

FELIX PAULINO, PLAINTIFF AND APPELLEE, VS. ALEJANDRO SEVA, DEFENDANT AND APPELLANT.

G.R. No. 44347. September 27, 1938

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This case was certified by the Court of Appeals to this Supreme Court for proper action in accordance with the provisions of section 145-H of Commonwealth Act No. 3, as it was discovered that it was originally commenced in the justice of the peace court of Oas, Albay, and judgment having been rendered therein, an appeal was taken to the Court of First Instance of said province. The judge of the Court of First Instance delegated the case to the justice of the peace of the capital and the latter, by virtue of said delegation, tried the same and decided it. From his judgment, an appeal was taken to the Court of Appeals.

It was sought to collect from the defendant-appellant the sum of P210, plus 42 cavans of palay, or in lieu thereof, the sum of P84. By reason of the amount of the demand, the action was properly instituted in the justice of the peace court of Oas, Albay, so that the case was brought to the Court of First Instance of Albay on appeal. Such being the case, the judge of the Court of First Instance could not delegate the trial thereof to the justice of the peace of the capital, because, according to the provisions of Act No. 4090, he is empowered to make such delegation only in cases originally cognizable by him (*Dumlao vs. Asuncion*, G. R. No. 37027 [58 Phil., 904]). Wherefore, inasmuch as the delegation made by the judge of the Court of First Instance in favor of the justice of the peace of the capital of the Province of Albay is null and void, and as all the proceedings conducted by said justice of the peace, including the judgment rendered by him, are null and void, this case is ordered remanded to the Court of First Instance of Albay so that it may conduct the trial and render its decision by virtue of its appellate jurisdiction, without costs. So ordered.

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

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