

**MAXIMINA VALDEZ, PETITIONER, VS. RAMON QUERUBIN, AS
JUSTICE OF THE PEACE OF THE MUNICIPALITY OF VIGAN,
PROVINCE OF ILOCOS SUR, ET AL., RESPONDENTS.**

G.R. No. 13381. March 11, 1918

Ponente: CARSON, J.

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CARSON, J.:

Without stopping to consider any of the nice questions raised in the course of these proceedings as to the jurisdiction of the respondent justice of the peace, acting as judge of the Court of First Instance of Ilocos Sur under authority of the provisions of Act No. 2131, to direct the execution of the judgment referred to in the complaint in these proceedings and in his order of October 11, 1917, which was entered in the case of Arcebal et al. vs. Valdez [R. G. No. 1067], in the Court of First Instance of Ilocos Sur, we are all of opinion that even if he had jurisdiction in the premises, there was a manifest abuse of his discretion in the requirement that the defendant administrator in that action file a bond, in the nature of a subsidiary bond, in the sum of P91,000 in addition to the bond in the sum of P45,000 already filed by him and approved.

The requirement of the additional bond, as appears from the order itself, is based on a finding by the trial court that the lands in litigation appear to be worth P100,000, and that the true value of the subject matter in litigation would seem to be greater than the amount of the original bond of P45,000. But these lands, in the possession of an administrator of the court, could not take wings and fly away, pending the appeal from the judgment; and the bond of P45,000 which had already been given is manifestly more than sufficient to protect the interests of the appellees against all possible loss or damage arising from the retention of the real state in the hands of the administrator.

Where the purpose of the requirement of a bond is to secure the person in whose favor the bond is executed from loss or damage to real property in which he claims an interest, pending an appeal, such real estate being the subject matter in litigation between the party executing the bond and the party in whose favor it is executed, the amount of the bond which should be required in the exercise of a sound judicial discretion is not, in the absence of special circumstances, the total value of the real estate or an amount in excess thereof, but an amount reasonably sufficient to cover the estimated value of the fruits and profits of the real estate pending the litigation, and such damage to the real estate as may reasonably be anticipated under all the circumstances existing at the time when the bond is executed. In the instant case, the original bond was more than sufficient to secure the rights of the appellees, without the necessity for the requirement of an additional bond from the administrator (who holds the land subject to the control of the court which appointed him) in the unreasonable, excessive and practically prohibitive sum of P91,000.

We conclude that the order complained of should be annulled, and that the preliminary injunction heretofore issued prohibiting the respondents from all attempts to levy execution on the land in question by virtue of the terms of that order should be made permanent, with the costs of these proceedings against the respondents other

than the respondent judge.

Ten days hereafter let judgment be entered in conformity herewith, and twenty days thereafter let certified copies of the temporary injunction, of this decision, and of the judgment entered in these proceedings be forwarded to the Court of First Instance of Ilocos Sur for file with the record in the case of Arcebal et al. vs. Valdez [R. G. No. 1067] of that court; and thereupon let the record of these proceedings be filed with the archives of original proceedings in this court. So ordered.

Arellano, C. J., Torres, Johnson, Araullo, Street, Malcolm, Avanceña, and Fisher, JJ., concur.

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