

ANITA G. TORRES AND LAZARO TORRES, PETITIONERS, VS. NORA S. YU, JOSE B. YU AND COURT OF APPEALS, RESPONDENTS.*G.R. No. L-42626. December 08, 1982*

Ponente: AQUINO, J.

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This case is about the much discussed and vexed question as to the jurisdiction of the Court of Appeals under section 45 of the Judiciary Law, as amended by Republic Act No. 6031, to review the decision of the Court of First Instance in cases exclusively cognizable by an inferior court.

The municipal court of Lingayen, Pangasinan in its decision dated September 1, 1975 in an ejectment suit, Civil Case No. 3509, ordered the Yu spouses to vacate the one-third portion on the southern side of Stall No. 1 of the Lingayen Central Market and to pay the spouses Anita G. Torres and Lazaro Torres the sum of ninety pesos a month from February 19, 1975 until the possession of the stall is restored to the Torres spouses (p. 27, Rollo).

The Yu spouses appealed to the Court of First Instance which in a decision dated October 27, 1975 in Civil Case No. 15178 affirmed the municipal court's judgment (p. 40, Rollo). A copy of that decision was received by the Yu spouses on October 28, 1975. Fifteen days later, they filed a motion for reconsideration. They received the order denying it on December 9, 1975 (p. 75, Rollo). Fourteen days later, or on December 23, they mailed their petition for review to the Court of Appeals (p. 5, Rollo).

The Court of Appeals in its resolution of January 13, 1976 gave due course to that petition, required the Torres spouses to answer it, set the case for hearing on February 11 and directed the issuance of a preliminary injunction upon private respondents' filing of a bond in the sum of one thousand pesos (Yu vs. Torres, CA-G. R. No. SP-04952).

That resolution was assailed by the Torres spouses in the instant special civil action of certiorari which they filed in this Court on February 2, 1976. Their petition was given due course. (In the meantime, the decision of the Court of First Instance was executed).

The Torres spouses contend that the Court of Appeals has no jurisdiction under Republic Act No. 6031 to review the said decision of the Court of First Instance because the issue of whether its factual findings are supported by substantial evidence is allegedly a purely legal question which this Court has the exclusive jurisdiction to resolve (pp. 7 and 11, Rollo).

Diametrically opposed to that contention is the position taken by the respondents Yu. They contend that whether the factual findings in the decision of the Court of First Instance are supported by substantial evidence is an issue that is within the exclusive jurisdiction of the Court of Appeals (pp. 95, 100-103, Rollo).

In resolving these conflicting views, it is necessary to examine the lawmaker's efforts to diminish the jurisdiction of the Court of Appeals over cases decided by the Court of First Instance which are exclusively cognizable by inferior courts and thus relieve in some measure the congestion of cases in the appellate courts.

In the beginning, all cases decided by the Court of First Instance involving factual issues were appeal-able to the Court of Appeals as a matter of right. Note that no distinction was made as to cases coming from inferior courts and cases originally filed in the Court of First Instance. Before the Judiciary Law was amended, it provided:

"SEC. 29. Jurisdiction of the Court of Appeals.- The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings not enumerated in section seventeen of this Act, properly brought to it from Courts of First Instance. The decision of the Court of Appeals in such cases shall be final:

"Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the said case be certified to it for review and determination, as if the case had been brought before it on appeal."

To avoid protracted litigations over cases coming from inferior courts, like ejectment cases, which could pass through four courts, including this Court, the law-making body found it expedient to abolish appeals to the Court of Appeals from judgments of the Court of First Instance in cases decided by inferior courts and to allow the Court of Appeals to review the said judgments by means of a petition for review under certain conditions.

Hence, it enacted Republic Act No. 5433, which took effect on September 9, 1968 and which amended section 29 by providing that decisions of Courts of First Instance rendered after trial on the merits in the exercise of their appellate jurisdiction, which affirm in full the judgment of an inferior court, may be elevated to the Court of Appeals by the aggrieved party only on petition for review and that the Court of Appeals may entertain that petition when it shows prima facie that the Court of First Instance "has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed". For reference, section 29, as amended by Republic Act No. 5433, is quoted below:

"SEC. 29. Jurisdiction of the Court of Appeals. The Court of Appeals shall have exclusive appellate jurisdiction over all cases, actions, and proceedings, not enumerated in section seventeen of this Act, properly brought to it, except final judgments or decisions of Courts of First Instance rendered after trial on the merits in the exercise of appellate jurisdiction, which affirm in full the judgment or decision of a municipal or city court, in which cases the aggrieved party may elevate the matter to the Court of Appeals only on petition for review, to which the Court of Appeals shall give due course only when the petition shows prima facie that the court has committed errors of fact or of fact and law that would warrant reversal or modification of the judgment or decision sought to be reviewed. The decision of the Court of Appeals shall be final:

"Provided, however, That the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the said case be certified to it for review and determination, as if the case had been brought before it on appeal."

On the other hand, section 45 of the Judiciary Law originally provided that "Courts of First Instance shall have appellate jurisdiction over all cases arising in municipal and justice of the peace courts, in their respective provinces". Note that no distinction was made between cases exclusively cognizable by inferior courts and cases falling within the concurrent jurisdiction of inferior courts and the Court of First Instance.

Republic Act No. 2613, which took effect on August 1, 1959 and which enlarged the jurisdiction of inferior courts in criminal cases, amended sections 45 and 87 by providing that the decisions of justices of the peace of provincial capitals and city judges in criminal cases where the penalty does not exceed six years' imprisonment or a fine of three thousand pesos, or both, shall be appealable directly to the Court of Appeals or the Supreme Court as the case may be. The proceedings in such cases shall be recorded.

In the meantime, Republic Acts Nos. 3345, 3820 and 3828 changed the designation of justice of the peace and municipal judge into municipal judge and city judge, respectively. The term "inferior court" is now used to refer to municipal and city courts (SC Resolution of December 23, 1963).

Republic Act No. 6031, which took effect on August 4, 1969, amended section 77 of the Judiciary Law by providing that "all municipal and city courts shall keep records of their proceedings in the same manner as courts of first instance" and "all judgments determining the merits of cases shall be in writing personally and directly prepared by the municipal or city judge, stating clearly the facts and the law on which they are based, signed by him, and filed with the clerk of court". Thus, inferior courts became courts of record.

Republic Act No. 6031 also amended section 45 of the Judiciary Law by abolishing the trial de novo provided for in section 9, Rule 40 of the Rules of Court (when inferior courts were not court of records) and by requiring the Court of First Instance in deciding cases appealed from the inferior court to decide them on the basis of the record transmitted from the inferior court to the Court of First Instance.

Republic Act No. 6031 further amended section 45 by adopting the innovation introduced by Republic Act No. 5433 in section 29 of the Judiciary Law. That amendment or innovation is that the decision of the Court of First Instance in cases exclusively cognizable by the inferior court shall be final.

But in contrast with Republic Act No. 5433, Republic Act No. 6031 (enacted less than a year from the enactment of Republic Act No. 5433) provides that the decision of the Court of First Instance in cases exclusively cognizable by the inferior court shall be final only when the factual findings in the said decision are supported by substantial evidence and the conclusions therein are not clearly against the law and jurisprudence.

Another amendment introduced by Republic Act No. 6031 into section 45 is that the decision of the inferior court in cases falling within the concurrent jurisdiction of the Court of First Instance and an inferior court shall be appealable directly to the Court of Appeals whose decision shall be final, subject to review by this Court on legal questions as provided in Rule 45 of the Rules of Court. As amended, section 45 reads:

"SEC. 45. Appellate jurisdiction.- Courts of First Instance shall have appellate jurisdiction over all cases arising in city and municipal courts, in their respective provinces, except over appeals from cases tried by municipal judges of provincial capitals or city judges pursuant to the authority granted under the last paragraph of Section 87 of this Act.

"Courts of First Instance shall decide such appealed cases on the basis of the evidence and records transmitted from the city or municipal courts: Provided, That the parties may submit memoranda and/or brief with oral argument if so requested: Provided, however, That if the case was tried in a city or municipal court before the latter became a court of record, then on appeal the case shall proceed by trial de novo.

"In cases falling under the exclusive original jurisdiction of municipal and city courts which are appealed to the courts of first instance, the decision of the latter shall be final: Provided, That the findings of facts contained in said decision are supported by substantial evidence as basis thereof, and the conclusions are not clearly against the law and jurisprudence; in cases falling under the concurrent jurisdictions of the municipal and city courts with the courts of first instance, the appeal shall be made directly to the court of appeals whose decision shall be final: Provided, however, that the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the case be certified to it for review and determination, as if the case had been brought before it on appeal."

It is at once evident that Republic Acts Nos. 5433 and 6031 overlap or are in *pari materia* with respect to the finality of the decision of the Court of First Instance in cases exclusively cognizable by an inferior court such as

ejection cases. Both laws abolished appeal by record on appeal to the Court of Appeals from the decision of the Court of First Instance in cases exclusively cognizable by an inferior court. Such cases are not, repeat, are not appealable to the Court of Appeals.

Both Republic Acts Nos. 5433 and 6031, the former in section 29, dealing with the appellate jurisdiction of the Court of Appeals, and the latter in section 45, dealing with the appellate jurisdiction of the Court of First Instance, intend that litigation should, if possible, be terminated in the Court of First Instance.

However, both amendatory laws assume that the Court of First Instance is not infallible. Therefore, in exceptional cases the rule on finality should not be enforced and the decision of the Court of First Instance in the cases exclusively cognizable by an inferior court should be reviewed by an appellate court.

Republic Act No. 5433 provides that the decision of the Court of First Instance in that kind of cases may be reviewed by the Court of Appeals by means of a petition for review when it is apparent that the Court of First Instance committed errors of fact or of fact and law and that there is some basis for possible reversal or modification of its decision notwithstanding the fact that the Court of First Instance affirmed in toto the inferior court's decision.

On the other hand, Republic Act No. 6031, while allowing also the review of the decision of the Court of First Instance in those same cases, does not unmistakably and explicitly indicate the appellate court that should undertake the review and by what means the review should be made. That deficiency or silence has generated controversy.

Republic Act No. 6031 changed the grounds for review spelled out in Republic Act No. 5433. Republic Act No. 6031 provides that the grounds for review are that the factual findings in the decision of the Court of First Instance in the said class of cases are not supported by substantial evidence and that its conclusions are contrary to law and jurisprudence.

It is obvious that, as to the grounds for review, there is repugnancy between the two amendatory laws. Republic Act No. 6031, as the later law, should prevail and should be deemed to have superseded Republic Act No. 5433 on the matter of the review by the Court of Appeals of decisions of the Court of First Instance in cases exclusively cognizable by inferior courts.

But Republic Act No. 5433 should not be considered totally abrogated by the later law because Republic Act No. 5433, in indicating that the mode of review is by petition for review and that the Court of Appeals is the tribunal to undertake the review, supplies the deficiencies of Republic Act No. 6031 on these matters.

The question of whether it is this Court or the Court of Appeals that should review the decision of the Court of First Instance in cases exclusively cognizable by inferior courts has been debated for a long time in this Court. The pros and cons have been thoroughly threshed out. One school of thought believes that the petition should always be filed in this Court. Of course, that solution would aggravate the congestion of cases in this Court.

It is said that hard cases make bad law. The converse is true. A bad law (meaning a law that is ambiguous and deficient) makes cases hard. Republic Act No. 6031 is such a law. The lawmaking body did not indubitably clarify whether it was intended to repeal Republic Act No. 5433 and where the petition for review should be filed.

We hold that if the only issue is whether the conclusions of the Court of First Instance are in consonance with law and jurisprudence, then that issue is a purely legal question. It should be ventilated in this Court by means of a petition for review on certiorari, as expressly provided in the last proviso of section 45, as amended by Republic Act No. 6031.

The petition for review in that case should be in the form prescribed in Rule 45 of the Rules of Court for an appeal from the Court of Appeals, a form adopted by Republic Act No. 5440 which took effect on September 9, 1968.

But if the issue is whether "the findings of fact contained" in the decision of the Court of First Instance "are supported by substantial evidence", which is not purely a legal issue, or if that issue is raised together with the legal issue of whether the conclusions of the Court of First Instance are in conformity with pertinent law and jurisprudence, then the petition for review should be filed in the Court of Appeals.

Those issues require an examination and evaluation of the evidence. As that function is the prerogative of the Court of Appeals, the review in that case should be by means of a petition for review.

Realizing the deficiencies in Republic Act No. 6031, the Court of Appeals adopted on August 12, 1971 the following resolution (67 O. G. 6715) which prescribes the filing of a petition for review when the decision of the Court of First Instance in cases exclusively cognizable by an inferior court is assailed for not being supported by substantial evidence and because its conclusions are claimed to be contrary to law and jurisprudence:

"WHEREAS, Republic Act No. 6031 does not prescribe the procedure to be followed by the Court of Appeals in the review of judgments of the Courts of First Instance, in cases falling under the original exclusive jurisdiction of the municipal and city courts, where the findings of facts of the Courts of First Instance are assailed for not being supported by substantial evidence as basis thereof and the conclusions are claimed to be clearly against the law and jurisprudence;

"WHEREAS, it is the sense of this Court that a uniform practice be followed by all its divisions and members thereof in reviewing the abovementioned decisions of Courts of First Instance;

"NOW THEREFORE, the Court RESOLVED, as it is hereby RESOLVED, that the following practice be observed in evaluating to this Court for review decisions of Courts of First Instance in cases falling under the original exclusive jurisdiction of municipal and city courts:

"SECTION 1. That the aggrieved party shall file within the period for appealing six (6) copies of a verified petition for the review of the decision of the Court of First Instance. The petition shall contain a concise statement of the matters involved and the grounds and arguments relied upon, specifically pointing out why the decision in question is not supported by substantial evidence and/or is clearly against the law and jurisprudence. The petition shall be accompanied with a certified true copy of the decision or judgment sought to be reviewed, together with copies of such material portions of the record as would support the allegations of the petition. As much as possible, the petition shall be a sort of a brief of the aggrieved party.

"SEC. 2. Upon the filing of the petition, the petitioner shall pay to the Clerk of the Court of Appeals the docketing fee. If the Court finds that, from the allegations of the petition, the same is not prima facie meritorious or is intended manifestly for delay, the Court may outright dismiss the petition, otherwise, the same shall be given due course, in which case, the petitioner shall deposit the amount of eighty pesos (P80.00) for costs within three days from notice of the resolution giving due course to the petition. Upon the failure of the petitioner to deposit the amount for costs within the said period of three (3) days, the petition shall be dismissed.

"SEC. 3. Immediately after the deposit for costs is made, the Court shall order the respondents to answer the petition for review within ten (10) days, unless the Court shall grant the respondents a longer period, and shall likewise order the corresponding Clerk of the Court of First Instance to elevate the whole record, including the oral (transcript of stenographic notes) and documentary evidence, of the case to this Court within ten (10) days. The answer of the respondents, which shall also be in six copies, shall be accompanied with true copies of such material portions of the record as are referred to therein together with other supporting papers. Likewise the answer shall take the place of the respondents' brief.

"SEC. 4. After the filing of the answer, the petitioner may reply thereto within five (5) days from receipt of copy thereof, after which, the case shall be deemed submitted for decision unless either party shall, within five (5) days from the filing of petitioner's reply, ask that the petition be heard on oral argument, which may or may not be granted at the discretion of the Court."

In the instant case, the Yu spouses in filing their petition for review in the Court of Appeals simply followed the said resolution. It is a correct implementation of Republic Act No. 6031 which has been in force for more than eleven years now (See Buenbrazo vs. Marave, L-41144, December 29, 1980, 101 SCRA 849 and Estrella vs. CA, 56284, January 30, 1982, 111 SCRA 581).

The Yu spouses assailed the adverse judgment of the Court of First Instance of Pangasinan on the ground that the factual findings therein are not supported by substantial evidence. The Court of Appeals (per Gatmaitan, J.) acted within its jurisdiction and did not commit any grave abuse of discretion in entertaining the petition for review of the Yu spouses.

WHEREFORE, the petition is dismissed with costs against the petitioners.

SO ORDERED.

Makasiar, Concepcion, Jr., Guerrero, Abad Santos, Melencio-Herrera, Plana, Escolin, Relova, and Gutierrez, Jr., JJ., concur.

Teehankee, Acting C.J., De Castro and Vasquez, JJ., file their separate opinion.

Fernando, C.J., on leave.

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SEPARATE CONCURRING OPINION

DE CASTRO, J.:

With how exhaustive and analytical are the main opinion and the separate concurring opinion of Justice Vasquez on the "vexing" question treated by them, it is hoped the following observations will not be mere superfluities, much less devoid of any merit.

The provision of Section 29 of the Judiciary Act, before and after its amendment by Republic Act No. 5433, clearly showed a legislative intent to place the greater burden in appeals from the decisions of the Court of First Instance on the Court of Appeals. What is reserved to the Supreme Court is the power to review decisions in any case when they involve only questions of law. It is, therefore, hard to ascribe to the legislative body that in enacting Republic Act No. 6031, it intended to eliminate altogether the Court of Appeals from the judicial process involving a review of the aforementioned decisions and place the entire burden on the Supreme Court, as would be the effect of the view that appeals from the decisions of the Court of First Instance referred to in Republic Act No. 6031 should all go directly to the Supreme Court bypassing the Court of Appeals.

The rule has always been that if the questions raised are one of fact or both fact and law, the appeal goes to the Court of Appeals. The first ground mentioned in Republic Act No. 6031 on the substantiality of the evidence is, in

my humble opinion, if not one involving solely a question of fact, one involving both question of fact and law.

The mere fact that this ground is set apart from the other ground, to wit: that "the conclusions are clearly against the law and jurisprudence" evinces an intention to distinguish one from the other, insofar as the nature of the question as may be raised from either of the two grounds, is concerned. The first ground has reference to the evidence which has to be assessed and evaluated, which necessarily involves the determination of what the fact proven or not proven is. The separate mention of this ground from the second, which explicitly involves question of law or jurisprudence, implies a nature of the question arising from the first, different from that expressly stated in the second ground which doubtlessly raises question of law.

The first ground of "substantiality of evidence" could perhaps be a question of law when the evidence has been evaluated by the Court in such arbitrary or erroneous manner that the act would constitute a grave abuse of discretion, amounting to lack or excess of jurisdiction. But before making this conclusion, the factual basis has first to be laid. This means coming to grip with a question of fact, and of necessity, making first a conclusion of fact after assessing the evidence before making the legal conclusion as to the commission of grave abuse of discretion by the lower court.

There is thus no evading the conclusion that when the appeal from the decision of the Court of First Instance under Republic Act No. 6031 is based on the first ground--substantiality of the evidence--what is raised is a question of fact, or at least a mixed question of law and of fact, which makes the appeal cognizable by the Court of Appeals, not directly or exclusively, by the Supreme Court.

Justice Vasquez cited Section 22 of B.P. No. 129, which, to me, lends support to the view that the Court of Appeals was never intended, under Republic Act No. 6031, to be stripped of appellate jurisdiction over appeals taken from decisions of the Courts of First Instance on cases appealed to them from the inferior courts as therefore exercised by it. Had that been the intention, which would be a sudden and sharp departure from the appeal procedure then existing and being observed, Republic Act No. 6031 should have, in all likelihood, not failed to indicate such intent with clear and unequivocal terms.

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SEPARATE OPINION

TEEHANKEE, Acting C.J.:

I concur in the result which upholds the jurisdiction of the Court of Appeals to review the adverse judgment of the Court of First Instance of Pangasinan under the provisions of section 45 of the Judiciary Act, as amended by Republic Act 6031 which took effect on August 4, 1969.

In essence, the conflict of views that arose in the Court after the enactment of Republic Act 6031 is as to where the petition for review on certiorari of the final decision of the Court of First Instance acting as an appellate court in appealed cases exclusively originating from the municipal and city courts should be filed.* One view is that all such petitions for review should be filed with the Court of Appeals, subject to the reserved jurisdiction of the Supreme Court of reviewing on certiorari cases involving pure questions of law. The other adheres to the main

opinion's orthodox view that if questions of fact are involved, the petition for review should be filed with the Court of Appeals; and that if the petition for review involves pure questions of law, then the petition should be filed with the Supreme Court. (Still a third view would have all such petitions filed only with the Supreme Court, which would add to the congestion of cases filed with this Court.)

I believe that the historical record sustains the first view and shows that Republic Act 6031 was enacted to lessen the number of appeals that a litigant could take in a case and to relieve the Supreme Court of having to pass over appeals or petitions for review of cases originating from the exclusive original jurisdiction of municipal and city courts. Hence, the Act provided for only one appeal from cases falling under the exclusive original jurisdiction of municipal and city courts - to the Courts of First Instance, further expressly providing that the decision of the Courts of First Instance shall be final, thus cutting off any further appeal to a higher court. The Act made a proviso, however, that for such finality of the decision of the Court of First Instance, acting as an appellate court, to stand, the "findings of fact contained in the said decision (must be) supported by substantial evidence as basis thereof and the conclusions are not clearly against the law and jurisprudence." The proviso involves mixed questions of fact and law, to wit: there must be substantial evidence to support the findings of fact and the conclusions drawn therefrom "are not clearly against the law and jurisprudence;" and the appellate court with proper jurisdiction over such mixed questions of fact and law and with whom all petitions for review should be uniformly filed is the Court of Appeals which is supposed to have under the Judiciary Act fifteen (15) divisions composed of three (3) members each and is, therefore, fully equipped to handle and dispose of all such petitions for review. It should also be noted that the criterion provided by the Act is the substantial evidence rule which does not involve a painstaking review of evidence submitted during the trial in the municipal or city court but merely the determination of the existence in the record of such relevant evidence as a reasonable mind might accept as adequate to support the findings and conclusion. Prescinding from the mixed questions of fact and law involved by the Act's proviso, and assuming that the petition raises a pure question of law, there is nothing objectionable in having the Court of Appeals pass upon and determine the same, subject to the reserved jurisdiction of the Supreme Court over such questions. The last proviso of the third paragraph of the Act expressly recognizes such reserved and ultimate jurisdiction of the Supreme Court in cases involving pure questions of law as vested in it by the Constitution [Art. X, section 5 (2) (e)] and therefore provides that the Supreme Court, in its discretion, may in such cases require by certiorari that the case be certified to it for review and determination.

In brief, although the statute's wording may have lacked the requisite precision (specially if it is considered that section 29 of the Judiciary Act was left standing when it should be deemed superseded by the provisions of the Act), the law as it stands now under Republic Act 6031 provides for finality of the decision of the Court of First Instance in appealed cases originating from the exclusive original jurisdiction of municipal and city courts. The correctness of such decisions may be, however, questioned under petitions for review filed within the reglementary period with the Court of Appeals. Such petitions for review are not appeals which are automatically given due course. The Court of Appeals, upon consideration of the petition for review and a determination that the findings of fact in the Courts of First Instance's decision are supported by substantial evidence and that the conclusions are not clearly against the law and jurisprudence, may deny the petition outright for lack of merit. This generally puts an end to the case. Parties who persist in still filing a petition with the Supreme Court to review on certiorari the Court of Appeals' determination get short shrift with an outright dismissal of their petition and the consequent waste of time, effort and money and only in rare cases where a substantial question of law is involved are such petitions entertained by the Supreme Court.

* No problem is encountered regarding cases falling under the concurrent jurisdictions of the municipal and city

courts with the courts of first instance. The Act provides for one appeal directly to the Court of Appeals whose decision shall be final, regardless of whether the question raised is one of fact or of law, subject, of course, to the reserved jurisdiction of the Supreme Court to review the Court of Appeals' decision on certiorari.

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concurring oPINION

VASQUEZ, J.:

It may appear presumptuous for me to add to the exhaustive and scholarly dissertation made by the ponente of the main opinion which truly deserves the gratitude of those who have heretofore been vexed by question involved herein. I only desire to throw in my observations on some of the points discussed in the hope of adding clarity to the same.

1. It is not very accurate to state that both R.A. 5433 and R.A. 6031 "abolished appeal by record on appeal to the Court of Appeals in cases exclusively cognizable by an inferior court"; or that "such cases are not appealable to the Court of Appeals." (Decision, p. 7.) The appeal by record on appeal abolished by R.A. 5433 is only from the decision of a court of first instance in a case appealed to it from an inferior court which affirms in full the judgment of the latter. Where the judgment of the court of first instance modified or reversed that of the inferior court, the appeal to the Court of Appeals is by ordinary appeal which needed a record on appeal.

Neither R.A. 5433 nor R.A. 6031 abolished appeals from the decisions of the courts of first instance in such cases to the Court of Appeals. The effect of said laws is not to do away with such appeals, but merely to change the mode of taking the appeal. After R.A. 5433 was enacted on September 9, 1968, the appeal from the decision of a court of first instance in a case appealed to it from an inferior court may be taken in one of two ways, depending on the nature of said decision in relation to that of the inferior court; namely, (1) by petition for review if the decision affirms in full that of the inferior court; and (2) by record on appeal if it does not.

After R.A. 6031 was enacted to amend Section 45 of the Judiciary Law, R.A. 5433 was virtually re-pealed. Insofar as appeals from the decisions of the court of first instance in cases appealed to them from inferior courts are concerned, the two laws are irreconcilable and may not be applied together. Appeal by record on appeal (authorized by R.A. 5433 in cases where the court of first instance modified or reversed the decision of the inferior court) was totally eliminated. Although R.A. 6031 did not provide expressly as to whether the decision of the court of first instance in such cases may still be appealed, or if so, by what mode of appeal, the implication is clear that despite the declaration that the decision of the court of first instance shall be "final", an appeal may still be taken to determine whether the statutory condition for such finality has been complied with it, to wit, that "the findings of facts contained in said decision are supported by substantial evidence as basis there-of, and the conclusions are not clearly against the law and jurisprudence." It was in the face of the fact that while an appeal is presumably allowed from such decisions of the court of first instance, there is a void in the law as to how such appeal may be taken, the Court of Appeals issued its Resolution dated August 12, 1971 (quoted in pp. 9-10 of the Decision). Said Resolution, obviously due to the absence of any mode of appeal provided for in R.A. 6031, adopted the mode prescribed in R.A. 5433, which is by petition for review if the appeal is to be taken to the Court of Appeals. Quite understandably, the said Resolution could not have provided for the mode or procedure if the

appeal shall be taken to the Supreme Court.

2. My understanding of the problem as to whether the petition to review the decision of the court of first instance in such cases should be filed in the Supreme Court or in the Court of Appeals is that some Members of this Court are of the opinion that the determination of whether the findings of facts contained in the decision of the court of first instance "are supported by substantial evidence" is a pure question of law, and hence, the appeal in all such cases should be lodged with the Supreme Court.

The main opinion does not share this view. I join the same conclusion but not exactly on the same grounds stated in the main opinion.

To my mind, the question of where to appeal a decision of the court of first instance in a case appealed to it from an inferior court should not be determined by finding out if the issue is whether the findings of facts are supported by substantial evidence, or whether the conclusions are not clearly against the law or jurisprudence, as the case may be. The main opinion holds that in the first case, the appeal should be to the Court of Appeals, and in the latter, to the Supreme Court.

My own view is that the appeal should be to the Supreme Court in all cases wherein the exclusive jurisdiction over such appeals is vested in the Supreme Court pursuant to the Constitution and Section 17 of the Judiciary Law. The appeal to the Court of Appeals is only proper in the cases not included in said category. This is the only way to distinguish between and delineate the respective appellate jurisdictions of the Court of Appeals and the Supreme Court with respect to appeals from decisions of the courts of first instance. It is fallacious, if not erroneous, to adopt any other test.

3. The condition provided for in R.A. 6031 as to when a further appeal from the decision of the court of first instance in appealed cases may be entertained will be a thing of the past the moment the Judiciary Reorganization Law (B.P. 129) shall become operative. Section 22 of this law provides:

"SEC. 22. Appellate jurisdiction -- Regional Trial Courts shall exercise jurisdiction over all cases decided by Metropolitan Trial Courts, Municipal Trial Courts, and Municipal Circuit Trial Courts in their respective territorial jurisdictions. Such cases shall be decided on the basis of the entire record of the proceedings had in the court of origin and such memoranda and/or briefs as may be submitted by the parties or required by the Regional Trial Courts. The decision of the Regional Trial Courts in such cases shall be appealable by petition for review to the Intermediate Appellate Court which may give it due course only when the petition shows prima facie that the lower court has committed an error of fact or law that will warrant a reversal or modification of the decision or judgment sought to be reviewed."

It will be noted that the above-quoted provision no longer predicates the finality of the decision of the court of first instance (now Regional Trial Court) on the ground that the findings of fact contained therein are supported by substantial evidence and the conclusions are not clearly against the law and jurisprudence. Instead, it applies the qualification prescribed in R.A. 5433 in determining whether the decision of the court of first instance may be appealed by petition for review in cases where it affirmed in full the judgment of the inferior court, to wit, that the court of first instance committed errors of fact or of law that would warrant a modification or reversal of the judgment sought to be reviewed. This change is not only a matter of terminology. B.P. 129 in effect abandons the substantial evidence rule in determining whether to give due course to the petition for review.

Under both tests, however, the question of where the petition to review the decision should be filed is to be answered in the same manner. Neither provision was intended to deviate from the rule that the Supreme Court may not be deprived of its appellate jurisdiction over cases provided for in the Constitution and other applicable laws.

4. Coming to the case at bar, the issue posed for resolution is whether the Court of Appeals has the jurisdiction to entertain the petition for review filed in said court by the herein petitioners to review the decision of the court of first instance in a case appealed to it from an inferior court. In the main opinion, it has been stated that the issues raised in the said petition for review "require an examination and evaluation of the evidence." On this assumption, there can be no doubt that the appeal of petitioners by petition for review was properly lodged in the Court of Appeals.

On this basis, I concur in the conclusion reached in the main opinion.

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