

G.R. No. L-6634

[G.R. No. L-6634. December 22, 1954]

FELIPA GIRAY VDA. DE DELIM AND FILEMON MERINO, PETITIONERS-APPELLEES, VS. GUILLERMO Y. SARMIENTO, ET AL., RESPONDENTS, GUILLERMO Y. SARMIENTO RESPONDENT-APPELLANT.

R E S O L U T I O N

LABRADOR, J.:

This is an appeal from the judgment of the Court of First Instance of Samar in a special action of injunction, which was brought to prevent the respondents from continuing the construction of a building on a certain parcel of land claimed to be a prolongation of a public street in the municipality of Laoang, province of Samar, which (disputed) land borders that belonging to the petitioners. The court rendered its decision upon concurrent motions of the parties for summary judgment. The motions were accompanied by affidavits and documents. According to the petitioners, the land on which the building was erected is a prolongation of a public street; while according to the respondents, it is not a prolongation of a public street but is a patrimonial property of the municipality.

The court held that the land is a prolongation of a public street and granted the injunction. Thereupon, respondents filed a Record on Appeal, asking that the case be remanded to the Court of Appeals. For undisclosed reasons, however, the court *a quo* remanded the case to this Court.

The question submitted to the court *a quo* is a question of fact, and the mere fact that it was decided on the Strength of the affidavits and other papers submitted without the formality of a trial did not convert the issue into one purely of law. The issue of fact passed upon by the trial court is the same issue of fact now presented

by the appellants as may be seen in the following assignment of error:
“The court erred in concluding as clearly established that the lot in question is a prolongation of San Isidro street and by considering and giving weight to the opposition of the Municipality of Laoang, Samar, to registration No. 236- G.L.R.O. No. 42329 (Annex ‘D’ of the Petitioners) as a basis in its decision to declare the respondent in estoppel.”

It does not appear that the value of the property involved in the case is more than P50,000.00; indeed, if it is merely the prolongation of a street, it must be of insignificant size. The picture of the structure being built shows that it is merely of wood and could not if each the jurisdictional value of this Court. There is no evidence or paper to show the actual value of the property, and we believe it can not be more than P50,000.00.

Considering that we have no jurisdiction over the subject-matter of the appeal, the case is hereby forwarded to the Court of Appeals for decision in accordance with the provisions of existing law.

Paras, C.J., Pablo, Bengzon, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Concepcion, and Reyes, JJ., concur