

LIM BING IT, PETITIONER, VS. FIDEL IBAÑEZ, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, (BRANCH IX), THE MUNICIPAL COURT OF MANILA, AND ZACARIAS MENDOZA, RESPONDENTS.

G. R. No. L-5216. March 16, 1953

Ponente: TUASON, J.

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TUASON, J.:

This is an application for certiorari and prohibition against Honorable Fidel Ibañez, Judge of the Court of First Instance of Manila, the Municipal Court of Manila, and Zacarias Mendoza. By the allegations and the prayer, the petition is one for mandamus and will be so regarded.

It appears that the petitioner brought in the Court of First Instance of Manila an action against Zacarias Mendoza to recover P4,526.30, exclusive of interest, itemized as follows: P326.30 for merchandise bought on credit; P2,000 for damages, and P2,200 as attorney's fees.

The defendant failed to answer within the statutory period and, upon motion of the plaintiff, was declared in default, and the case was set for the reception of plaintiff's evidence. Trial having been held on the scheduled date and evidence having been taken, Judge Ibañez pronounced himself without jurisdiction of the plaintiff's suit on the ground that "the cause of action" was only for the amount of P326.30, and remanded the cause to the Municipal Court "for proper proceedings."

The amount which determines the jurisdiction of courts of general jurisdiction is the amount sought to be recovered and not the amount found after trial to be due. This should be the rule at least where, as in this case, there was no objection to the complaint, the cause had been set for trial, and trial had been concluded. For this reason, we are of the opinion that the respondent judge erred in refusing to enter judgment upon the pleadings and the evidence.

The petition is hereby granted and the respondent judge directed to decide the petitioner's action as the evidence warrants, without costs.

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

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