

**ANTONIA BICERRA, DOMINGO BICERRA, BERNARDO BICERRA,
CAYETANO BICERRA, LINDA BICERRA, PIO BICERRA, AND
EUFRICINA BICERRA, PLAINTIFFS AND APPELLANTS, VS. TOMASA
TENEZA AND BENJAMI...**

G.R. No. L-16218. November 29, 1962

Ponente: MAKALINTAL, J.

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MAKALINTAL, J.:

This case is before us on appeal from the order of the Court of First Instance of Abra dismissing the complaint filed by appellants, upon motion of defendants-appellees on the ground that the action was within the exclusive (original) jurisdiction of the Justice of the Peace Court of Lagangilang, of the same province.

The complaint alleges in substance that appellants were the owners of the house, worth P200.00, built on a lot owned by them and situated in the said municipality of Lagangilang; that sometime in January 1957 appellees forcibly demolished the house, claiming to be the owners thereof; that the materials of the house, after it was dismantled, were placed in the custody of the barrio lieutenant of the place; and that as a result of appellees' refusal to restore the house or to deliver the materials to appellants the latter have suffered actual damages in the amount of P200.00, plus moral and consequential damages in the amount of P600.00. The relief prayed for is that "the plaintiffs be declared the owners of the house in question and/or the materials that resulted in (sic) its dismantling; (and) that the defendants be ordered to pay the sum of P200.00, plus P600.00 as damages, and the costs."

The issue posed by the parties in this appeal is whether the action involves title to real property, as appellants contend, and therefore is cognizable by the Court of First Instance (Sec. 44, par. (b), R.A. 296, as amended), or whether it pertains to the jurisdiction of the Justice of the Peace Court, as stated in the order appealed from, since there is no real property litigated, the house having ceased to exist, and the amount of the demand does not exceed P2,000.00 (Sec. 88 id.)[*]

The dismissal of the complaint was proper. A house is classified as immovable property by reason of its adherence to the soil on which it is built (Art. 415, par. 1, Civil Code). This classification holds true regardless of the fact that the house may be situated on land belonging to a different owner. But once the house is demolished, as in this case, it ceases to exist as such and hence its character as an immovable likewise ceases. It should be noted that the complaint here is for recovery of damages. This is the only positive relief prayed for by appellants. To be sure, they also ask that they be declared owners of the dismantled house and/or of the materials. However, such, declaration in no wise constitutes the relief itself which if granted by final judgment could be enforceable by execution, but is only incidental to the real cause of action to recover damages.

The order appealed from is affirmed. The appeal having been admitted in forma pauperis, no costs are adjudged.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and

Regala, JJ., concur.

* This amount, cognizable by the Justice Peace Court, has been increased to P5,000 in R.A. 2613, enacted August 1, 1959.

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