

VICENTE PRIOLO, PLAINTIFF AND APPELLEE, VS. PEDRO PRIOLO, DEFENDANT AND APPELLANT.

G.R. No. 4387. January 13, 1908

Ponente: WILLARD, J.

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WILLARD, J.:

This is a motion to dismiss the appeal on the ground that the case having been commenced in the court of a justice of the peace, judgment in the Court of First Instance was not rendered herein until after July 1, 1907, when Act No. 1627, providing that such judgments should be final, took effect.

The case differs from the case of Miguel Pavon vs. The Philippine Islands Telephone and Telegraph Company[1] (5 Off. Gaz., 1076), and of Un Pak Leungs. Juan Nigorra et al.[2] (6 Off. Gaz., 42, 154), in only one respect. In those cases the actions were brought for the recovery of money. This is a case of forcible entry and detainer brought under section 80 of the Code of Civil Procedure.

It is true that the Code of Civil Procedure has certain sections relating to appeals in general from judgments of the justices of the peace and other sections relating to appeals in cases of forcible entry and detainer, and that section 16 of Act No. 1627 is an amendment of section 76 of the Code of Civil Procedure, which relates to appeals in general, but we think that it was intended to apply to all appeals, not only those in ordinary actions but those in actions of forcible entry and detainer. It is true that this latter class of actions sometimes involves the possession of property of considerable value and may produce judgments for rent in an amount exceeding the ordinary jurisdiction of the justice of the peace, but it must be borne in mind also that, by the provisions of section 87 of the Code of Civil Procedure, judgments rendered in this class of actions are not final and the parties are not concluded thereby as to the questions raised therein. We hold that Act No. 1627 applies to judgments rendered in actions of forcible entry and detainer in accordance with the provisions of Act No. 1778, which is an amendment of section 80, above referred to.

The motion is granted and the appeal dismissed, with costs. So ordered.

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

[1] Page 246, *supra*.

[2] Pages 381, 486, *supra*.

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