

**DOMINGO CRUZ AND CRESCENCIA AUSTRIA, PETITIONERS, VS.
EULALIO GARCIA, JUDGE, COURT OF FIRST INSTANCE OF RIZAL,
MANUEL JOAQUIN, AND THE PROVINCIAL SHERIFF, RIZAL,
RESPONDENTS.**

G.R. No. L-1091. August 01, 1947

Ponente: PARAS, J.

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PARAS, J.:

The respondent Manuel Joaquin filed an ejectment suit in the justice of the peace court of Pasay, Rizal, against the petitioners Domingo Cruz and Crescencia Austria, the complaint alleging in the main that the respondent had bought the house situated at No. 18 O'Farrell Street, Pasay, Rizal, from one Eulalio Algoso on April 16, 1946, and that prior to, and at the time of the purchase, the petitioners were in possession of said house. In their answer, the petitioners alleged that they are the sole and absolute owners of the property in question and that the alleged vendor, Eulalio Algoso, was never its owner. The justice of the peace court, after denying a motion for dismissal filed by the petitioners, allowed the respondent Manuel Joaquin to present his evidence and thereafter rendered a judgment ordering the petitioners to vacate the house and to pay a monthly rental of P30. Upon appeal to the Court of First Instance of Rizal, the petitioners reiterated the defenses set up in the court of origin. In line with their theory, the petitioners did not deposit in the Court of First Instance the rental awarded by the justice of the peace court, whereupon the respondent Manuel Joaquin moved for immediate execution. In their opposition, the petitioners prayed for the dismissal of the complaint on the ground of lack of jurisdiction on the part of the justice of the peace court, the case involving a question of ownership. This opposition was overruled, and the Court of First Instance issued an order for execution. Hence, the present original petition for certiorari was instituted by the herein petitioners against Honorable Eulalio Garcia, Judge of the Court of First Instance of Rizal, Manuel Joaquin and the provincial sheriff of Rizal, and it is prayed that the order of execution be set aside, that the proceedings held before the justice of the peace court of Pasay be declared null and void, and that the respondent judge be ordered to desist from further proceeding with the case.

There can be no doubt that under the pleadings as well in the justice of the peace court as in the Court of First Instance, the principal issue relates to the ownership of the house in dispute, and that any question of possession that may be involved necessarily depends upon the result of the inquiry into the title. In other words, it is clear that the petitioners cannot be ousted without a judicial finding that they are not the owners. As a matter of fact, the complaint filed in the justice of the peace court does not allege any cause of action against the petitioners for forcible entry or unlawful detainer within the meaning of section 1 of Rule of Court No. 72. The suit should, therefore, have been dismissed by the said justice of the peace court; and the Court of First Instance of Rizal did not acquire appellate jurisdiction over the case.

The case at bar is substantially on all fours with *Peñalosa and Peñalosa vs. Garcia* (78 Phil., 245) and *Torres and Paglinawan vs. Peña* (78 Phil., 231). Conformably to our decisions therein, judgment is hereby entered, ordering the respondent judge to take cognizance of, and proceed with, the case in question in the exercise of its original

jurisdiction, and annulling the order of execution issued therein, by said respondent judge. So ordered, with costs against the respondent Manuel Joaquin.

Moran, C.J., Feria, Pablo, Perfecto, Hilado, Bengzon, Hontiveros, Padilla, and Tuason, JJ., concur.

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