

**ANTONIO RAGUDO, AND EUGENIA PAREDES,
PLAINTIFFS-APPELLANTS, VS. EMELITA R. PASNO, REPRESENTED BY
HER FATHER, ENRIQUE R. PASNO AS HER GUARDIAN AD-LITEM,
DEFENDANT-APPELLEE.**

G.R. No. L-16642. April 18, 1962

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Appeal from an order dismissing plaintiffs complaint. In the Quezon court of first instance, the spouses Antonio Ragudo and Eugenia Paderes filed this complaint on October 12, 1959, to annul the order of the justice of the peace of Tayabas, same province, declaring Emelita R. Pasno their adopted child, which order, dated July 31, 1959, was already final. The spouses alleged substantially that they had been induced by Emelita's parents to believe that the adoption proceeding in the justice of the peace court, "was merely for the purpose of transferring to 8-year old Emelita some guerilla educational benefits available to Antonio Ragudo." Plaintiffs further alleged that the adoption had been secured "thru fraud and misrepresentation used by defendant Enrique Pasno (father of Emelita) upon the plaintiffs, as the latter never intended to adopt" Emelita "as their child."

Instead of answering, the defendants moved for dismissal of the complaint, arguing that as the justice of the peace court has concurrent jurisdiction with the courts of first instance to take cognizance of adoption cases, the latter has no jurisdiction to interfere or annul the order issued in said adoption proceeding.

Upholding defendants' contention, the judge dismissed the case. Hence this appeal.

There is no question that a justice of the peace court has jurisdiction over adoption cases. (Republic Acts 643 and 644). Courts of first instance also have jurisdiction over the same.

But this is not an adoption case. This is a civil action to annul an order of a justice of the peace court, allegedly obtained thru fraud. It is based on sec. 43 of Act 190[1]. Of such action, justice of the peace courts can not take cognizance. And it falls within the general jurisdiction of courts of first instance.

It is argued for the appellees that under Art. 348 of the New Civil Code, fraud is not one of the grounds for revocation of an adoption. The appellants reply, quite correctly, that those grounds refer only to an adoption validly decreed—not to an adoption void from the beginning because tainted with fraud. Anyway, this is an argument that should be submitted when the case is considered on the merits.

The appealed order is reversed and the case is hereby remanded for further proceedings.

Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J.B.L., Paredes, and Dizon, JJ., concur.

[1] Garchitorena vs. Sotelo, 74 Phil. 25; Quion vs. Claridad, 74 Phil. 100.

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