

AGRIPINO INFANTE, PLAINTIFF AND APPELLANT, VS. MARCOS DULAY, DEFENDANT AND APPELLEE.

G.R. No. 45123. April 12, 1939

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

On July 30, 1934, Agripino Infante filed in the justice of the peace court of the municipality of Laoang, Province of Samar, a complaint against Marcos Dulay in which, because of the facts therein alleged, he asked that judgment be rendered ordering the defendant to vacate the land therein described and that said plaintiff be placed in possession thereof, with costs against the defendant.

After the case was called for trial and the evidence presented by both parties, the said justice of the peace court rendered judgment sentencing the defendant Marcos Dulay to restore to said plaintiff the possession of the land in controversy and to pay to the latter the amount of P25 in the nature of damages and the costs.

Not agreeable to this judgment, the aforesaid defendant Marcos Dulay interposed an appeal to the Court of First Instance of Samar, which, after legal proceedings and after hearing the oral evidence presented by both parties, rendered judgment declaring that the justice of the peace court of Laoang was without jurisdiction to take cognizance of the case originally, because it has been proved that the defendant Marcos Dulay had taken possession of the land in litigation without having made use of force, intimidation, threat, strategy or stealth, which are the only grounds conferring upon the justice of the peace court jurisdiction to take cognizance of and decide actions of detainer of land.

From this judgment the plaintiff Agripino Infante brought the present appeal to this court, after moving for new trial.

In support of his appeal the appellant assigns the following errors supposedly committed by the lower court in its aforementioned judgment, to wit:

"1. The lower court erred in dismissing the complaint on the ground that: 'Marcos Dulay, who had and still has it assessed in his name, has not yet alienated it, and it seems evident that upon his return to Laoang, he took possession thereof without having employed force, intimidation, threat, strategy or stealth, the only grounds conferring upon justice of the peace courts jurisdiction to take cognizance of and to decide actions regarding possession of land.'

"2. The lower court erred in giving weight to the evidence of the defendant regarding his possession, his declaration of property and his payment of the taxes for the land in question.

"3. The lower court erred in not awarding the plaintiff and not ordering the defendant to pay to the plaintiff the damages and losses caused by the forcible entry and detainer of the land in question, amounting to two hundred thirty-three pesos annually beginning the month of July, 1934; and in not condemning the defendant to pay the costs of the proceedings."

The only question which we are called upon to decide in the present appeal is one of law, namely, whether or not the justice of the peace court of Laoang duly and legally exercised its jurisdiction in taking cognizance originally of the action of unlawful detainer instituted by the plaintiff Agripino Infante against Marcos Dulay.

In declaring that the justice of the peace court of Laoang had no jurisdiction to take cognizance of the case originally because it was not proved that the defendant employed force, intimidation, threat, strategy or stealth in order to enter into possession of the land in dispute and in dismissing said case, the Court of First Instance of Samar committed an error of law, for the reason that the jurisdiction of the justice of the peace courts to take cognizance of actions for ejectment is conferred by law, and not by the proof of facts constituting detainer of possession, the existence of which, when alleged in the form prescribed by law, that is, by means of a complaint timely filed, serves as the basis for the exercise by the justice of the peace court of its original jurisdiction.

In the complaint for ejectment instituted by the plaintiff-appellant Agripino Infante before the justice of the peace court of Laoang, facts are alleged which are by law constitutive of detainer of possession. In taking cognizance thereof for trial, said justice of the peace court duly and legally exercised its jurisdiction. In rendering judgment in favor of the plaintiff and against the defendant, after finding from the evidence adduced before it that the defendant, by means of force and intimidation and against the plaintiff's will, took possession of a part of the land described in said complaint, the aforesaid court also duly and legally exercised its jurisdiction. If the justice of the peace court of Laoang had jurisdiction to take cognizance of the action for ejectment instituted by the plaintiff-appellant Agripino Infante and had duly and legally exercised the same, the Court of First Instance of Samar, when the case was brought before it on appeal, acquired the power to exercise its appellate jurisdiction by taking cognizance of the case and deciding it on the merits. The fact that in the new trial held by said Court of First Instance of Samar the facts alleged in the complaint were not proved, does not render the exercise by the justice of the peace court of Laoang of its jurisdiction illegal, or prevent the lower court from proceeding with its appellate jurisdiction. It should continue exercising the same and decide the case on the merits, either in favor of the defendant and against the plaintiff by dismissing the complaint for lack of merit, or in favor of the plaintiff and against the defendant by sentencing the latter.

In view of the foregoing considerations, we are of the opinion and so hold: first, that the filing in the justice of the peace court of a complaint for ejectment in which the facts legally constitutive of detainer of possession are alleged, gives said court the power to exercise its original jurisdiction and to decide the case on the merits, either in favor of the plaintiff if the facts alleged in the complaint are proved, or otherwise in favor of the defendant by dismissing the complaint; and second, that the Court of First Instance to which the case was brought on appeal has the power and the duty to exercise its appellate jurisdiction, to take cognizance of and to decide it on the merits, in favor either of the plaintiff or of the defendant, in accordance with the result of the evidence.

Wherefore, the judgment appealed from is affirmed, with the sole modification that the dismissal is due to lack of merit and not to lack of jurisdiction, without special pronouncement as to costs. So ordered.

Avanceña, C. J., Imperial, Diaz, Laurel, Concepcion, and Moran, JJ., concur.

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