

**PEDRO L. FLORES, PETITIONER, VS. PERFECTO R. PALACIO, JUDGE
OF THE COURT OF FIRST INSTANCE OF CAMARINES SUR,
EXCEQUIELA RABAJANTE AND JUAN A. PARCO, RESPONDENTS.**

G.R. No. L-1918. May 18, 1949

Ponente: PERFECTO, J.

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PERFECTO, J.:

Excequiela Rabajante, married to Juan A. Parco, is the lessee of a public residential land in Naga, Camarines Sur, in a lease contract executed in her favor by the Secretary of Agriculture and Natural Resources, subject to the provisions of Public Land Act No. 141. Her husband Parco was transferred sometime in 1939 to Legaspi, Albay, then to Catanduanes, as interim provincial treasurer and later on to Santa Cruz, Laguna, as assistant provincial treasurer. The house Excequiela built in the land was burned to the ground in 1942.

With the permission of the mayor of Naga, Pedro L. Flores constructed a building on the lot in question and filed with the Bureau of Lands a protest against the continuance of the lease contract in favor of Excequiela. Pending determination of said protest, Excequiela and her husband filed with the Court of First Instance of Camarines Sur an action for ejectment against Flores. Having no defense in said civil case, as the contract of lease is still in force and not otherwise cancelled, Flores entered into an agreement with the plaintiffs promising to vacate the land within three months from and after the signing of said agreement, Flores hoping that within said period his claim to the lot in question would have been already determined definitely and finally by the Department of Agriculture and Commerce. Accordingly, decision was rendered and on December 11, 1947, a writ of execution was issued for the ouster of Flores from the lot in question.

Flores seeks the annulment of the agreement he entered into to vacate the lot and of the writ of execution of December 11, 1947, alleging that on October 4, 1947, he instituted with the Court of First Instance of Camarines Sur an action for mandamus to compel the Secretary of Agriculture and Commerce to terminate the lease contract in favor of Excequiela and that the respondent judge acted without or in excess of his jurisdiction in not permitting Flores to continue in the possession of the lot in question until after the mandamus proceedings shall have been finally terminated.

The petition is without merit. If, as petitioner claims, the agreement to vacate the lot in question was entered into by him against his will, he should have availed himself of the remedy provided to by Rule 38 to annul the same instead of restoring to the present petition for certiorari and prohibition.

As regards the mandamus case against the Secretary of Agriculture and Commerce initiated on October 4, 1947, with the Court of First Instance of Camarines Sur, it cannot in any way divest the respondent judge of his power and jurisdiction to issue or order the issuance of the writ of execution of December 11, 1947, which is based on a final decision rendered on the basis of an agreement entered into by the parties. Regardless of any merit the mandamus case may have, its result is speculative. A final decision of a court of justice cannot be suspended or annulled upon a speculation.

Petition denied with costs against petitioner.

Moran, C. J., Ozaeta, Paras, Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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