

**RAMON AUGUSTO, ET AL., PLAINTIFFS AND APPELLANTS, VS.
ARCADIO ABING, ET AL., DEFENDANTS AND APPELLEES.***G. R. No. L-16132. May 29, 1962*

Ponente: PADILLA, J.

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On 5 June 1958 in the Court of First Instance of Cebu nine residents of the barrio of Mactan, municipality of Opon, province of Cebu, namely, Ramon Augusto, Maria Aying, Silvestra Bancale, Clemencia Igot, Silverio Igot, Filomena Malingen, Maximo Silawan, Maximo Ygoy and Demetrio Ygoy, brought an action against the members of the Barrio Council of Mactan alleging that in a resolution adopted sometime before July 1957, the members of the Barrio Council of Mactan asked the Municipal Council of Opon, the Provincial Board of Cebu and the Presidential Assistance for Community Development that a road be constructed in the barrio of Mactan; that in said resolution the Barrio Council maliciously pretended that the plaintiffs had agreed to grant a right of way on their lands where the proposed road was to pass without cost to donee for the land to be taken and improvements therein to be removed or destroyed as a result of the construction and opening of the road, or that they waived any right to claim property and personal damages that the construction of the road was to cause; that thereafter without any expropriation proceedings or judicial order workers and bulldozers entered upon their lands and began building the road therein destroying in the process corn, banana, cassava, coconut and bamboo plants existing in their lands, each of the plaintiffs suffering actual damage, as follows: Ramon Augusto, P150, Maria Aying, P120; Silvestra Bancale, P415; Clemencia Ygot, P175; Silverio Ygot, P392; Filomena Malingen, P142; Maximo Silawan, P122; and brothers Maximo and Demetrio Ygoy, P350; that the plaintiffs were deprived of property without due process of law; that as a result thereof plaintiffs suffered moral damage (mental anguish and wounded feeling) in the sum of P1,000 each, or a total of P9,000; and that they had to engage the services of a lawyer and agreed to pay him 20 per cent of any amount that might be recovered from the defendants, and praying that the defendants be ordered to pay each of them the sums above itemized as actual damage, or a total of P1,956, legal interest thereon from the filing of the complaint until fully paid; P1,000 to each as moral damage, or a total of P9,000 to all; exemplary damages without fixing or stating any amount; 20 per cent on the amount to be recovered as attorney's fees, the costs of the suit, and for other just and equitable relief.

On 25 June 1958 the defendants filed a motion to dismiss the complaint on the ground that the Court of First Instance of Cebu had no jurisdiction over the amount of each plaintiff's claim which was less than P2,000.

On 12 July 1958 the plaintiffs objected to the motion to dismiss.

On 12 August 1958 the trial court entered an order dismissing the complaint for want of jurisdiction, without prejudice to filing it in the proper court and without costs.

The plaintiffs appealed. The Court of Appeals certified the appeal to this Court, for jurisdiction is involved and the order appealed from was on the pleadings.

What amount or sum claimed or sought to be recovered should be the basis to determine the jurisdiction of the

court in a case where each of several plaintiffs in a complaint seeks to recover an amount from several defendants? Is it that by each claimant or the total sum sought to be recovered by all the claimants?

The appellants contend that the aggregate claim which amounts to P11,347.20 (P1,956 actual damage, P391.20 20 per cent attorney's fees and P9,000 moral damage) should be the basis or test of jurisdiction, for they only have a cause of action against the common appellees that cannot be split and that as their total claim is more than P2,000 (now should be more than P5, 000)[1] the Court of First Instance of Cebu has jurisdiction to hear and determine the case. The appellees claim otherwise.

In *Cajilig et al. vs. Co*, (109 Phil., 98) this Court held:

It is already settled in this jurisdiction that where several plaintiffs, having separate and distinct claims against a common defendant arising out of the same transaction or series of transactions and involving the same question of law or fact, jointly sue said defendant as allowed by section 6, Rule 3, of the Rules of Court, it is the amount of each separate claim, and not the sum total of all the claims, that furnishes the test for determining the jurisdiction of the court over the case. * * * (*Italics supplied.*)

The order appealed from is affirmed, without pronouncement as to costs.

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

[1] Section 3, Republic Act No. 2613 amending section 44, Republic Act No. 296.

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