

**THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER, VS.
THE HONORABLE PEDRO CONCEPCION, IGNACIO JARO, THE
PROVINCIAL FISCAL OF CAVITE, ANGELA SAN AGUSTIN AND LA
CORPORACION DE...**

G.R. No. 10355. February 04, 1915

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PER CURIAM:

This is an application for the writ of mandamus. Its purpose is to compel one of the respondents, the Honorable Pedro Concepcion, who is now and has been since the 1st of July, 1914, judge of the Court of First Instance of the Province of Laguna, and who was for sometime prior to the 1st of July, 1914, one of the auxiliary judges of the Court of Land Registration, to sign and certify a bill of exceptions. The important facts are as follows:

First. That on the 21st day of November, 1912, the petitioner presented a petition in the Court of Land Registration, in accordance with section 61 of Act No. 926, for the registration of a certain piece or parcel of land, divided into 274 lots, situated in the poblacion of the municipality of Cavite; that said cause was numbered 8618.

Second. That various oppositions were presented to the registration of said parcels of land by the respondents, Ignacio Jaro, the prosecuting attorney of the Province of Cavite, Angela San Agustin, La Corporacion de PP. Dominicos de la Provincia de Santisimo Rosario de Filipinas, and by the commander of the naval stations of Olongapo and Cavite.

Third. That the petition and oppositions were brought on to trial in said court, and after the conclusion of the same, the said Honorable Pedro Concepcion, judge, on the 29th day of November, 1913, rendered a decision, in which he denied the opposition of the commander of the naval stations of Olongapo and Cavite.

Fourth. That on the 5th day of January, 1914, the said commander of the naval stations of Olongapo and Cavite presented a motion for a new trial, with reference to certain of the parcels or lots of land involved in said original petition, which motion was later amended, in order to include other parcels or lots of land involved in the said original petition.

Fifth. That on the 26th day of June, 1914, said motion was brought on for hearing before said judge, who, after hearing said parties, denied it.

Sixth. That on the said 26th day of June, 1914, the said commander duly excepted to the order of the court denying said motion for a new trial.

Seventh. That on the said 26th day of June, 1914, the said commander presented a motion asking that he be given sixty days within which to prepare and to present his bill of exceptions, in order to appeal to the Supreme Court, which motion was granted.

Eighth. That on the 11th day of July, 1914, the said bill of exceptions being duly prepared, was presented to said judge (Pedro Concepcion) for his certification, which the said judge denied upon the ground that he had lost

jurisdiction over said cause.

Ninth. That on the 1st day of July, 1914, the said Honorable Pedro Concepcion became judge, by regular appointment, of the Court of First Instance of the Province of Laguna, in accordance with the provisions of Act No. 2347, and by said appointment ceased to be a judge of the Court of Land Registration.

Tenth. That the petitioner is without other adequate or speedy relief, except that prayed for in his petition.

The plaintiff, upon the foregoing facts, prayed that the writ of mandamus should be issued by this court, directing, requiring, and compelling the said Honorable Pedro Concepcion, judge, to sign and certify said bill of exceptions.

To the petition presented in said cause, the respondent, the Honorable Pedro Concepcion, judge of the Court of First Instance of the Province of Laguna, presented a demurrer, basing the same upon the following facts:

"1. The plaintiff has no personality to commence this action.

"2. There is a defect of parties therein.

"3. That the facts alleged in the complaint do not constitute a cause of action."

With reference to the first ground of the demurrer, the respondent judge attempts to make it appear that the Attorney-General is without authority or personality to present said petition, for the reason that he did not allege nor demonstrate, in said petition, that he did represent the commander of the naval stations of Olongapo and Cavite. By reference to the bill of exceptions which was presented for signature to the respondent judge, at page 11 of the record, it will be seen that the Attorney-General for the Philippine Islands represented the commander of the naval stations of Olongapo and Cavite, in his opposition to the registration of said parcels of land, in the court below. While it may be true that the Attorney-General, in the petition in the present case, failed to indicate when he signed the petition, that he was still representing the said commander in his effort to have said bill of exceptions signed and certified, yet, if that was a defect, it was cured by the fact that the representative of the Attorney-General appeared before this court and expressly stated, in his oral argument, that they were representing the said commander in his opposition to the registration of a portion of said parcel or parcels of land. We think the first ground of the demurrer should be overruled.

With reference to the second ground of the demurrer to wit, that there was a defect of parties, the respondent judge calls our attention to the title of the petition, where he is mentioned simply as the Honorable Pedro Concepcion, without giving his official character. That allegation is true, but, nevertheless, in the body of the petition we find that he is referred to and described as Pedro Concepcion, who was formerly one of the auxiliary judges of the Court of Land Registration and now judge of the Court of First Instance of the Province of Laguna, and that he was the judge who tried said cause No. 8618. Where the character of the person sued is sufficiently indicated in the body of the complaint, the complaint will be sufficient against him in that character, even though the title of the complaint does not correctly designate or describe the particular character in which he is sued.

The respondent judge, under "defect of parties," further argues that, inasmuch as he had ceased to be a judge of the Court of Land Registration and had become a judge of the Court of First Instance, that he had thereby lost jurisdiction over said cause, and was without authority to certify said bill of exceptions. We think that the contention of the respondent judge is tenable and should be sustained. The argument with reference to this conclusion, however, will be stated more fully below.

The respondent judge, in the third ground of his demurrer, alleges that the facts stated in said petition are not sufficient to constitute a cause of action. In support of this ground of the demurrer, the respondent argues that by virtue of section 7 of Act No. 2347, he had ceased to be a judge of the Court of Land Registration after the 1st of

July, 1914; that at the time of the presentation of said bill of exceptions for certification (the 11th of July, 1914) he was not judge of said court, and was, therefore, without authority to sign or certify the same. We believe that that contention of the respondent judge is a tenable one.

In the case of *Pamintuan vs. Llorente*, p. 341, ante, this court decided, where an exactly analogous question was presented, that it was not the intention of the Legislature to provide by Act No. 2347 that a judge whose position had been vacated on the 1st of July, 1914, and who had been appointed and transferred to another district as judge, should continue to act in his original district and to continue to have and to take jurisdiction of cases, criminal or civil, theretofore pending before him; that one who has been a judge in a particular district and who was afterwards appointed judge of another district, has no authority, after he becomes judge of the latter district, to take any action in cases pending in the former district, which were still pending at the time he retired therefrom. (*U. S. vs. Abreu*, 13 Off. Gaz., 1328.) In that case, *Pamintuan vs. Llorente*, supra, we held, under section 7, in relation with section 24 of Act No. 2347, that the judges of the Courts of First Instance, who had been acting as such prior to the 1st of July, 1914, ceased to be judges of said courts and were without authority to continue to act in any manner whatever, in cases theretofore pending, unless and until they had been reappointed as judges in accordance with the provisions of said Act. We further held that a judge of a particular district or province who had been reappointed on or after the 1st of July, 1914, but who had been assigned to a different district or province, was without authority or power to take jurisdiction or cognizance, in any manner whatever, of any case which was theretofore pending before him, in his original district or province.

The Attorney-General, in the present case, in his oral argument, contended that by reason of the provisions of section 24 of said Act, a different rule should prevail with reference to the judges of the Court of Land Registration. In the case of *Pamintuan vs. Llorente*, supra, we held, by virtue of the provisions of section 7 of said Act, that all the judges of the Courts of First Instance ceased to have any power or authority to act in any case, or in any manner whatever, unless and until they should be reappointed. The particular provision of section 7 which, in our opinion, justifies that conclusion, is that which says:

"The present judges of the Courts of First Instance * * * shall vacate their positions on the taking effect of this Act" (on the 1st of July, 1914.)

We find now that exactly the same provision of said section includes also the judges of the Court of Land Registration. Said section 7 provides that:

"The present judges * * * of the Court of Land Registration, shall vacate their positions on the taking effect of this Act."

It would seem to be clear then, that all of the judges of the Court of Land Registration ceased to be judges and ceased to have any judicial authority to act in any case there- tofore pending, on and after the 1st day of July, 1914, unless and until they had been revested with judicial authority by reappointment. The Attorney-General argues, however, because of the provisions of section 24, which says: "all pending decision or decree or continuance of the evidence in the Court of Land Registration on the date on which this Act takes effect, shall continue until their final decision under the jurisdiction of said court to whom said cases were assigned," that all pending decision or decree must continue, until their final decision, under the jurisdiction of the judge to whom said cases were assigned. But we have found that all of the judges of both the Courts of First Instance as well as the Court of Land Registration, ceased to have any judicial authority to act in any manner whatever, after the 1st of July, 1914. We have also found that the Land Court itself ceased to exist, as a court, on the 1st of July, 1914. That being true, then, of course, in the absence of an express provision to the contrary, both the Court of Land Registration and the judges thereof, as such, went out of existence on the 1st of July, 1914, and all cases, in whatever status they were found to be, were transferred to the different Courts of First Instance of the different

provinces or districts in which the particular land involved was situate.

We find that there is a conflict between this quoted provision of section 24 and the provisions of section 10 of said Act. Section 10 provides that: "All the jurisdiction and powers heretofore conferred * * * upon the Court of Land Registration and upon the Court of Land Registration judges, are hereby conferred upon the Courts of First Instance and the judges thereof, of the provinces in which the land which is to be registered is situate."

It will be noted that by section 10, "all the jurisdiction" and powers of the Court of Land Registration were transferred to the Courts of First Instance, etc. This section contains no saving clause.

If then, "all the jurisdiction" of the Court of Land Registration was "hereby" conferred upon the Courts of First Instance, upon what kind of reasoning can we hold, after said Act took effect, that the Court of Land Registration, or the judges thereof, "shall continue to take jurisdiction" of cases therein pending decision or decree or continuance of the evidence?

In our opinion, considering the provisions of sections 7, 10, and 24 of said Act, in their relation to each other, not only the Court of Land Registration, as a separate entity, ceased to exist on the 1st day of July, 1914, but that the judges thereof ceased to have any authority to act in any manner whatever in any case pending decision or decree, or continuance of the evidence. Had the Legislature made some special provision for the continuance of the land court, until all cases pending decision or decree, etc., etc., should reach a final decision then there might have been some reason for holding that the judges of said court might continue to take jurisdiction of cases pending decision or decree, etc. But when "all the jurisdiction" which a particular court has, is transferred to another court, and when the judges of said court are ordered to vacate their positions on a particular date, there seems but little left in said original court, with which to continue the jurisdiction over any matter that was theretofore pending: therein. It is our opinion that all cases filed or begun and not finally concluded in the Court of Land Registration on the 1st of July, 1914, were transferred to "the judges of the Courts of First Instance of the provinces where said lands, made the object of said cases, are situate." If then, "all cases of the Court of Land Registration, in whatever status they may be found," were transferred to the Courts of First Instance of the provinces where the land involved is situate, we are of the opinion that said court (the Court of First Instance of the particular province) is the only court which has any jurisdiction over the cases pending decision or decree or continuance of the evidence, in whatever condition the case may be found, to continue with the jurisdiction thereof. That being true, whatever is yet to be done in order to determine a particular case begun in the Court of Land Registration prior to the 1st of July, 1914, must be done by the judge of the Court of First Instance of the province in which the land involved is situate. That being true, it must follow that the bill of exceptions in the present case, the land involved being in the province of Cavite, must be pre- sented to the judge of the Court of First Instance of said province.

This is not the first time the question which we are discussing, although in a different form, has been presented to this court. We have held in numerous cases that the certification and signing of a bill of exceptions are judicial acts, which cannot be executed by one who has no jurisdiction over the matter, on account of his having ceased to be the judge of the court in which the case was tried by him as judge. He has no right to exercise any jurisdiction in a court of which he has ceased to be the judge. (*Enriquez vs. Watson*, 3 Phil. Rep., 279; *Ricamora vs. Trent*, 3 Phil. Rep., 137; *Osmena vs. Gorordo*, 5 Phil. Rep., 37; *Santos vs. Johnson*, 6 Phil. Rep., 473.)

In view, therefore, of the fact that the Court of Land Registration ceased to exist, as such, upon the 1st day of July, 1914, and that the judges thereof ceased to have any judicial authority on the same date, and in view of the fact that all cases therein pending were transferred to the Courts of First Instance of the provinces where the land involved was situate, we are of the opinion and so hold, that the respondent judge, having become judge of another province than the one in which the land is situate, is without authority or right to certify the bill of

exceptions involved in the present case. Therefore, the demurrer is hereby sustained and the petitioners are hereby given five days within which to amend their petition, if they so desire. So ordered.

Arellano, C. J., Torres and Johnson, JJ., concur.

Carson, J., concurs in the result.

Moreland, J., dissents.

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