necessary to decide this question in view of the fact that he had declared the nullity of the deeds of sale of the property which was the object of the litigation. But it is also true that this declaration of nullity is based upon other causes, different

from the nullity of the power which authorized Don Francisco Enriquez to sell the property on behalf of Don Antonio Enriquez. Upon the hypothesis that this court might not agree with the trial court as to the sufficiency of the causes upon which he declared that sale to be void, the plaintiffs would be prejudiced without fault attributable to them, because we could not decide the question raised as to the nullity of the power of attorney, the court having failed to make a finding as to the facts proven upon this point. Supposing that the plaintiffs had proved the falsity of the power of attorney, and even though the other causes of nullity alleged in the complaint might not be regarded as sufficient, this alone would be enough to carry with it the nullity of a sale made by virtue of the power of attorney in question. This being so, it would be evidently unjust to deprive the plaintiffs of this ground of their action, the success of which might perhaps depend upon the decision of this point, which in turn rests upon facts as to which there is no finding in the decision of the court by which we can determine whether they were or were not proven at the trial.

The defendants in turn alleged in their answer that the sale of which the nullity was in question, *and which took place eighteen years ago was a legal conveyance known to the parties in interest, who expressly confirmed it more than four years ago.* This allegation contains a defense, which if proved, might perhaps be sufficient to offset the action brought by the plaintiff. Nevertheless the judgment appealed contains no finding of fact concerning the alleged knowledge of the plaintiffs as to the sale in question for more than four years, or as to the confirmation of the said sale alleged fo have been expressly made by the plaintiffs. This prevents us from deciding this point of the question on account of the insufficiency of the data before us.

It is the duty of the court to file in writing his findings upon issues of fact raised by the pleadings. (Sec. 133, Code of Civil Procedure.) The findings of the court constitute the sole basis upon which we can decide the case when, as in this instance, we are unable to review the evidence taken at the trial. Without such a finding by the court it is impossible for us to arrive at any conclusion of law or to render a decision of affirmation or reversal.

For the reasons stated the judgment below is deficient and is not in harmony with the issues at the trial, and must therefore be set aside. Having reached this conclusion, it is not necessary for us to decide whether Judge Odlin could or could not legally render the judgment appealed under the special circumstances of its rendition. Whatever might be the conclusion reached upon this point, the judgment could not be sustained for the reasons above indicated.

The judgment below is therefore set aside, and the case will be returned to the trial court for the rendition of a proper judgment, by including therein the findings of fact and conclusions of law omitted in the judgment before us upon the points above indicated, without prejudice to the evidence already taken, which we declare to be valid, and without prejudice to the admission of such additional evidence as the parties may desire to present. No costs will be allowed in this instance. So ordered.

*Arellano, C. J., Torres, McDonough,* and *Johnson, JJ.,* concur.

*Cooper, J.,* did not sit in this case.

---

Date created: December 12, 2018