

MANUEL CRUZ, PETITIONER, VS. BIENVENIDO A. TAN, JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, RIZAL CITY BRANCH, AND TELESFORA YAMBAO, RESPONDENTS.

G.R No. L-3448. November 27, 1950

Ponente: JUGO, J.

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JUGO, J.:

This is a petitions for a writ of certiorari and prohibition with injunction.

On August 3, 1949, the respondent Telesfora Yambao (plaintiff in Civil Case No. 898, Court of First Instance of Rizal—Rizal City Branch) filed a complaint against the petitioner Manuel Cruz (defendant in said case), in which she prayed that the petitioner herein be ordered to finish the construction of a house mentioned in the complaint, or to pay her the sum of P644.31. Within ten days from receipt of the summons, the petitioner filed a motion for a bill of particulars, which was denied by the court in an, order dated September 3, 1949, received by the petitioner on September 15, 1949.

On September 19, 1949, the petitioner filed a motion to dismiss the case on the ground that the Court of First Instance of Rizal has no jurisdiction over the subject-matter of the suit: inasmuch-as the demand contained in the prayer is only for P644.31, which falls under the jurisdiction of the Justice of the Peace or the Judge of the Municipal Court.

The motion to dismiss was denied by the court in an order dated October 3, 1949, which order also set the case for trial on the merits on October 10, 1949, although the petitioner had not yet filed his answer nor had he been declared in default.

Said order setting the case for trial on October 10, 1949 was received by the petitioner's counsel on October 12, 1949, that is, two days afterward.

On October 10, 1949, the court dismissed the case for lack of interest of the parties, as they did not appear at the trial.

On October 12, 1949, the respondent Telesfora Yambao filed a motion praying that the trial of the case be set for November 14, 1949, without asking that the order dismissing the case be set aside.

The above-mentioned motion for setting the trial on November 14, 1949 was heard on October 15, 1949, but as the petitioner's counsel received notice of said motion on the said date, October 15, in the afternoon, he could not appear at the hearing of said motion in the morning of October 15.

The Court, acting upon said motion of October 12 set the case for trial on November 17, 1949.

The petitioner filed a so-called "Manifestation," dated November 17, 1949, stating that inasmuch as the order of dismissal had not been set aside, said order had become final.

On November 10, 1949, the petitioner filed the present petition with this Court.

The respondent court after having been informed by the petitioner that he had filed a petition for a writ of certiorari and prohibition with injunction with the Supreme Court, issued) and order postponing the trial of the case to November 29, 1949, and setting aside the order of dismissal dated October 10, 1949.

It is not necessary to pass on all the questions raised by both parties in their pleadings and memoranda in this Court, except the question as to jurisdiction, for that is decisive of this case.

It will be noted that the demand of the complaint filed in the Court of First Instance of Rizal is for the sum of P644.31. The alternative remedy of specific performance, which consists in finishing the house, is capable of pecuniary estimation at the same amount, more or less, for, otherwise, the respondent Telesfora Yambao would not have made such alternative demand.

In the Judiciary Act of 1946 (Republic Act No. 296), we find the following pertinent provisions:

"Sec. 44. Original Jurisdiction.—Courts of First Instance-shall-have original jurisdiction:

"* * * * *

"(c) In all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than two thousand pesos;" (Italics ours)

"Sec. 86. Jurisdiction of justice of the peace and judges of municipal courts of chartered cities.—The Jurisdiction of justices of the peace and judges of municipal courts of chartered cities shall consist of:

"* * * * *

"(b) Original jurisdiction in civil actions arising in their respective municipalities, and not exclusively cognizable by the Courts of First Instance."

"Sec. 88. Original jurisdiction in civil cases.—In all: civil actions, including those mentioned in rules 59 and 62 of the Rules of Court, arising in this municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court shall have exclusive original jurisdiction Where the value of the subject-matter or amount of. the demand does not exceed two thousand pesos, exclusive of interest and costs. * * *" (Italics ours.)

It is clear from the: above' provisions that the case in question comes within the exclusive original jurisdiction of the municipal court or justice of the peace court.

The respondent argues that the value of the house, the construction of which has almost been completed, requiring only the expenditure of P644.31 to complete it, according to the allegations of the complaint, is more than P2,873.37, and that consequently the value of the property involved is beyond the jurisdiction of the municipal court. The jurisdiction of the respective courts is determined by the value of the demand and not the value of the transaction out of which the demand arose; that is what the law says in unmistakable terms. The alternative prayer for specific performance is also of the same value, for, as said above, the alternative prayers would not have been made in the complaint if one was more valuable than the other; hence, the specific performance alternatively prayed for, is capable of pecuniary estimation at P644.31 (sec. 88, par. 2, Rep. Act No. 296).

In view of the foregoing, it is declared that the respondent Judge of the Court of First Instance of Rizal is without jurisdiction to try the case referred to, and he is ordered to stop further proceedings by dismissing the case. With costs against the respondent Telesfora Yambao.

Paras, Feria, Pablo, Bengzon, Padilla, Tuason, Montemayor, Reyes, and Bautista, JJ., concur.

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