

MANUEL ORIA Y GONZALEZ, PETITIONER, VS. RICHARD CAMPBELL, JUDGE OF THE COURT OF FIRST INSTANCE OF MANILA, AND GUTIERREZ HERMANOS, RESPONDENTS.

G.R. No. 11986. August 25, 1916

Ponente: MORELAND, J.

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MORELAND, J.:

This is a proceeding in this court to obtain a writ of certiorari directed to the Honorable Richard Campbell, judge of the Court of First Instance of Manila, requiring him to send to this court the record in the case of Gutierrez Hermanos vs. Oria Hermanos for review and, upon such review, to declare a certain order issued by said court in said action null and void.

The complaint alleges that, on the 10th day of July, 1910, Gutierrez Hermanos obtained an attachment against the property of the defendant in an action begun against Oria Hermanos. The sheriff duly levied the attachment upon the property which the plaintiff in the action pointed out to him as the property of the defendant company. After the levy had been made the parties involved in the case agreed that, instead of leaving the property attached in the possession of the sheriff during the trial of the action, they would turn it over to the plaintiff in this case, Manuel Oria y Gonzalez, as a receiver, to hold, keep, and preserve the same as the sheriff might do. In pursuance of this arrangement Manuel Oria y Gonzalez composed and subscribed a document containing an inventory of the property attached in which the following statement appears:

"I accept the appointment of receiver of the goods above set forth with the exception of the launch Comillas which is in the possession and control of Adolfo Fuster, receiver, and in proof of my acceptance thereof I sign this document."

The complaint further alleges that the property referred to is still in the possession of the plaintiff; that, on the 12th day of April, 1916, the attorneys of Gutierrez Hermanos made a motion in the Court of First Instance of Manila, Judge Campbell presiding, praying the court that the said Manuel Oria y Gonzalez be required to render an account of the property which he held as receiver, together with the rents, income, and profits thereof during the time it had been held by him; that the said Manuel Oria y Gonzalez appeared at the hearing of said motion and opposed the same, but that, in spite of such opposition, the court ordered plaintiff to render an account of the property as such receiver. It is further alleged that the Court of First Instance was without jurisdiction to make the order referred to and that the same is null and void and should be vacated and set aside in this proceeding.

An answer, so called, was duly interposed to the complaint in this case which admits the material facts alleged by the plaintiff. There appearing to be no question of fact at issue the case has been submitted to us for determination on much the same theory as if the answer had been a demurrer.

We are of the opinion that the complaint does not state facts sufficient to constitute a cause of action or to support a petition in certiorari. We have held in many cases that certiorari will not issue except in cases where the court to which the certiorari is to be directed has acted without or has exceeded his jurisdiction (Government of the

Philippine Islands vs. Judge of First Instance of Iloilo and Bantillo, ante, p. 1&7; Arzadon vs. Chanco, 14 Phil. Rep., 710; In re Prautch, 1 Phil. Rep., 132; Springer vs. Odlin, 3 Phil. Rep., 344; Napa vs. Weissenhagen, 29 Phil. Rep., 180; De Fiesta vs. Llorente and Manila Railroad Co., 25 Phil. Rep., 554; Herrera vs. Barretto and Joaquin, 25 Phil. Rep., 245; Gala vs. Cui and Rodriguez, 25 Phil. Rep., 522; Province of Tarlac vs. Gale, 26 Phil. Rep., 338); it being of no consequence that the court may have tried as a matter of law or may have made findings of facts against the preponderance of the evidence. In order that certiorari may lie the court must have acted outside of its authority. In the case before us the first question presented on the motion for an accounting was whether or not plaintiff in this proceeding was in fact a receiver or was the owner of the property. The Court of First Instance had jurisdiction to determine that question; and, no matter how it resolved the question, it could not be said that he acted outside of its jurisdiction or in excess thereof. The same may be said with regard to the subject of such a motion. Having resolved the question whether Manuel Oria y Gonzalez was in fact a receiver, the determination of whether or not he ought to account follows as a matter of course and is the exercise of the same jurisdiction which authorized the court to decide the initial question. Courts of First Instance have jurisdiction to appoint receivers, to require them to account, and to control them fully and completely in the administration of their affairs as such. That being true their jurisdiction extends to the determination of every question involved in receiverships from that of whether the person is in fact a receiver to that which may be raised by the ultimate act which a receiver may perform. The resolution of the questions presented by the motion and the order herein objected to are expressly placed by law within the power and authority of Courts of First Instance and the exercise of that authority cannot be said to be without or in excess of their jurisdiction, no matter which way the particular question before the court is decided.

The complaint is dismissed on the merits, with costs. So ordered.

Torres, Johnson, Trent, and Araullo, JJ., concur.

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