

IRENE CALAMPIANO; PLAINTIFF AND APPELLANT, VS. EULALIO TOLENTINO, DEFENDANT AND APPELLEE.*G.R. No. 9582. December 24, 1914*

Ponente: MORELAND, J.

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This is an appeal from a judgment of the Court of First Instance of Tayabas dismissing the action with costs.

The plaintiff began an action in the Court of First Instance of Tayabas for ejectment and for damages for illegal detention. The action being at issue that court, in view of the large number of cases then pending for trial in that court and that sessions of the court would not be held in that province for several months, assigned the justice of the peace of the capital of the province to take cognizance of and try the cause in conformity with section 3 of Act No. 2041. On the coming on of the cause for trial the plaintiff objected to the jurisdiction of the justice of the peace, alleging that the Act authorizing the appointment was unconstitutional and void, that the Court of First Instance exceeded its authority in making the assignment, and that the justice of the peace had no jurisdiction or power to hear the cause.

The justice of the peace overruled the objections of the plaintiff and ordered the trial to proceed. The plaintiff, standing upon her objection, refused to go forward with the trial, whereupon, on motion of the defendant, an order was entered finally dismissing the action. This appeal is from that order.

That portion of Act No. 2041 referred to above reads as follows: "That justices of the peace in provincial capitals, except in the city of Manila, may by assignment of the respective judge of the Court of First Instance in each case have like jurisdiction within the province as the Court of First Instance to hear and determine cases originally cognizable by the Court of First Instance in which the subject of litigation is capable of pecuniary estimation and the value of the subject-matter or amount of the demand does not exceed two thousand pesos exclusive of interest and costs, except cases involving the legality of any tax, impost, or assessment, or actions involving admiralty or maritime jurisdiction."

The appellant contends that a justice of the peace not having: jurisdiction to determine the title to real estate, has no power or authority to try the case at bar, one of the main questions being the ownership of the real estate which is the subject of the litigation.

We are of the opinion that the appellant is in error. When authority is delegated to the justice of the peace in the manner and under the circumstances specified in the Act, he acts, in the trial of the particular cause to which he is assigned, as a Court of First Instance and not as a justice of the peace or a justice's court. The statute expressly authorizes the Court of First Instance, under certain circumstances, to assign a justice of the peace of the provincial capital to the trial of certain causes pending in the Court of First Instance; and such assignment confers upon him all of the power and authority necessary to determine the case. This being so, there is no foundation to the objection that this case falls within that of *Barrameda vs. Moir* (25 Phil. Rep., 44), where it was held that Acts Nos. 2041 and 2131, "in so far as they attempt to confer exclusive jurisdiction or exclusive original jurisdiction

upon courts of justices of the peace to try real-estate actions' where the amount involved does not exceed P200, are void because they conflict with section 9 of the Philippine Bill, which on firms the original jurisdiction of Courts of First Instance in 'all civil actions which involve the title to or possession of real property, or of any interest therein,' as provided in Act, No.186, section 56, paragraph 2 of the Philippine Commission." This decision is founded upon the proposition that no act of the Philippine Legislature can take from Courts of First Instance the jurisdiction which they had at the time the Act of July 1, 1902, was passed by the Congress of the United States; and Acts Nos. 2041 and 2131, in so far as they attempt to take from the Court of First Instance the jurisdiction which it had at that time, are void and of no effect.

The question presented in the case before us is quite different. The conferring upon the justice of the peace of the power specified in the Act does not deprive the Court of First Instance of any of its jurisdiction. Act No. 2041, in effect, authorizes the temporary appointment of the justice of the peace as judge of the Court of First Instance, to remain such until the case to which he has been duly assigned has been finally determined. By that Act the number of judges in the Court of First Instance in a given province is temporarily increased from one to two. The justice of the peace acts as a judge of the Court of First Instance and his acts have the same force and effect as the acts of the regular judge. Holding a Court of First Instance does not deprive that court of any of its powers. He exercises them for it.

The judgment finally dismissing the action is affirmed, with costs against the appellant.

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

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