

**JOSE MUÑOZ, PLAINTIFF-APPELLANT, VS. ROSENDO R. LLAMAS,
DIONISIA PALANCA, DEFENDANTS-APPELLEES.**

G.R. No. L-2832. December 21, 1950

Ponente: PARAS, J.

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PARAS, J.:

On September 24, 1948, the plaintiff filed in the Court of First Instance of Manila a complaint against the defendants Rosendo R. Llamas and Dionisia Palanca, praying (1) that the sale executed by the plaintiff in favor of defendant Llamas, and the sale executed by the latter in favor of defendant Palanca, both covering two lots with improvements situated in Pasay, Rizal, be declared null and void, and (2) that the plaintiff be declared the owner of said properties. On October 4, 1948, the defendant Dionisia Palanca filed a motion for dismissal on, the grounds that venue was improperly laid and that the complaint stated no cause of action, to which motion for dismissal the plaintiff filed an opposition on November 12, 1948. On November 13, 1948, the Court of First Instance of Manila issued an order finding the motion for dismissal to be well taken and ordering the dismissal of the case against defendant Palanca, without special pronouncement as to costs. From this order the plaintiff has appealed.

It is obvious that the motion to dismiss is well founded, at least because venue was improperly laid. The complaint seeks to annul two deeds of sale covering real property situated in Pasay, Rizal, and to obtain a judicial declaration that the plaintiff is the owner thereof. Hence said action affects title to real property. Under section 3, Rule 5, of the Rules of Court, actions affecting title to real property must be commenced and tried in the province where the property or any part thereof lies. Upon the other hand, under section 1, Rule 8, of the Rules of Court, an action may be dismissed on the ground, among others, that venue is improperly laid. As the action herein should have been commenced in the Court of First Instance of Rizal, the lower court correctly ordered the dismissal prayed for by defendant Palanca.

The contention of appellant that the order of dismissal fails to state the legal grounds therefor, is without merit, because the order expressly states that the motion to dismiss was well taken, with the result that the grounds alleged in said motion have impliedly been adopted by the lower court.

Wherefore, the appealed order is affirmed, with costs against the appellant. So ordered.

Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, Jugo, and Bautista Angelo, JJ., concur.
Moran, C.J., no part.

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