

SATURNINA ZAPANTA, PLAINTIFF AND APPELLEE, VS. VIRGILIO BARTOLOME AND ASUNCION CHANLIONGCO, DEFENDANTS AND APPELLANTS.*CA-G.R. No. 2592-R. April 27, 1949*

Ponente: MONTEMAYOR, J.

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This is a forcible entry and detainer case that was commenced in the Municipal Court of the City of Manila, wherein judgment was rendered in favor of the plaintiff Saturnina Zapanta and against the defendants Virgilio Bartolome and Asuncion Chanliongco, plaintiff's son-in-law and daughter, respectively, who were ordered to vacate the premises, subject matter of the complaint, namely, the house known as and located at No. 138 Endaya Street, Tondo, Manila, and to pay the plaintiff the sum of P565, the aggregate of rentals in arrears from March 1946 to February 1947, inclusive, plus the sum of P100 monthly as the fair rental value of said house beginning March 1947 until the defendants vacate and surrender the house to the plaintiff, and to pay the costs. On appeal to the Court of First Instance of Manila, judgment was again rendered in favor of the plaintiff, ordering the defendants to vacate the premises, but reducing to P50 monthly the amount of rentals to be paid by them. The defendants appealed the case to the Court of Appeals. After receiving the briefs of both parties and on the basis of the first assignment of error made by the appellants in their brief which reads as follows:

"The lower court erred in not dismissing the complaint for ejectment appealed from the municipal court of Manila, involving the ownership of the house in question, which is raised not only in the pleadings but also in the evidence, introduced in the trial, in the Court of First Instance and in the municipal court of Manila, which also failed to dismiss said complaint after hearing the evidence and in spite of the defendants' motion for dismissal of the plaintiff's complaint, for ejectment, because it involves the question of ownership of house No. 138 Endaya, Tondo, Manila, of which the municipal court has no jurisdiction."

And because the question of jurisdiction was said to have been previously raised in the Municipal Court as well as in the Court of First Instance, the Court of Appeals issued a resolution promulgated on March 16, 1949, ordering the transmittal of the records of this case to the Supreme Court for decision, pursuant to section 17, No. 4 (3) and section 31, of Republic Act No. 296.

Ordinarily, the Supreme Court assumes exclusive appellate jurisdiction to review final judgments and decrees of inferior courts in cases in which the jurisdiction of any inferior court is in issue. It is to be understood, however, that the issue of jurisdiction be justifiably and properly made; that a prima facie case of lack of jurisdiction of the inferior court concerned be made out; and that the alleged lack of jurisdiction of the inferior court be possible of ascertainment and determination from the record of the case, particularly, the pleadings, or from facts not disputed, and not from any finding of fact to be made by this Tribunal from a consideration of the evidence. In the present case, however, reasons more than one seem to militate against the issue of jurisdiction being raised before this Court for determination, or the question even being raised at all, on appeal. The mere allegation by the defendants in their answer in the Municipal Court of Manila, of claim of ownership over the house in question,

was not sufficient to stop the Municipal Court from proceeding with the hearing and disposal of the case. It has repeatedly been held by the Supreme Court that the mere fact that the defendant, in his answer, claims to be the owner of the property from which the plaintiff seeks to eject him is not sufficient to divest a justice of the peace or a municipal court of its summary jurisdiction in actions of forcible entry and detainer, because, were the principle otherwise, the ends of justice would be frustrated by making the efficacy of this kind of actions depend upon the defendant in all cases. Exception may be made when the evidence during the trial in aid court shows that the question of title is actually involved in the litigation and that the defendant's contention, according to said evidence, is meritorious. (*Supia and Batiaco vs. Quintero and Ayala*, 59 Phil. 312, 321; *Aquino vs. Deala*, 63 Phil., 582, 593; *Torres vs. Peña*, 78 Phil., 231; *Peñalosa vs. Garcia*, 81 Phil., 245).

Whether or not the Municipal Court had jurisdiction, and the Court of First Instance could properly hear and decide the case in the exercise of its appellate jurisdiction, depends upon the merit or lack of merit of this claim of ownership by the defendant. For purposes of making out a prima facie case, it is apparent that this claim of ownership is greatly weakened by the fact that the Municipal Court in its decision unhesitatingly held it to be unfounded; consequently, the defendants were ordered as mere tenants to vacate the house. The Court of First Instance, after hearing, also rejected this claim of ownership by the defendants.

But if the consideration of the meritoriousness or lack of it, of the claim of ownership by the defendants, is to be pursued further in an endeavor to determine if the Municipal Court had jurisdiction, it is apparent that the proceedings will have to be had in the Court of Appeals, the appellate fact finding Judicial body. In other words, in an appeal where the jurisdiction of an inferior court is correctly and properly in issue, and the determination of said jurisdiction depends upon facts yet to be ascertained and found from the evidence, it is the Court of Appeals and not the Supreme Court that shall assume appellate jurisdiction.

But there is another aspect to this case. Even assuming for a moment that the Municipal Court lacked jurisdiction to try and decide the case because of the question of ownership raised, and that, consequently, the Court of First Instance of Manila also lacked jurisdiction to hear and decide it on appeal, nevertheless, in the said Court of First Instance, the parties, particularly the defendants, without questioning the court's jurisdiction, submitted their pleadings and took part in the trial. Under such circumstances, the Court of First Instance may be regarded as having tried and decided the case in the exercise of its original jurisdiction. (See the case of *Amor vs. Gonzales*, 76 Phil., 484, applying Rule 40, sec. 11, of the Rules of Court.)^[1] It is because of this incident or phase of the case that in the first part of this resolution we expressed our doubt, though indirectly, that the question of jurisdiction is properly and justifiably raised on appeal.

In view of the foregoing, and on the ground that the present case does not come under the provisions of section 17, No. 4 (3) and section 31, of Republic Act No. 296, this case is hereby returned to the Court of Appeals which has jurisdiction over the same.

Paras, Feria, Pablo, Perfecto, Bengzon, Briones, Tuason, and Reyes, JJ., concur.

Moran, C.J., I concur upon the ground that the question of jurisdiction is unsubstantial.

[1] Rule 40, section 11, Rules of Court, reads as follows:

"Lack of jurisdiction.—A case tried by an inferior court without jurisdiction over the subject matter shall be dismissed on appeal by the Court of First Instance. But instead of dismissing the case, the Court of First Instance in the exercise of its original jurisdiction, may try the case on the merits if the parties therein file their pleadings and go to the trial without any objection to such jurisdiction."

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