

NAZARIO LAGUMEN, PLAINTIFF AND APPELLANT, VS. SILVINO ABASOLO, ET AL., DEFENDANTS AND APPELLEES.

G.R. No. L-5891. February 26, 1954

Ponente: BENGZON, J.

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BENGZON, J.:

The plaintiff has appealed from the decision of the court of first instance of Albay dismissing his complaint filed in May 1949, to recover his parcel of land, which the five defendants, having "unlawfully entered" it in 1947, refused to vacate notwithstanding repeated demands.

The court sustained the defendants' motion to dismiss on the ground of lack of jurisdiction. It held the opinion that under section 44(5) and section 38 of the Judiciary Act of 1948 (R. A. No. 296) courts of first instance have no longer jurisdiction to entertain unlawful detainer cases, which by said statute were placed under the exclusive original jurisdiction of the justice of the peace courts and municipal courts.

Appellant claims the lower court erred in considering his action as one for unlawful detainer, because his complaint was for recovery of possession or accion publiciana, since it was instituted after more than one year had elapsed from the forcible seizure. And he quoted *Baguioro vs. Barrios*,^[1] and other allied decisions in his brief filed in January 1953.

In February 1953, this court decided the identical issue in *Firmeza vs. David*,^[2] L-5832, holding that under the Judiciary Act of 1948 sections 44(6) and 88, when the illegal deprivation of realty has lasted more than one year, the action is one for recovery of possession or accion publiciana, which properly falls within the jurisdiction of courts of first instance.

Aware of such decision, and expressly referring to it, the defendants-appellees in short statement declared they "saw no further necessity of submitting" their brief. With commendable sincerity, they made no attempt at distinctions, impliedly admitting the untenability of their position. If all litigants displayed the same attitude, much of the litigation now clogging our dockets could be promptly disposed of in the interest of speedy administration of justice.

Wherefore, the appealed order is reversed and the record will be returned for further proceedings. No costs.

Paras, C. J., Pablo, Padilla, Montemayor, Reyes, Jugo, Bautista Angelo, Labrador, Concepcion, and Diokno, JJ., concur.

[1] 77 Phil., 120, 43 Off. Gaz., 2031.

[2] 92 Phil., 733.

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