

4 Phil. 670

[G.R. No. 1825. August 17, 1905]

ISABELO ARTACHO, PLAINTIFF AND APPELLANT, VS. THE PROVINCIAL BOARD OF PANGASINAN, DEFENDANT AND APPELLEE.

D E C I S I O N

WILLARD, J.:

The court below dismissed this action because it was within the exclusive jurisdiction of a justice of the peace, and not within the jurisdiction of the Court of First Instance.

The complaint alleged that the provincial board of the Province of Pangasinan had adopted an ordinance providing that any animal which should be found in the public park of Lingayen should be seized, and should be delivered to the owners only upon the payment of a certain fine. The complaint alleged that this ordinance was illegal, and that the provincial board had no power to adopt it. It alleged also that the authorities of the province had seized a goat belonging to plaintiff, which had never been returned, and that the damages which he had suffered by reason thereof amounted to 30 pesos. In his prayer he asked that the court declare, first, that the ordinance was illegal and void, and, second, that the provincial board be required to return to him the goat or pay its value, 25 pesos, and, third, that the board be required to pay him 30 pesos as damages.

The theory of the court below was that the principal object of this action was to recover these two sums of 25 pesos and 30 pesos. To this we can not agree. We think the principal object was to obtain a judgment of the court that the ordinance of the provincial board was illegal and void, and that the recovery of damages was merely

ancillary. That a justice of the peace has no jurisdiction of an action brought for the purpose of having an ordinance of the provincial board declared void, is, of course, clear. Such an action must be brought in a court of general jurisdiction, and in these Islands that court is the Court of First Instance. Such an action is included under paragraph 1 of section 56 of Act No. 136, which declares that Courts of First Instance shall have original jurisdiction in all civil actions in which the subject of litigation is not capable of pecuniary estimation. The court below should not have dismissed this case on the ground that it was within the jurisdiction of the justice of the peace, but should have proceeded with it in the ordinary way.

Whether or not the plaintiff has selected the proper remedy, and whether or not an action in *certiorari*

instead of an ordinary action is not the remedy of which he should have availed himself, are, of course, questions which we do not decide.

Those are questions, which it is the duty of the Court of First Instance to decide, and which it will have jurisdiction to determine when the case is remanded thereto. The Solicitor-General has filed a brief as the representative of the provincial board, and in it he takes the position that the case was within the jurisdiction of the Court of First Instance, and not of a justice of the peace.

The judgment of the court below is reversed without costs in this instance. After the expiration of twenty days, judgment will be entered in conformity herewith and the cause will be remanded to the lower court to be proceeded with in accordance with law.

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