

REGINO G. AQUIZAP, PLAINTIFF-APPELLANT, VS. EUGENIO BASILIO, ET AL., DEFENDANTS-APPELLEES.*G.R. No. L-21293. December 29, 1967*

Ponente: RUIZ CASTRO, J.

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Sometime in 1943 Regino G. Aquizap filed "Civil Case No. 1, por Detentacion, dated July 28, 1943" with the justice of the peace court of San Marcelino, Zambales, against Eugenio Basilio and Santiago Amos. Judgment was rendered on September 25, 1943, sentencing the defendant "to vacate and restore possession of the land to him and to pay damages and costs". Although Basilio received a copy of the decision, he remained in possession of the land, planted it to palsy in 1944, 1945 and 1946 and, according to Aquizap, "reaped and harvested for himself, exclusively," 16 cavanese of palsy for each agricultural year or 48 cavanese all told. In November, 1946 the deputy sheriff of Zambales, by force of a writ of execution issued by the said JP court on October 23, 1946, "constituted himself in the place and delivered the possession of the same" to Aquizap.

On December 10, 1946 Aquizap filed a complaint (CC 1150) with the Court of First Instance of Zambales, "asking payment of certain amount of money and damages" against Basilio and others. On July 29, 1953 this complaint was dismissed, for Aquizap's failure to appear when the case was called for hearing, "without prejudice to the filing of a new complaint".

On November 3, 1953 Aquizap filed the present action (CC 1631) with the same CFI of Zambales, alleging that Basilio's illegal possession of the premises in the years 1944, 1945 and 1946, caused him to suffer "damages and prejudice" to the extent of 48 cavanese of palay, representing the harvest for the said agricultural years, at P11 per Cavan, or a total equivalent sum of P528, and "other damages in the amount of P200.00, representing expenses and the reasonable value of his professional works in handling the case". He prayed that

"judgment be rendered: (a) sentencing the defendants to pay the plaintiff the amount of 48 cavanese of palsy or its equivalent value in the sum of P528.00, Philippine Currency, plus its legal interest until it is fully paid; (b) sentencing the defendants to pay another sum of P200.00 for damages caused against him; and (c) ordering the defendants to pay the cost."

After filing his answer to the complaint, Basilio died. He was substituted by his "heirs and successors in interest", namely, Luciano, Ceferino, Francisca, Pio, Silverio, Ricardo, Tomas and Florentino, all surnamed Basilio, and Maria Concepcion. Against these defendants, Aquizap then filed an amended complaint which reproduced verbatim the allegations and prayer of the first complaint, with the addition of a paragraph re-citing that the said amended complaint was filed "only to make (them) party defendants, by substitution according to law * * *, who are the heirs and successors in interest of the said deceased original defendant, Eugenio Basilio".

The heirs-defendants moved to dismiss the amended complaint, averring that it does not state a cause of action; that the cause of action, if any, does not accrue against them; and that the action is barred by the statute of limitations. In spite of opposition by the plaintiff, the lower court dismissed the amended complaint on the

ground that it is "barred by the statute of limitations." The plaintiff appealed to the Court of Appeals after denial of his motion for reconsideration of the order of dismissal. Because only questions of law are involved, the appeal was certified to us.

The appellant's 1946 action seeking recovery of the sum of P528 was dismissed on July 29, 1953 for his failure to appear, "without prejudice to the filing of a new complaint." It was obviously in accordance with this reservation that he filed the present action on November 3, 1953. By then, however, the Court of First Instance of Zambales had lost jurisdiction because the Judiciary Act of 1948, which took effect on June 17, 1948, gave inferior courts "exclusive original jurisdiction where . . . the amount of the demand does not exceed two thousand pesos, exclusive of interest and costs." [1]

It may indeed be true that at the time the appellant filed his action in 1946 the Court of First instance had jurisdiction of his claim since the former law [2] on the jurisdiction of courts placed cases in which the demand, exclusive of interest and costs, amounts to P600 or more, within the exclusive jurisdiction of the courts of first instance. But it is a rule firmly imbedded in jurisprudence that jurisdiction is determined by the statute in force at the time of the filing of the action, [3] and since the present action was filed in 1953, the Judiciary Act of 1948, which had earlier taken effect, governed the jurisdiction of courts.

The reservation of the appellant's action made in the order of dismissal of July 29, 1953 did not make the present action a continuation of that which was thereby dismissed. The notation in the order that the dismissal was "without prejudice to the filing of a new complaint" was intended merely to avoid the effects of the Rules of Court provision [4] that dismissal for failure of the plaintiff to appear is equivalent to "an adjudication on the merits [with prejudice] unless otherwise provided by the court," but it did not render the order any less final. The order here in question is not like the "sin perjuicio" decision which this Court condemned as a nullity in *Director of Lands v. Sanz* [5] because it did not contain "a statement of the facts which were essential to a clear understanding of the issues presented by the respective parties as to the facts involved." [6] The order of dismissal in this case is complete in all details and, though without prejudice, nonetheless finally disposed of the matter. The result is that the jurisdiction which the Court of First Instance of Zambales had acquired in 1946 under Act 136 was fully discharged and terminated. The present action, then, is a completely new action which should have taken into account the law in force at the time of its filing.

Since the totality of the demands contained in the amended complaint of the appellant is way below P2,000, it was plainly below the minimum jurisdiction of the Court of First Instance under section 88 of the Judiciary Act of 1948, and therefore this Court is without appellate jurisdiction to review this case.

In view of the conclusion we have thus reached, we deem it unnecessary to pass upon the issues raised by the parties.

ACCORDINGLY, the appeal is dismissed, and the proceedings in the lower court are set aside, without pronouncement as to costs.

Concepcion, C.J., Reyes, JBL, Dizon, Makalintal, Bengzon, JP, Zaldivar, Sanchez and Angeles, JJ., concur. Fernando, J., did not take part.

[1] Sec. 88. The jurisdiction of inferior courts has been increased to P10,000 by Republic Act 3828, June 22, 1963.

[2] Act 136, secs. 56 and 68.

[3] See, e.g., *Macondray & Co. v. Yangtsse Ins. Ass'n* 51 Phil. 789 (1928); *Rilloraza v. Arciaga*, L-23848, Oct. 31, 1967; *People v. Pegarum*, 58 Phil. 715 (1933).

[4] Rule 30, sec. 3, now Rule 17, sec. 3.

[5] 45 Phil. 117 (1923).

[6] *Id.* at 121.

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