

**CO TAO, PLAINTIFF AND APPELLEE, VS. JOAQUIN CHAN CHICO,
DEFENDANT AND APPELLANT.***G.R. No. 49167. April 30, 1949*

Ponente: MORAN, C.J.

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This is an appeal by certiorari from the decision of the Court of Appeals.

According to the findings of said Court, in 1927 respondent Joaquin Chan Chico built a house on his lot No. 7, described in transfer certificate of title No. 24239. When that house was constructed, Prudencia Rodriguez was yet the owner of the adjoining lot No. 6 belonging now to petitioner Co Tao. About a year after petitioner bought lot No. 6, he built a house thereon and he used lumber that butted in respondent's house. Respondent protested and his protest was resented by petitioner. Hence, the present suit.

It is now claimed by petitioner that the respondent's house took a portion of petitioner's land. The Court of Appeals, after examining the evidence, found that respondent's house occupies 6.97 square meters of petitioner's lot, but that respondent acted in good faith. Accordingly, the Court of Appeals declared "that the plaintiff (petitioner) has the right to elect to purchase that portion of the defendant's (respondent's) house which protrudes into the plaintiff's property, or to sell to the defendant the land upon which the said portion of the defendant's house is built." And the case was remanded to the Court of First Instance "with direction to require the plaintiff to make the election as herein provided, within the time that the Court shall fix, and thereafter to reset the case for the admission of the evidence on the value of the improvement, in case the plaintiff elects to buy the same, or the value of the land, in case he elects to sell it, and to render decision as the result of the new trial shall warrant." From this decision petitioner appealed by certiorari to this Court.

All the questions raised by the petitioner are unmeritorious. He alleges, for instance, that respondent could not have acted in good faith in building a portion of his house beyond the limits of his land, because he ought to know the metes and bounds of his property as stated in his certificate of title. But, as rightly stated by the Court of Appeals: "It is but stating the obvious to say that outside of the individuals versed in the science of surveying, and this is already going far, no one can determine the precise extent or location of his property by merely examining his paper title. The fact is even surveyors cannot with exactitude do so. The disagreement among the three surveyors in the case at hand who have made a resurvey of the ground with the aid of scientific devices and of their experience and knowledge of surveying, is a graphic and concrete illustration of this truth."

And there is another circumstance showing respondent's good faith. The Court of Appeals found that "the defendant's title dated back to March 12, 1923, and he built his house as early as 1927. When this was done, it has also been shown, there was a stone wall which had existed since as early as 1902, and inside which the defendant's house is constructed. Prudencia Rodriguez herself, who was still the owner of the adjoining land when the defendant built his house in 1927, must have been under the same impression, since, as has been stated, she allowed the construction without making any protest during or after the construction."

Petitioner alleges that it is not fair for him to pay for the building erected on his lot which is not only prejudicial but is certainly a nuisance to his property. The petitioner is indeed overlooking the circumstance that he is not being forced to buy the building for he has the option to sell the portion of his lot occupied by that building. The provisions of article 361 of the Civil Code admit of no distinction.

Wherefore, the judgment of the Court of Appeals is affirmed with costs against the petitioner.

Paras, Pablo, Bengzon, Briones, and Reyes, JJ., concur.

DISSENTING

FERIA, J.:

I dissent.

Under Rule 46 of the Rules of Court, appeal by certiorari from a judgment or decision of the Court of Appeals under said Rule lies only in cases in which question or questions of law are involved, because only questions of law may be raised therein, and consequently this Court can not review the findings of fact of said court.

In all judicial cases, the justiciable question is always either one of fact and law, or of law only if the facts on which it is predicated are admitted or not in issue. It can never be a question of fact only, because the administration of justice consists in the application of the law to the facts of each case submitted to the Court for decision. The facts are the minor premise of the syllogism, the law applicable to them the major premise, and the conclusion drawn from the syllogism is the conclusion or finding of law necessary for the decision of cases or lawsuits by the courts.

If the facts as found by the Court of Appeals are not questioned or in issue, and only the law applicable to the case or the conclusion of law to be drawn from such application is in issue in an appeal, the question involved is of law and the Supreme Court has jurisdiction to review and pass upon the conclusions or findings of law of the Court of Appeals, however, if not only the law applicable and, consequently, the inference or conclusion to be drawn from the application thereof, but the findings of fact of the Court of Appeals are in issue, the question involved in the appeal is not of law but of fact; because no question of law may arise before the facts to which the law may be applied have been finally determined or found.

In the present appeal, the questions involved are of fact because the issue is whether or not the findings of fact of the Court of Industrial Relations discussed and passed upon by the majority in the decision are supported by the evidence in the record, that is, whether or not the respondent acted in good faith in building his house on part of the lot claimed by the petitioners, which depends upon whether or not the respondent knew then that part of the lot on which he erected the building belonged to the petitioner.

The question whether or not it is fair for the petitioners to pay for the building erected on his lot, depends also on the question of fact whether the building was erected on it by the respondent in good or bad faith.

This Supreme Court has, therefore, no jurisdiction to review the decision of the Court of Appeals in the present case, because the appeal does involve not a question of law but of fact, and this Court has no power to review the findings of fact in the decision of the said Court of Appeals, as already stated above. A decision of the said Court on questions of fact is final and not appealable.

We should have dismissed the petition for certiorari by way of appeal from the start filed in this case, but the fact that we have given it due course in order to determine whether appeal lies after hearing the adverse party, does not

necessarily authorize us to pass upon the findings of fact of the Court of Appeals and affirm or reverse the decision appealed from. To affirm or reverse a judgment of the Court of Appeals in this case presupposes a review by us of the findings of fact on which it is based, which we have power to do.

Petition for certiorari by way of appeal is therefore dismissed. We can not review and affirm or reverse the decision of the Court of Appeals in this case. So ordered.

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