

**MANILA SUBURBAN RAILWAYS COMPANY, PLAINTIFF, VS.
ENGRACIO SANTIAGO, JUSTICE OF THE PEACE OF THE
MUNICIPALITY OF PASIG, AND FERMIN POSON, DEFENDANTS.**

G.R. No. 5684. August 05, 1910

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

On October 18, 1909, the plaintiff filed a complaint in which, after stating that it is a foreign corporation duly licensed to transact business in the Philippine Islands and has its head office in the city of Manila, relates:

That, on October 6, 1909, Fermin Poson filed with the justice's court of the municipality of Pasig a complaint in a civil action, a copy of which marked "Exhibit A" is thereto attached, and that on the 14th of the following month Engracio Santiago, acting in his capacity of justice of the peace, signed and sealed a judgment, a copy of which, marked "Exhibit B," accompanies the complaint; that the plaintiff, described in said Exhibits A and B as "La Empresa del Tranvia Electrico de Manila," is the owner of a system of street-car lines operated in the city of Manila and the municipality of Pasig; that its corporate residence for the Philippine Islands is in the city of Manila; that no person empowered to receive service of process for plaintiff resides within the municipality of Pasig; that neither plaintiff nor any of his representatives has been served with summons issued upon Exhibit A, and that no summons based upon Exhibit A has been issued directed to this plaintiff under its corporate name, or under the name by which this plaintiff is described in Exhibit A, or under any name whatever.

That Exhibit B is a copy of the judgment pronounced by Engracio Santiago, and that one such copy has been delivered at the office of plaintiff in the city of Manila by direction of the said Engracio Santiago.

That the defendant Santiago has declared his intention of issuing an execution upon the aforesaid judgment, and of causing the same to be levied upon the property of the plaintiff, and such property to be sold at public auction in the manner provided by law for the execution of judgments; that the issue and levy of an execution as aforesaid would cause injustice and great damage to the plaintiff by the defendant who, as plaintiff is informed, is financially incapable of indemnifying plaintiff, should such damages be done.

Wherefore plaintiff prays that judgment be rendered in its favor with costs, and including an order commanding the defendant Engracio Santiago to desist and refrain from further proceedings in the said civil action now pending before said defendant in his capacity as justice of the peace of the municipality of Pasig, Province of Rizal, and entitled "Fermin Poson vs. La Empresa del Tranvia Electrico de Manila."

Plaintiff further prayed that a preliminary injunction be granted restraining the defendant Engracio Santiago from issuing the said writ of execution upon the judgment, of which Exhibit B is a copy, until the further order of this court.

The copy, Exhibit A, is the complaint of Fermin Poson against The Manila Suburban Railways Company for the payment of P400 as an indemnity for loss and damages; and the copy, Exhibit B, is the judgment of the justice of

the peace Engracio Santiago for P400 in favor of Fermin Poson rendered against the defendant by default.

On the same date of October 18, 1909, the Hon. E. Finley Johnson, a justice of the Supreme Court, ordered the issuance of the preliminary injunction.

The said injunction having been served and the herein defendants summoned to appear, the latter, after making a general denial of the charges of the complaint, as a special defense alleged that the plaintiff was duly summoned by the deputy sheriff of Rizal for the trial on the complaint filed by Fermin Poson.

A hearing being had for the production of evidence, the deputy sheriff of Rizal, Demetrio Talisay, testified that he delivered the summons to an inspector in Pasig of the street-car company who replied to witness that he should go to the head office to serve the summons; that he went to the head office, on Calle San Marcelino of the city of Manila, in quest of the president of the company, and not finding him, showed the summons to the vice-president, witness being accompanied by an employee of the office. It was brought out that the party to whom he actually showed and delivered the writ of summons was M. F. Macling, a stenographer of the Manila Railroad Company, who so testified, and stated that he held no official position in the employ of the Manila Railroad Company, nor resided in the municipality of Pasig of the Province of Rizal at any time during the year 1909. In fact it is recorded on the back of the summons that it was this witness who received and signed the said writ.

Engracio Santiago was questioned as to whether he knew where the summons had been served, whether in Pasig or in Manila, and answered that, according to the sheriff, it was served in Manila, in the Electric Railroad Station, and that the sheriff explicitly told him so.

The defendants Santiago and Poson introduced no evidence, and the former stated, "the witness knows that he was duly summoned, that a date for a hearing was set. The trial was had and, as the defendant did not make an appearance in the justice of the peace court, the provisions of the law were enforced."

Plaintiff's counsel in turn stated: "The only question is whether the Pasig court acted within its jurisdiction."

The president of the Manila Suburban Railways Company testified that the company has its main office in the San Marcelino Street Car Barn and has no office in the municipality of Pasig and no general agent nor official who resides in Pasig, and that it only has an inspector there.

Those are the allegations and proofs submitted.

Section 1 of Act No. 1862 of the Philippine Legislature amended section 1 of Act No. 1627 of the Philippine Commission in the following terms:

"Sec. 14. Of jurisdiction. - * * *

'All other civil actions in justice of the peace courts shall be begun -

" (a) * * * * *

" (b) * * * * *

" (c) When there is no contract in writing or the place of execution of a written contract does not appear therein, then in the municipality where the defendant resides or may be served with summons.

"The territorial jurisdiction of a justice of the peace, except in the case of ex officio justices and in other special cases provided by existing law, shall be coextensive with his municipality and the civil process of his court shall not be served outside the boundaries of said municipality, except in the following cases and then only, when the judge of First Instance of the district, and in his absence the fiscal, shall certify that in his opinion the interests of justice require that such process should be served outside the jurisdiction of the court of the said

justice of the peace."

It is evident that the process of summons in question was served outside the boundaries of the municipality of Pasig and, consequently, outside the territorial jurisdiction of the justice of the peace court of Pasig; that the action which gave rise to this process was not one of the cases excepted by law, and that there is lacking the certificate of the judge of First Instance or, in his absence, of the fiscal, to have made it lawful to serve such summons but side the jurisdiction of the justice of the peace of Pasig.

Therefore it is our opinion and we declare that the justice of the peace of Pasig, Engracio Santiago, proceeded with most manifest lack of jurisdiction, and we command that a writ issue whereby the said Engracio Santiago be ordered to desist and refrain from further proceeding in the said civil action now pending before said defendant in his capacity as justice of the peace of the municipality of Pasig, Province of Rizal, and entitled "Fermin Poson contra la Empresa del Tranvia Electrico de Manila," and the preliminary injunction issued by the Hon. E. Finley Johnson, of this Supreme Court, is hereby made permanent. No special finding is made as to costs. So ordered.

Torres, Johnson, Moreland, and Trent, JJ., concur.

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