

**BENITO MERCADO ET AL., APPLICANTS. CIPRIANA GUECO ET AL.,
PETITIONERS AND APPELLEES, VS. CATALINO MERCADO AND
ROMAN MERCADO, RESPONDENTS AND APPELLANTS.**

G. R. No. 40238. January 27, 1934

Ponente: MALCOLM, J.

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MALCOLM, J.:

The respondents and appellants challenge the order of Judge Hermogenes Reyes of the Court of First Instance of Pampanga, finding the respondents in contempt of court for a second violation of a writ of possession, and sentencing each of them to pay a fine of P50, and in so doing argue that Act No. 3170 is unconstitutional and void. Act No. 3170 added a new paragraph to section 232 of the Code of Civil Procedure, reading as follows:

"A person guilty of any of the following acts may be punished as for contempt:

* * * * *

"5. The person defeated in a civil action concerning the ownership or possession of real estate who, after having been evicted by the sheriff from the realty under litigation in compliance with the judgment rendered, shall enter or attempt to enter upon the same for the purpose of executing acts of ownership or possession or who shall in any manner disturb possession by the person whom the sheriff placed in possession of said realty."

As will be noted, Act No. 3170 is made a part of the Code of Civil Procedure. Also, as pointed out by counsel for the appellants, the Act relates to civil actions. However, this point is not at all destructive of the order of the trial court because a judge of first instance would have the same right to find a person guilty of contempt in a land registration proceeding as he would have in any other proceeding. The Land Registration Law, Act No. 496, section 17, as originally enacted, provided for a Court of Land Registration which was authorized to enforce its orders, judgments, or decrees in the same manner as orders, judgments, or decrees are enforced in a Court of First Instance, including a writ of possession. While this section was repealed by the Revised Administrative Code, section 10 of Act No. 2347 continued and therein it was provided that all jurisdiction and powers theretofore conferred by the Land Registration Law and its amendments upon the Court of Land Registration and upon the land registration judges were conferred upon the Courts of First Instance and judges thereof. The same law further provided that the rules and provisions contained in the Code of Civil Procedure in civil actions and special proceedings shall be applied in so far as the same may be applicable.

As to the other branch of the case, concerning the validity of Act No. 3170, little need be said. The Act had for its purpose to assist successful litigants in retaining undisturbed possession of realty, and to this end gave additional powers to Courts of First Instance. The suggestion that the law deprives a person of his liberty without the requisite due process of law because it convicts him without giving him a day in court, is entirely devoid of merit when it is observed that the following section of the Code of Civil Procedure, section 233, entitles an accused to be heard when charged with contempt. We hold Act No. 3170 valid and enforceable.

Order affirmed, the costs of this instance to be paid by the appellants.

Street, Villa-Real, Hull, Imperial, Butte, Goddard, and Diaz, JJ., concur.

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