

CONCEPCION C. CASTILLO, ET AL. PLAINTIFFS-APPELLANTS, VS. JAIME NEREZ, DEFENDANT-APPELLEE.

G.R. No. L-27078. September 12, 1977

Ponente: AQUINO, J.

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AQUINO, J.:

The spouses Agrifino Castillo and Concepcion Castro Castillo filed against Jaime Nerez in the justice of the peace court of Tagum, Davao a complaint dated September 29, 1959, seeking to eject Nerez from Lot No. 1327 of the Tagum cadastre (Civil Case No. 148). Nerez answered the complaint. The record does not show what transpired in the justice of the peace court. The case was appealed by Nerez to the Court of First Instance of Davao (Civil Case No. 3212).

On August 30, 1972 Nerez filed in the lower court a motion to dismiss on the grounds of lack of cause of action, no legal capacity to sue, and nonexhaustion of administrative remedies.

The Castillo spouses opposed the motion. The lower court in its order of October 17, 1962 dismissed the complaint for lack of cause of action and lack of jurisdiction. It reasoned out that there was no demand to vacate and that, because both Nerez and Porfirio Campos, the son of the Castillo spouses, had filed with the Bureau of Lands miscellaneous sales applications for the disputed lot, it is the Bureau that has jurisdiction over the case (*Rellin vs. Cabigas*, 109 Phil. 1128).

The Castillos' motion for reconsideration of that order of dismissal was denied by the lower court in its orders of March 6, 1963.

The Castillos appealed to the Court of Appeals. That Court in its resolution of December 15, 1966 certified the case to this Court on the ground that the appeal involves only a question of law, the question of whether the lower court has jurisdiction over the case (CA-G.R. No. 35778-R).

This Court in its resolution of June 15, 1977 asked the parties to manifest whether the Director of Lands had already decided their controversy in D. L. O. Claim No. 1507 (N) and whether this case had become moot and academic.

Nerez in his manifestation of July 22, 1977 stated that the Director of Lands rendered a decision in his favor on March 12, 1963 in B. L. Claim No. 1907 (N) and that the case was appealed by Porfirio Campos to the Secretary of Agriculture and Natural Resources. That administrative case is pending. Nerez stated that the appeal herein should be dismissed because it has become moot and academic.

The Castillo spouses in their manifestation of August 15, 1977 concurred in the prayer of Nerez for the dismissal of this case.

WHEREFORE, the case is dismissed. No costs.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Concepcion Jr., and Santos, J.J., concur.

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