

SISENANDO EVANGELISTA, PLAINTIFF AND APPELLEE, VS. BRIGIDO TABAYUYONG, DEFENDANT AND APPELLANT.*G.R. No. 3361. March 05, 1907*

Ponente: JOHNSON, J.

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This action was originally commenced in the court of the justice of the peace of the pueblo of Manaoag, and subsequently appealed to the Court of First Instance of the Province of Pangasinan, for the purpose of recovering possession of a certain tract or parcel of land situated in the barrio of Loaoc, municipality of Manaoag of the said province, and the recovery of 100 pesos, Philippine currency, as damages, and the costs of the suit. The plaintiff alleged that he had been illegally dispossessed of said tract of land by the defendant. The defendant filed a general denial. From the judgment of the justice of the peace, the case was appealed to the Court of First Instance of the Province of Pangasinan. In the Court of First Instance the plaintiff presented the same complaint which he had presented in the court of the said justice of the peace. The defendant, in the Court of First Instance, in addition to the general denial, filed a counterclaim, alleging that he was the owner of the said parcel or tract of land.

During the trial of the cause in the lower court, the following facts were found to be true:

- (1) That in the month of July, 1905, the plaintiff was in possession of the land in question and that in that month he was illegally deprived of said land by said defendant.
- (2) That since the said month of July, 1905, up to the present (the date of trial, the 26th of January, 1906) the defendant had remained in such said illegal possession of said land, and that he had harvested one crop of palay from said land, the value of which was 25 pesos, Philippine currency.

Judgment was rendered in favor of the plaintiff and against the defendant, directing that the defendant deliver the possession of said land to the plaintiff, and pay to the plaintiff the sum of 25 pesos, Philippine currency, as damages for the use and occupation of the said land, and the costs of the Court of First Instance as well as those of the court of the justice of the peace. From this judgment of the lower court the defendant appealed to this court, and made several assignments of error.

During the trial of said cause the defendant and appellant offered evidence to prove that he was the owner of the said tract or parcel of land in question. The lower court refused to admit the evidence of that fact, for the reason that the only question that was presented to the lower court, or could have been presented in an action for forcible entry and detainer, was whether or not the plaintiff had been illegally dispossessed of the land in question. The lower court committed no error in excluding this evidence. Ownership of land is no defense in an action of forcible entry and detainer. Even the owner of land has no authority or right in law to forcibly dispossess one in the possession of his land. The law offers him a peaceable method of obtaining possession of his land, and he would not be justified in taking forcible possession, without following the methods pointed out and provided for by the law. After the owner has illegally and forcibly dispossessed one in possession, the one so dispossessed may maintain an action of forcible entry and detainer even against him. In an action for forcible entry and detainer

evidence of ownership is not admissible.

During the trial of the said cause, the defendant offered to prove that he had paid taxes upon said land. The court refused to admit this evidence. The payment of taxes upon land is not evidence of the right of possession, nor will this fact justify one in forcibly and illegally taking possession of lands even though they are his.

The defendant, in his answer in the lower court, after denying each and all of the allegations contained in the complaint, set up a counterclaim, alleging, among other things, that he was the owner of the said land. The lower court denied the right of the defendant to interpose this defense in an action of forcible entry and detainer. The defendant appealed and assigned this ruling of the court as error.

This defense was not presented in the court of the justice of the peace where the action was originally brought. Even though it had been presented there the justice of the peace could not have taken cognizance of that defense, for the reason that justices of the peace have no right or authority under the law to decide questions of right and title to land, and neither can a defendant, in a cause appealed from the judgment of a justice of the peace, change the nature of his cause of action. This court has decided (*Alonso vs. Municipality of Placer*, [1] 4 Off. Gaz., 223) that—

"Upon appeal from the judgment of a justice of the peace, the Court of First Instance can not change the nature of the action so as to permit a recovery upon a cause of action of which the justice of the peace had no jurisdiction." (Syllabus.)

The lower court did not err in refusing to admit the evidence offered by the defendant to show ownership of said land, nor did the lower court commit error in denying said counterclaim presented in the Court of First Instance.

An examination of the evidence adduced during the trial of said cause justifies the conclusions of the lower court. The judgment of the lower court is therefore hereby affirmed, with the costs of this instance.

After the expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter let the record be remanded to the court from whence it came for proper action. So ordered.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

[1] 5 Phil. Rep., 71.

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