

GREGORIO ESTRADA, PLAINTIFF, VS. PROCULO NOBLE, DEFENDANT.

G.R. No. L-2726. September 29, 1950

Ponente: PARAS, J.

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PARAS, J.:

This is an action to redeem a parcel of land worth about P3,000. The Court of First Instance of Camarines Sur rendered judgment in favor of the plaintiff. In the notice of appeal filed on November 22, 1948, the defendant announced his intention to appeal to the Supreme Court "inasmuch as the issues involved therein are mostly questions of law." The record was accordingly elevated to this Court. Several errors assigned in the brief for defendant-appellant unquestionably refer to questions of fact.

Among the cases over which the Supreme Court has exclusive appellate jurisdiction, are those in which only errors or questions of law are involved. (Constitution, Art. VIII, sec. 2, Par. 5; sec. 17, Rep. Act No. 296.) Conformably to this constitutional and statutory precept, the Rules of Court (sec. 3, Rule 42) provide that "where the appeal is based purely on questions of law, the appellant shall so state in his notice of appeal, and then no other questions shall be allowed, and the evidence need not be elevated."

The case at bar is clearly not one falling under the exclusive appellate jurisdiction of the Supreme Court. In the first place, the appellant expressly stated in his notice of appeal that the issues involved in the appeal are "mostly questions of law," an expression plainly not synonymous to "only errors or questions of law." In the second place, in accordance with his notice of appeal, the appellant has assigned in his brief several errors involving questions of fact. This, the appellant has undoubtedly the right to do, because in his notice of appeal he did not state that the appeal is "based purely on questions of law," as provided in section 3 of Rule 42 of the Rules of Court.

The present appeal, involving questions of fact and of law, falls within the exclusive appellate jurisdiction of the Court of Appeals (sec. 29, Rep. Act No. 296) and must therefore be certified to said court, pursuant to section 31 of Republic Act No. 296 which provides that "all cases which may be erroneously brought to the Supreme Court or to the Court of Appeals shall be sent to the proper court, which shall hear the same, as if it had originally brought before it."

Wherefore, let this case be forwarded to the Court of Appeals for further proceedings.

Moran, C.J., Ozaeta, Feria, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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