

VICTORIANO OMBALINO, PLAINTIFF AND APPELLANT, VS. FELIPA SALDARIAGA ET AL., DEFENDANTS AND APPELLEES.

G.R. No. 29412. August 10, 1929

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

This action was originally filed with the justice of the peace of Dipolog, Zamboanga, to recover about 600 kilos of hemp from the defendants which had been raised by the latter on land which the plaintiff claims to be his property, or in default thereof the value of the same, which is P150.

The defendants denied each and every one of the allegations of the complaint, and in turn allege that they are the sole owners and proprietors of the land and its improvements.

The case having been heard, a judgment was rendered by the justice of the peace in favor of the plaintiff, for the recovery of 600 kilos of hemp or its value, P150. The defendants appealed to the Court of First Instance, where the case was tried anew upon the allegations of the complaint filed with the justice of the peace and the answer filed with the Court of First Instance. After the parties had adduced evidence in support of their respective allegations, the court dismissed the case without special pronouncement of costs, by its order of October 1, 1926, on the ground that the decision of the case centers on the ownership of land, the proceeds of which is the only thing apparently claimed by the plaintiff.

The plaintiff moved for a new trial and the court denied the motion, and exception being duly taken, the plaintiff presented the bill of exceptions, which was approved by the court.

Of the seven errors assigned by the appellant, we shall only deal with the seventh which alleges that the court below erred in dismissing the case and in not granting the plaintiff the relief prayed for in his complaint; for the decision of this point will turn the balance of this case presented to this court.

In dismissing the case appealed to it, the court below bases its action on the proposition that the case falls within the original jurisdiction of the Court of First Instance. Taking into consideration the fact that the plaintiff's claim was for the recovery of the hemp raised by the defendants, or for its value of P150, the justice of the peace had jurisdiction to try said case. (Sec. 1, Act No. 2131.) The defendants raised no objection to the jurisdiction of the justice of the peace. Both parties resorted to the Court of First Instance and there adduced their evidence all over again. Again no objection was raised to the jurisdiction of the justice of the peace. Neither the fact that both parties alleged that they held the ownership of the land on which the hemp was raised, nor the circumstance that they presented evidence anent their respective titles of ownership, can affect the jurisdiction of the justice of the peace. (*Mediran vs. Villanueva*, 37 Phil., 752.) We are of opinion that the court below should have passed judgment upon the merits of the case instead of dismissing it, as it erroneously did. Wherefore, the order appealed from, given by the Court of First Instance of Zamboanga on October 1, 1926, must be reversed, and the case remanded to the court of origin in order that judgment, in accordance with the law, may be rendered. Without special pronouncement of costs. So ordered.

Avanceña, C. J., Johnson, Street, Johns, Romualdez, and Villa-Real, JJ., concur.

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