

AGAPITO NAPA, PETITIONER, VS. JOHN P. WEISSENHAGEN, ACTING JUDGE OF THE COURT OF FIRST INSTANCE OF SURIGAO ET AL., RESPONDENTS.*G.R. No. 9698. January 06, 1915*

Ponente: MORELAND, J.

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In February, 1913, there was begun in the justice's court of Gigaquit, Surigao, an action for the summary recovery of the possession of land under section 80 and following sections of the Code of Civil Procedure, the plaintiff in the case at bar being the defendant there and the defendants Julian Larong and Hermenegildo Bayla being the plaintiffs.

The justice's court tried the cause, found in favor of the plaintiff and ordered delivery of possession. The decision was rendered on the 14th of April, 1913, and appeal was taken therefrom on the 29th of the same month.

The cause having arrived in the Court of First Instance for determination on the appeal, a motion was made by the appellee to dismiss the appeal on the ground that it had not been perfected within the time required by law. The court entertained this motion, granted it, and dismissed the appeal.

The purpose of this proceeding is to obtain a writ of certiorari for the revision of the record of the court below, the revocation of the judgment entered upon the order granting the motion to dismiss the appeal, and to set aside the whole proceeding on the ground that the court lacked jurisdiction to dismiss the appeal.

The question presented arises upon the answer made to the order to show cause why the writ of certiorari should not be issued upon the petition in the case. The answer denies that the facts stated in the petition are sufficient to warrant the issuance of a writ of certiorari, even though all of them be admitted. This is the issue.

As is seen, a mere statement of the case is sufficient to deny the relief prayed for. It is clear at a glance that the Court of First Instance had jurisdiction to consider a motion to dismiss the appeal and the exercise of that jurisdiction did not result in its loss, it having been exercised in accordance with the established forms and methods of procedure prescribed by the practice of the country. We have held in numerous cases that a writ of certiorari will not be issued unless it clearly appears that the court to which it is to be directed acted without or in excess of jurisdiction in performing the acts complained of. We have also held that if a court had jurisdiction of the subject matter and of the person, decisions upon all questions pertinent to the cause are decisions within its jurisdiction and however irregular or erroneous they may be, they cannot be corrected by certiorari. A Court of First Instance has jurisdiction to dismiss an appeal taken to it from a judgment of a justice's court and, therefore, has jurisdiction to decide every question pertaining thereto. This being the case, the consideration of the motion and the dismissal of the appeal as a consequence thereof are not acts in excess of jurisdiction. It may be stated as a general rule that the decision by a court of one of the fundamental questions before it does not, except perhaps in cases involving a constitutional question, deprive it of jurisdiction whichever way it may decide. . Jurisdiction is the authority to hear and determine a cause, the right to act in a case. Since it is the power to hear and determine,

it does not depend either upon the regularity of the exercise of that power or upon the rightfulness of the decision made. Jurisdiction should be distinguished from the exercise of jurisdiction. The authority to decide a case at all, and not the decision rendered therein is what makes up jurisdiction. Where there is jurisdiction of the person and the subject matter, the decision of all other questions arising in the case is but an exercise of that jurisdiction. (Herrera vs. Barretto, 25 Phil. Rep., 245; Gala vs. Cm, 25 Phil. Rep., 522; De Fiesta vs. Llorente, 25 Phil. Rep., 554.)

The writ of certiorari in so far as it was a method by which mere errors of an inferior court could be corrected no longer exists. Its place is now taken by the appeal. So long as the inferior court maintains jurisdiction, its errors can be corrected only by that method. The writ in this country has been confined to the correction of defects of jurisdiction solely and cannot be legally used for any other purpose. (Id.)

The fact that the complaint in the justice's court appeared in its phraseology somewhat like a complaint in ejectment, and that the judgment of the justice's court took on also something of the color of a judgment in such an action; and the fact that such judgment contains some provisions which a justice's court is perhaps without authority to insert in its judgments is of no particular consequence in the proceeding before us. If the judgment of the justice's court was void, it was nevertheless appealable, although the losing party might have been able to rid himself of it by other means. Having been appealed, it stands upon substantially the same footing in the appellate court, so far as the appeal itself is concerned, as any other judgment of a justice's court and the jurisdiction of the appellate court in that appeal is as full and complete as it is in any other.

It having been found that the contention of the respondents is correct, the petition is dismissed. So ordered.

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

Johnson, J., concurs in the result.

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