

ROSENDO PALAD ET AL., PETITIONERS, VS. MARIANO CUI, AS JUDGE OF THE COURT OF FIRST INSTANCE OF THE PROVINCE OF TAYABAS, AND BALDOMERO CALATRAVA, RESPONDENTS.

G.R. No. 9116. September 19, 1914

Ponente: MORELAND, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9116/>

MORELAND, J.:

In this proceeding it is prayed that a writ of mandamus issue directing the respondent Mariano Cui, as judge of the Court of First Instance of the Province of Tayabas, to approve a proposed bill of exceptions in civil case No. 600 of that court, and thereby allow an appeal to the Supreme Court for a review of the judgment, orders, and decrees of the court in that action.

The complaint also prays, that this court, if it find an appeal from the judgment, orders, and decrees aforesaid will, not lie, issue a writ of certiorari, directed to the judge aforesaid to certify to this court a complete transcript of the record of the court in the cause, so that the acts of the court may be reviewed and their legality determined as provided by law; and that the orders and decrees specified therein be declared null and void as having been made without or in excess of jurisdiction.

It appears undisputed that on the 10th of January, 1911, Baldomero Calatrava began an action against the plaintiffs in this case for the summary possession of real estate in the justice's court of Sariaya, Tayabas, of which lands, it was alleged, defendants in that case had deprived the plaintiff by one of the means described in section 80 of the Code of Civil Procedure. The action was tried and decision rendered by the justice's court in favor of the plaintiff and possession of the lands was duly awarded. The defendants appealed to the Court of First Instance.

After the perfection of the appeal the plaintiff Calatrava reproduced in the Court of First Instance the complaint which he had filed in the justice's court, which, after having been amended in some particulars unimportant here, was received by that court as the complaint in the case.

On the 16th day of October, 1911, Calatrava, the plaintiff, was notified by the clerk of the court that the case had been put on the calendar for trial on the 2d day of November, 1911. There appears in the record a certificate of such service signed by the clerk in the following form:

"This 16th day of October, 1911, notices were sent by mail to Baldomero Calatrava and Rosendo Palad at Sariaya, notifying them that the present case was set down on the calendar of the court for the 2d day of November, 1911."

On the 28th day of October, 1911, the defendants filed a demurrer to the complaint. It does not appear that a copy of this demurrer was served upon the attorney for the plaintiff or upon the plaintiff himself.

On the 2d of November the case was duly called for a hearing upon the demurrer and the latter having been considered by the court was sustained and the complaint dismissed. On the same day notice of the decision was sent by the clerk of the court to the plaintiff, Calatrava, service of which is certified by the clerk by the following

added to the bottom of the order sustaining the demurrer and dismissing the complaint:

"This 2d day of November, 1911, a copy of the foregoing order was sent to plaintiff at Sariaya."

On the 30th of November, 1912, more than one year after the rendition of the judgment and notice of the same as aforesaid, said Court of First Instance, but with a different judge presiding, set aside the order sustaining the demurrer and dismissing the complaint and reinstated the cause, basing its action upon the ground that the order sustaining the demurrer had been made and the cause dismissed without notice to the plaintiff. This order of the court seems to have been notified to both parties in the case, for, later, we see the defendants in pursuance thereof answering the complaint without objection and proceeding with the preparation of the cause for trial. Issue was later duly joined and the cause tried, the court rendering judgment in favor of the plaintiff and against the defendants.

Portions of the judgment of the court material to the questions before us are as follows:

"The court finds and decides that the plaintiff is the sole owner and legitimate possessor of the lands in question, with a perfect right to the possession of the same and that the defendants have been unjustly detaining the said lands since the 3d day of January, 1911.

* * * * *

"That the defendants, their agents and servants, are for ever prohibited from interfering in any manner whatever with the plaintiff in the possession of said lands.

* * * * *

"The right is reserved to the plaintiff of bringing an action against the defendants for the recovery of the value of the product of said lands and damages resulting from the detention thereof."

We are of the opinion that mandamus will not lie. The action in the justice's court was one merely for the summary recovery of the possession of land and had nothing to do directly with the determination of the ownership thereof

The case was appealed to the Court of First Instance and was tried upon the same theory. It has been held by this court, the writer of this opinion dissenting, that a third instance, that is, an appeal to the Supreme Court, does not lie in summary proceedings.

That being¹ so, no appeal lies in this case from the judgment of the Court of First Instance, and, accordingly, the petition for the writ ordering that an appeal be allowed must be denied.

We are also of the opinion that the petitioners are not entitled to the writ of certiorari as prayed for. We regard the action of the Court of First Instance vacating the order sustaining the demurrer and dismissing the action as within its jurisdiction. If the notice of the hearing of the cause on the 2d of November, 1911, had been given as required by law our judgment would have been different. In such case the order would have become final long before the order vacating it was made and the court would have been without jurisdiction in the premises upon the showing made.

As will be observed, however, the notice was given by the clerk to the plaintiff in the case and not to his attorney.

The plaintiff had appeared in the justice's court by E. A. Gala, an attorney and counselor at law of Lucena, Tayabas, and had also appeared in the Court of First Instance on appeal by the same attorney, who signed the complaint. It is the general rule that where a party appears by attorney in an action or proceeding in a court of record, all notices thereafter required to be given in the action or proceeding must be given to the attorney and not

the client; and that a notice given to the client and not to his attorney is not a notice in law. (Rules 3 and 12, Courts of First Instance.) As a necessary consequence, the demurrer was sustained and the action was dismissed without legal notice to the party interested. This being the case, the plaintiff could apply within a reasonable time after discovering the dismissal of his action for the vacation of the dismissing order and the reinstatement of the cause. This was in fact done soon after the discovery, and we are of the opinion that the court had jurisdiction to make the order which it made.

There appear to be, however, certain references in the judgment of the court which seem to decide the question of ownership and which seem also to have been made upon the theory that the ownership of the property in question was necessarily determined by that judgment. We have already quoted those parts of the decision which seem to do this. In so far as they in any way affect the title to the land in question, they are beyond the jurisdiction of the court to make and must be held to be void.

It is a principle established by decisions of this court that, on an appeal In summary proceedings, the Court of First Instance has no wider jurisdiction or greater powers than had the justice's court from which the appeal was taken. A justice of the peace having in summary proceedings no jurisdiction to determine the title to land, the Court of First Instance has no such power on an appeal.

The petition for mandamus is, therefore, denied, as is also the petition for a writ of certiorari except as herein above stated, with costs.

Arellano, C. J., Torres, Johnson, Carson, and Araullo, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.