

CATALINO SEVILLA ET AL., PLAINTIFFS, VS. GAUDENCIO TOLENTINO, DEFENDANT AND APPELLANT. FERNANDO BUSUEGO, DEFENDANT AND APPELLEE.

G.R. No. 42752. September 21, 1938

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

Petitioners ask that the above entitled case be recalled from the Court of Appeals to which, so they claim, it was erroneously certified and transferred by the clerk of this court.

By Commonwealth Act No. 3, which took effect on February 1, 1936, certain provisions of the Revised Administrative Code were amended "by reducing the number of justices of the Supreme Court and creating the Court of Appeals and defining their respective jurisdictions." Under this Act the appellate jurisdiction of this court was limited to—

"(1) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question;

"(2) All cases involving the legality of any tax, impost, assessment or toll, or any penalty imposed in relation thereto;

"(3) All cases in which the jurisdiction of any inferior court is in issue;

"(4) All criminal cases in which the penalty imposed is death or life imprisonment;

"(5) All civil cases in which the value in controversy exceeds twenty-five thousand pesos, or in which the title or possession of real estate exceeding in value the sum of twenty-five thousand pesos, to be ascertained by the oath of a party to the cause or by other competent evidence, is involved or brought in question;

"(6) All other cases in which only errors or questions of law are involved."

On the other hand, the Court of Appeals was given exclusive appellate jurisdiction of all cases, actions, and proceedings not enumerated above.

After thus defining the respective jurisdiction of this court and the Court of Appeals, the statute went on to provide that—

"Immediately after the Court of Appeals is organized, all cases which, under this Act, correspond to the Court of Appeals and which may be pending in the Supreme Court, if such cases have not been heard on argument and submitted for decision by this Court, shall be certified by the clerk of the Supreme Court to the clerk of the Court of Appeals, to be heard and decided by the latter Court in conformity with the provisions of this Act." (Sec. 145-0.)

In due time the Court of Appeals was organized, and, pursuant to the above provision, the clerk of this court

certified to the clerk of the Court of Appeals all cases then pending in this court which corresponded to the Court of Appeals, except such cases as had been heard on argument and submitted for decision by this court.

The two courts functioned under the provisions of Commonwealth Act No. 3 until the approval of Commonwealth Act No. 259 on April 7, 1938. This Act effected a new apportionment of the jurisdiction of this court and the Court of Appeals. Under this new apportionment, all civil cases other than those falling under paragraphs (1), (2), (3), and (6) above mentioned, in which the value in controversy does not exceed fifty thousand pesos, exclusive of interests and costs, or in which the title or possession of real estate not exceeding in value the sum of fifty thousand pesos, are appealable to the Court of Appeals. The appellate jurisdiction thus conferred on the Court of Appeals is exclusive.

The present case is one in which the title to a piece of land is involved. The value of the land is very much below fifty thousand pesos. Questions of fact are raised by the appeal. The jurisdiction of the lower court is not in issue. Neither is any constitutional question presented.

Statutes regulating the right of appeal are recognized as remedial in their nature, and a statutory change as to the jurisdiction of an appellate court, in the absence of any restrictions, applies to cases pending when the change takes effect. (*Cassard vs. Tracy*, 52 La. Ann., 835; 49 L. R. A., 272; *Hallowell vs. Commons*, 239 U. S., 506; 60 Law. ed., 409; *Baltimore etc., R. Co. vs. Grant*, 98 U. S., 398; 25 Law. ed., 231.)

The provision of section 145-0 above quoted cannot be invoked to exclude the instant case from the jurisdiction of the Court of Appeals. That provision is transitory in nature. It was intended to meet a certain situation. The clerk of this court had discharged its function under it when Commonwealth Act No. 259 was approved. To hold that it invested the clerk of this court with a continuing power is to ignore its very nature and purpose.

It results that the petition must be denied.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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