

PRUDENCIO CHICOTE, PLAINTIFF AND APPELLANT, VS. LICERIO ACASIO, DEIENDANT AND APPELLEE.*G. R. No. 9489. September 11, 1915*

Ponente: ARAULLO, J.

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This action was filed in the justice of the peace court of Davao against the defendant for the reason that, according to the complaint, he had deprived the plaintiff of the possession of a parcel of his land. The plaintiff prayed that the defendant be sentenced to vacate the land and to pay the costs. After hearing the case the justice of the peace, on August 4, 1913, rendered judgment wherein he held (1) that the defendant had not usurped from the plaintiff the land that was the subject matter of the complaint and which belonged to the defendant so long as the contrary should not be proven by the plaintiff; and (2) that there was no legal reason for ordering the defendant ejected from the land in his possession.

The plaintiff appealed from this judgment to the Court of First Instance of Davao where he reproduced his previous complaint and the defendant answered by a denial of the facts therein alleged. After a trial of the case and a hearing of the evidence, the said court, on September 6 of the same year, affirmed the judgment appealed from, with the costs against the appellant.

The plaintiff, being notified of the judgment, prayed the Court of First Instance to annul all the proceedings had in the case, on the ground that the justice of the peace had no jurisdiction to try and decide cases involving titles of ownership to land; that this was expressly prohibited by Act No. 1627 of the Philippine Commission. The said Court of First Instance, on October 4, 1913, denied the plaintiff's petition on the ground that the action instituted was for the recovery of the possession of the land, and not to determine the title thereto. The plaintiff having appealed from this ruling, the case was brought before this court by the proper bill of exceptions, the appellant alleging that the Court of First Instance erred in holding that the case was one for unlawful detainer and, consequently, in disallowing his petition, for the reasons therein set forth. As counsel for the defendant-appellee in his brief to this court has asked that the appeal raised by the plaintiff be dismissed for the reason that, in his opinion, the judgment of the Court of First Instance is final, since it was rendered in a case that originated in the justice of the peace court and was appealed to the said Court of First Instance, we must first of all state that, as held by this Supreme Court on March 30, 1915, in the case of *Mc Girr vs. Hamilton and Abreu* (30 Phil. Rep., 563), that portion of Act No. 1627 which prohibits an appeal to the Supreme Court from a judgment of the Court of First Instance in a civil cause appealed from a justice's court is in violation of the Act of Congress of July 1, 1902, and is, therefore, of no force or effect whatever. For this reason it would be improper to allow the dismissal asked for by appellee's counsel of plaintiff's appeal from the ruling of the Court of First Instance of Davao, dated October 4, 1913, since this Supreme Court has jurisdiction to hear and decide the said appeal.

Passing now to a consideration of the appeal on the merits, we find that the plaintiff filed his complaint before the justice of the peace court of Davao on July 29, 1913; that he set forth therein that the defendant, Licerio Acasio, without his knowledge or consent, had cleared and planted to hemp about three hectares of plaintiff's land,

described in the complaint, thus depriving him of the possession of the said land; and that in the same complaint he prayed the said justice of the peace court to sentence the defendant to vacate the land in question without damage thereto, and to pay the costs. The justice court, after hearing the case, made the aforementioned findings in his said judgment of August 4, 1913, to wit, that the defendant had not usurped from the plaintiff the land that was the subject matter of the complaint and which belonged to the defendant so long as the contrary should not be proven by the plaintiff, and that there was no legal reason for ejecting the defendant from the land of which he was in possession.

The justice of the peace court, in setting forth the grounds of his decision, refers both to the testimonial and documentary evidence presented by the parties at the trial to prove their respective allegations relative to the possession of the land in question, and, in connection therewith relative to the ownership of the land itself. The justice of the peace also set forth in the same decision some considerations derived from the examination made by him of the documents presented by the defendant to prove his ownership. It is, therefore, undeniable that the action commenced in the justice of the peace court of Davao was for the restitution of the possession of the land of which the plaintiff claimed he had been deprived by the defendant. The justice court rendered judgment on the question submitted as to the said possession, in holding that the land had not been usurped by the defendant and that it would be improper to eject the latter therefrom. No question was presented to the justice of the peace court, either by the complaint or the answer, and none was decided by him relative to the title to the land in dispute, as was stated by the appellant in praying for the annulment of all the proceedings had in the case.

It is true that in the dispositive part of the said judgment, after the justice of the peace court had declared that Licerio Acasio, the defendant, had not usurped from Prudencio Chicote the land that is the subject matter of the complaint, there was added these words: "And that it belongs to the said Acasio, so long as the contrary is not proved by the plaintiff." It is likewise true that in the same judgment the justice of the peace, as hereinabove stated, made some observations regarding the documentary evidence presented by the defendant on the subject of the ownership of the land alleged by him. But it must be taken into account that section 68 of Act No. 136, as amended by section 3 of Act No. 1627 and by section 3 of Act No. 2041, after providing that in forcible entry and detainer proceedings the justice of the peace shall have original jurisdiction, adds "but he may receive evidence upon the question of title therein solely for the purpose of determining the character and extent of possession and the damages for detention." This is what the justice of the peace of Davao did do in the case in question in taking evidence upon the question of the title of the property and in making certain observations in the judgment relative to that evidence. The finding that the land belonged to the defendant so long as the contrary was not 'proved by the plaintiff cannot be considered as a finding as to the title of the defendant's property, but as incidental to the express finding that the defendant had not usurped the said land from the plaintiff, and, as precedent to the other finding immediately following, that there was no legal reason for sentencing the defendant to be ejected from the land in his possession. At all events, the findings of the said justice of the peace in that judgment and as expressed in the language quoted, cannot have changed the nature of the action commenced and prosecuted before him by the plaintiff and decided by that court. That action was for the recovery of the land of which the plaintiff claimed he had been deprived by the defendant. The Court of First Instance of Davao, consequently, did not incur the error assigned to it by the appellant.

We therefore should, as we do hereby, affirm the order appealed from of October 4, 1913, with the costs of this instance against the appellant. So ordered.

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

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