

NICOLASA SALVO DE PERNIA, PETITIONER, VS. MEYNARDO M. FAROL, JUDGE OF THE COURT OF FIRST INSTANCE OF MARINDUQUE, AND RAFAEL SALVO ET AL., RESPONDENTS.

G.R. No. L-1598. April 19, 1948

Ponente: BENGZON, J.

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BENGZON, J.:

This petition for certiorari seeks the annulment of all proceedings had before the justice of the peace of Boac, Marinduque, in connection with the litigation pending between the herein petitioner as the sole defendant, and respondents Rafael Salvo, et al, as plaintiffs.

Such litigation was docketed in the Court of First Instance of Marinduque as civil case No. 647. It was an appeal by defendant, (herein petitioner), from an adverse decision of the justice of the peace of Gasan, Marinduque awarding possession of certain disputed lots to the plaintiffs therein, the Salvos. It appears that, acting on the matter, the respondent Judge Meynardo Farol in an order dated October 21, 1946, authorized the justice of the peace of the capital (Boac) to hear and decide the controversy. Subsequently judgment was entered by the substitute judge against the herein petitioner, defendant there. Thereafter she moved, in due course, for a reconsideration, assailing the legality of the delegated jurisdiction. Her point was overruled. Hence this special civil action which the respondents have failed to contest within the time granted to them by resolution of this court.

The question is well-defined. Did the Court of First Instance validly make the transfer of the cause to the justice of the peace of Boac?

The answer has heretofore been given.[1] Under the law such delegation is permissible as to cases "originally cognizable" by the Court of First Instance—not to cases appealed thereto. Judge Farol's assignment was, therefore, unauthorized and the Boac court acquired no jurisdiction. Wherefore, the petition will be granted. The order issued by the respondent judge of October 21, 1946, and all the proceedings had pursuant thereto are hereby declared void and of no effect. Petitioner shall have costs.

Feria, Pablo, Perfecto, and Tuason, JJ., concur.

[1] *Dumlao vs. Asuncion*, 58 Phil., 904; *Moran*, *Rules of Court*, Vol. II, 882.

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