

CHUA TIONG (ALIAS ATONG TAN), RECURRENTE, CONTRA JUZGADO DE PRIMERA INSTANCIA DE SAMAR, PRESIDIDO POR EL JUEZ ALFONSO SANTOS, BENITA QUIRINO Y NARCISA V. DE CUNA, RECURRIDOS.

G. R. No. 47026. February 16, 1940

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

Se trata de la solicitud de certiorari presentada por Chua Tiong (alias, Atong Tan) contra, El Juzgado de Primera Instancia de Samar, presidido por el Honorable Juez Alfonso Santos, Benita Quirino y Narcisa V. de Cuna. El recurrente es demandante en la causa civil No. 3421 del Juzgado de Primera Instancia de Samar y las recurridas Benita Quirino y Narcisa V. de Cuna son las demandadas. El recurrente obtuvo en aquella causa una orden de interdicto prohibitorio preliminar contra las recurridas. Éstas después obtuvieron, a su vez, del Juzado el levantamiento de este interdicto mediante fianza que al efecto prestaron.

Se alega en apoyo de este recurso que el Juzgado de Primera Instancia de Samar, uno de los recurridos, obró con abuso y en exceso de su jurisdicción al levantar el interdicto prohibitorio preliminar expedido contra las otras recurridas.

Es discrecional en el Juzgado el levantar un interdicto prohibitorio que haya expedido y, en el caso presente, no hallamos que el Juzgado abusó de su discreción al levantar el que expidió contra las demandadas, fundándose en que el arrendamiento, en que el demandante basa su demanda, no está bien establecido.

Se deniega el recurso con las costas al recurrente. Así se ordena.

Villa-Real, Imperial, Díaz, Laurel, Concepción, y Moran, MM., están conformes.

Se deniega la solicitud.

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