

PABLO INDICO, PETITIONER, VS. NATIVIDAD PARCON AS JUSTICE OF THE PEACE OF JANUAY, F. IMPERIAL REYES, JUDGE OF FIRST INSTANCE OF ILOILO, AND BASILISA TIRADOR, RESPONDENTS.

G.R. No. L-1431. May 27, 1948

Ponente: TUASON, J.

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TUASON, J.:

Pablo Indico, the present petitioner, filed an Application for certiorari in the Court of First Instance of Iloilo seeking, on the ground of alleged lack or excess of jurisdiction, the setting aside of a decision and an order of execution handed down and issued of the justice of the peace of Januay, Iloilo, in an action for forcible entry and detainer. That petition having been denied, he comes to this Court setting forth the same facts as his cause of action and praying for the same relief. The present petition is a substantial reproduction of the dismissed petition with the sole difference that now, the Judge of First Instance, Honorable F. Imperial Reyes, is made defendant and his decision is added to the justice of the peace's decision and order sought to be brought up for examination.

It is evident that the decision and order of execution of the justice of the peace cannot be reviewed by certiorari after the first petition to obtain the same relief has been thrown away. This question is *res judicata*. It is likewise evident that certiorari does not lie against Judge Reyes' decision. Appeal would be the appropriate Redress against the latter decision. Certiorari is not a substitute for appeal unless it appears that appeal does not afford adequate and complete remedy. Countenance of the step taken by the petitioner would result in the anomaly that a petition for the writ of certiorari could be repeated as many times as there were courts of different grades, in the order of their rank. An unsuccessful attempt, say, in the Court of Appeals, if a petition could be filed in that court, could be reiterated in the Supreme Court.

Such procedure would have to rest on the theory that the court which took cognizance of the first petition had no jurisdiction to entertain it, when in fact the petitioner himself invoked such jurisdiction and set the court in motion. The subsequent petition or petitions become doubly incongruous when account is taken of fact that, as in this case, the original petition has been dismissed and no affirmative action having been taken, the proceeding of the latter court cannot, in the nature of things, suffer from the infirmity of being wholly or partly outside that court's jurisdiction.

The petition is dismissed with costs.

Parás, Feria, Perfecto, and Bengzon, JJ., concur.

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