

[ G. R. No. 19114. June 26, 1922 ]

**SALVADOR JARANILLO, MUNICIPAL PRESIDENT OF CAVITE, PETITIONER, VS.  
ANDRES JACINTO, JUSTICE OF THE PEACE OF CAVITE, AND O. E. HART,  
RESPONDENTS.**

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

**OSTRAND, J.:**

This is a petition for a writ of certiorari. It appears from the record that on April 12, 1922, the respondent justice of the peace of the provincial capital of Cavite, in the exercise of the interlocutory jurisdiction resting with him in the absence of the Judge of the Court of First Instance from the district, issued a preliminary injunction against the respondent O. E. Hart, in civil case No. 1469 of the Court of First Instance of Cavite, in which the herein petitioner is the plaintiff and the said respondent O. E. Hart is the defendant.

Thereafter, on April 26, 1922, the defendant Hart filed a bond for the dissolution of the preliminary injunction and on the same day said justice of the peace, in the absence of the Judge of the Court of First Instance, on a verbal motion *ex parte* issued an order dissolving said injunction.

The petitioner maintains that the justice of the peace had no jurisdiction to dissolve the injunction *ex parte* and without notice to the party at whose instance the injunction was issued.

There is nothing in this contention. If the justice of the peace had jurisdiction to issue the injunction he had, of course, also jurisdiction to dissolve it. (22 Cyc., 981, and authority there cited.) Assuming, without deciding, that notice of the motion to dissolve a preliminary injunction is necessary where a bond is given by the movant, it is evident, nevertheless, that the failure to give such notice is merely an irregularity in the proceedings which do not go to the jurisdiction of the court and cannot be corrected by certiorari. The remedy of the aggrieved party in such cases lies through a motion in the court, from which the order

dissolving the injunction issued, to have the order set aside or the irregularity otherwise cured.

The petition is denied with the costs against the petitioner. So ordered.

*Araullo, C. J., Avanceña, Villamor, Johns, and Romualdez, JJ., concur.*

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