

IRINEO FACUNDO, PETITIONER AND APPELLANT, VS. JOSE M. SANTOS, EX-JUSTICE OF THE PEACE OF PASAY, RICARDO C. ROELES, JUSTICE OF THE PEACE OF PASAY, AND VALENTIN R. LIM, RESPONDEN...

G.R. No. L-796. December 17, 1946

Ponente: BENGZON, J.

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BENGZON, J.:

The appealed decision of the Court of First Instance of Rizal dismissed petitioner's complaint for certiorari, outgrowth of civil case No. 32 of the justice of the peace court of Pasay, same province, entitled "Valentin R. Lim vs. Irineo Facundo."

In the last mentioned case—an ejectment proceeding began January 31, 1946—plaintiff alleged ownership of the house located at 603 Samora street, occupation thereof by defendant, as lessee, at one hundred pesos a month, defendant's failure to pay rents since February, 1945, and a thirty-day notice. Defendant Irineo Facundo denied the main allegations, and asserted that "plaintiff's legal possession and ownership of the house and lot is derived from a deed of sale, which is null and void." Before the hearing, Facundo moved for dismissal on the ground, among others, that the justice of the peace court had no jurisdiction, ownership of the premises being necessarily involved. The motion was denied. Thereafter, the parties introduced evidence and judgment was rendered by the herein respondent Jose M. Santos, justice of the peace, on February 23, 1946, ordering the occupant Irineo Facundo to surrender the premises, and to pay the plaintiff the stipulated monthly rental of P100 from February 18, 1945, until the time he actually leaves.

This special civil action for certiorari was subsequently instituted, the petitioner insisting on the alleged lack of jurisdiction of the justice of the peace court. In denying the remedy prayed for, His Honor, Judge Eulalio Garcia, pointed out to petitioner's remedy of appeal from the decision of the justice of the peace, and the existence of another case pending trial in his court (civil case No. 7611), between the same parties, wherein petitioner had directly assailed the validity of Lim's muniment of title the deed of sale of the realty to him.

The jurisdiction of a justice of the peace over detainer cases in which defendants aver ownership, has been the subject of many decisions of this Court, some of them conflicting. But the conflict has now been settled, the present theory being that defendant can not defeat in such an action "the jurisdiction of the magistrate's court by setting up title in himself. In this connection it should be borne in mind that the factor which defeats the jurisdiction of the court of the justice of the peace is the necessity to adjudicate the question of title. The circumstance that proof of title is introduced at the hearing or that a claim of ownership is made by either or both of the parties is not material." (Moron's Kuies of Court, Vol. II, p. 120, citing *Mediran vs. Villanueva*, 37 Phil., 752, 759-760. See also *Villaroman vs. Esmundo*, SC-G. R. No. 37104; *Medei vs. Militante*, 41 Phil., 52G, 529.) In *Supia and Batioco vs. Quintero and Ayala*, (59 Phil., 312, 320, 321), this Court said:

"It will be perceived that the real controversy between the parties in this case centers around an apparent

conflict between two lines of decisions of this court on the subject of the jurisdiction of a justice of the peace in actions of forcible entry and detainer. Experience has shown the necessity for laying down a clear and, as far as possible, definite rule on the question, in order to avoid further confusion and unnecessary litigation. After a careful consideration of the whole question in the light of pertinent authorities, we have come to the conclusion that (1) the purchaser under a contract of sale with right to repurchase, is a vendee within the meaning of section 80 of the Code of Civil Procedure, and (2) in an action of forcible entry and detainer, the mere filing of an answer, claiming title to the premises involved or raising the question of ownership, will not divest a justice of the peace of jurisdiction.

"We believe that the conclusion thus reached is in harmony with sound principles of law and jurisprudence. As stated by the court in *Pettit vs. Black* (13 Neb., 142, 154), 'the answer is a mere statement of the facts which the party filing it expects to prove, but it is not evidence. If, however, on the trial it should appear that the action is not in fact for the recovery of the possession of the premises, but to determine a question of title, the court will have no authority to proceed, and the case must be dismissed. In other words, where the question to be determined is one of title, it will oust the court of jurisdiction. But the court has authority to proceed with the hearing of the case until this fact is clearly established,' " (See also *Sevilla vs. Tolentino*, 51 Phil., 333.)

From the papers before us it may be gathered that the justice of the peace court could lawfully decide the litigation without solving the question of ownership inasmuch as the defendant admitted having sold the property in February, 1944 (although he claims that the sale was void), and impliedly admitted having paid rentals thenceforth until February, 1945, when he began defaulting in the monthly payments. It is obvious that the lessor-lessee ties having been established or admitted, the true ownership became immaterial, the lessee being estopped to question his lessor's title. In other words, the authority of the respondent justice of the peace to proceed and decide the controversy arose from the fact that, as submitted, it did not call upon him to make an adjudication as to the title. (See *Iloran's Rules of Court*, supra.)

At this juncture, appellant's view may be remarked that he "does not contend to be the owner of the property" but "his query is, who is the real owner of the said house and lot * * *?" The answer is aptly stated in the brief of the appellees, who maintain that such position "would leave petitioner-appellant without any leg to stand on" and argue:

"* * * For what interest would petitioner-appellant have if he is merely concerned with finding out who the real owner of the property is. Does not the law debar him as a tenant from disputing the title of his landlord? And is that not a conclusive presumption? And if he does not claim to be the owner and as a tenant he could not raise the question of the title of his landlord, is he not then wasting the time of the Court * * *?"

All of which confirm the view, already expressed, that the justice of the peace was not actually required to pass on the question of ownership of the premises.

The foregoing considerations dispose of the main issue in this review of the litigation. Other minor issues may now be taken up.

Appellant's contention that the lower court erred in requiring him to file a bond for the issuance of a writ of preliminary injunction to prevent the execution of the ouster judgment appears to be unmeritorious. The writ does not issue as a matter of course at the commencement of certiorari or prohibition cases. It may be prayed for as an auxiliary remedy and may be issued in the court's discretion, which certainly is not abused when it requires compliance with the conditions for its issuance in other instances, one of which is the filing of a bond. (Rule 60, section 4.)

Neither did the lower court err in allegedly overlooking the evidence on the landlord's failure to give notice and make demand, because any error of the justice of the peace in that regard did not go to the jurisdiction, which was

in general, the only controversy in the certiorari proceeding. Such error, if any, could or should be corrected by appeal.

There being no reversible error in the appealed decision, it is hereby affirmed with costs against the appellant.

Moran, C, J., Paras, Feria, Pablo, Perfecto, Hilado, Briones, and Tuason, JJ., concur.

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