

VICENTE ROMEY, PETITIONER, VS. MAMERTO ROXAS, JUDGE OF FIRST INSTANCE OF MANILA, AND DLONISIO SADDIE, RESPONDENTS.*G.R. No. 47184. June 29, 1940*

Ponente: MORAN, J.

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A petition for certiorari.

Petitioner Vicente Romey filed, in the municipal court of the City of Manila, an action to recover P148 from Dionisio Saddle, one of the respondents herein. The latter filed a cross-complaint which he designated as a counterclaim, claiming the rents of a house he had leased to plaintiff, and asking that plaintiff be ordered to vacate the house. The municipal court rendered judgment dismissing the complaint and ordering the plaintiff to pay the defendant the unpaid rentals and to vacate the house. Plaintiff was notified of this judgment on November 18, 1939, and eleven days thereafter, that is, on November 29, 1939, he perfected his appeal. After the case was docketed in the Court of First Instance of Manila, a motion was filed by the defendant, asking that the judgment on the cross-complaint be executed, on the ground that plaintiff's appeal was not perfected within ten days. The Court of First Instance held that the appeal was perfected in time as to that portion of the judgment dismissing plaintiff's complaint for money, but out of time with respect to that portion awarding the cross-complaint, the theory being that, as the cross-complaint was for illegal detainer, the appeal should have been perfected within ten days. Accordingly, the court ordered the execution of the judgment on the defendant's crosscomplaint for illegal detainer. It is this order that is now challenged in this petition for certiorari.

Petitioner contends that the municipal court had no jurisdiction to entertain the cross-complaint for illegal detainer, on the ground that there is no allegation therein that the plaintiff has failed to comply with the terms of the contract within five days after demand, and that such demand is jurisdictional. We find, however, that in the complaint filed by the petitioner, there is an allegation that "in the month of August, 1939, the defendant notified the plaintiff to vacate the house * * *." And the crosscomplaint was filed on September 14, 1939, that is, more than five days after the demand was made.

On the other hand, the pleading filed by the defendant, Dionisio Saddle, now respondent, which he designated as a counterclaim, is in truth a cross-complaint. A counterclaim is merely a claim for money. When the defendant seeks any other relief than payment of money, his petition is a cross-complaint and not a counterclaim. Defendant's pleading is a cross-complaint because he seeks therein not merely the payment of rentals but that the plaintiff be ordered to vacate the premises. While the law authorizes the defendant, in actions before a justice of the peace or municipal court, to interpose any lawful defense or any "set-off, counterclaim or reconversion, within the justice's jurisdiction" (Act No. 1627, sec. 60) there is no provision entitling him to interpose a cross-complaint. Unless otherwise expressly provided by law, the provisions which govern the procedure in Courts of First Instance are not applicable in inferior courts. (Yu Lay vs. Galmes, 40 Phil., 651.) Inferior courts

have a limited jurisdiction which cannot be extended by implication. (*Elumbaring vs. Elumbaring*, 12 Phil., 384; *Tuazon vs. Crossfield*, 30 Phil., 543; *Africa vs. Gronke*, 34 Phil., 50.) Accordingly, we hold that inferior courts have no power to entertain cross-complaints.

We are not concerned here with the wisdom of the present laws of procedure. Perhaps it would be convenient that all claims closely connected with each other should be disposed of in a single proceeding before an inferior court, as is the system adopted under the new rules or procedure promulgated by this Court but not yet in force. But the application of such system to inferior courts requires the readjustment of other points of procedure which would otherwise create an anomalous situation, and this we cannot do by decision. As, in the instant case, if the cross-complaint be allowed and a single judgment be rendered in the whole action against the plaintiff, the latter may find himself bound to interpose two appeals from that single judgment, one within fifteen days from that portion thereof regarding the ordinary action, and the other, within ten days from the other portion regarding the summary action for illegal detainer. Thus, the appellant would have to file two notices of appeal, deposit twice the appellate court's docketing fees, and file two appeal bonds. That this anomalous situation has not been contemplated by law is absolutely beyond doubt. And yet this would be the necessary result if we allow the crosscomplaint to stand.

It follows that the judgment of the municipal court concerning the alleged illegal detainer is null and void, it having no jurisdiction to entertain the cross-complainant. It is, however, valid with respect to the claim for rentals, it being in the nature of a counterclaim, as in fact the defendant himself has so designated his pleading. There being legally no judgment for illegal detainer, the time for the perfection of an appeal therefrom is fifteen days. And it appearing that the appeal has been perfected within that time, the Court of First Instance had no jurisdiction to order the execution of the judgment appealed from. Neither has it jurisdiction to order the monthly deposits required by section 88 of Act No. 190.

For all the foregoing, the order issued by the Court of First Instance of Manila for the execution of the judgment rendered by the municipal court is set aside; the judgment of the municipal court with respect to illegal detainer, declared null and void; and the petitioner's appeal is hereby declared to have been perfected in time and may take its due course. Without costs.

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

Laurel, J., concurs in the result.

Order set aside and judgment declared null and void.

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