

FRANCISCA TAGAL, PETITIONER, VS. C. D. JOHNSTON, JUDGE OF FIRST INSTANCE, MANUEL BARICAUA, JACOBO TUMACAY AND RAYMUNDO GAFFUD, RESPONDENTS.

G.R. No. 9767. February 05, 1915

Ponente: ARAULLO, J.

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ARAULLO, J.:

This is a petition for a writ of mandamus against the Honorable C. D. Johnston, judge of the Court of First Instance of the First Judicial District, and the other respondents named in the title hereof.

The petition is based on the following facts:

- That the petitioner, Francisca Tagal, sued Manuel Baricaua, Jacobo Tumacay, and Raymundo Gaffud, in the justice of the peace court of the municipality of Enrile, Province of Cagayan, for recovery of possession of a parcel of agricultural land and damages. The case was decided against the defendants and they appealed from the judgment of the justice of the peace to the Court of First Instance of the district.
- That, when by virtue of said appeal, a complaint was filed by the plaintiff in the Court of First Instance, asking that judgment be rendered in her behalf by ordering the defendants to return to her the land, the subject matter of the controversy, and to pay the sum of P100 as damages, and the costs, the Honorable C. D. Johnston, judge of the Court of First Instance of the district, in order that he might take his vacation, delegated to the Honorable Ramon Valdez, justice of the peace of the municipality of Tuguegarao, the capital of the province, jurisdiction to try and decide the said case; that in pursuance of such delegation, the said justice of the peace, acting as judge of First Instance, sat in the case, wherein the parties appeared with their attorneys and presented their evidence.
- That the said justice of the peace rendered a decision on July 14, 1913, whereby he ordered the defendants to restore the land to plaintiff and to pay P100 as an indemnity as well as the costs, a decision which was communicated to the attorney for plaintiff on the 15th, and to the attorney for defendants on the 17th of the same month. The next day, the 18th, the defendants excepted to the said judgment on the grounds that the damages allowed were excessive; that the evidence was not sufficient to sustain the judgment; that said judgment was contrary to the law and to Philippine jurisprudence in matters of that kind, and moved for a new hearing of the case. Plaintiff's attorney was notified and served with a copy of that motion the same day, July 18th.
- That on the 4th of August following, after the said motion had been presented by attorney for defendants in the session chamber of the court, before the Honorable C. D. Johnston, in the presence and over the protest of the attorney for plaintiff, the said judge, on or about the 11th of the same month of August, sustained the said motion and directed that the case be placed upon the calendar of the court for rehearing on its merits on September 9, 1913, and that the clerk of court notify the parties accordingly.
- That three days afterwards, that is, on the 14th of the same month of August, when the attorney for plaintiff was notified of the said order, he entered an exception thereto and on the 20th of August prayed the court to suspend it

so that an appeal might be taken to the Supreme Court. But three days afterwards, to wit, on August 23, attorney for plaintiff filed a new motion whereby he withdrew the previous one and in substitution therefor moved the court to declare null and void and without effect its order issued on August 11, because neither the court nor the judge who issued said order had jurisdiction of the case; that the judgment rendered on July 14, 1913, by the justice of the peace of Tuguegarao, acting as judge of first instance, be executed, because it had become final and conclusive under the law, and that the clerk of court be directed to tax the costs in accordance with the motion presented by said attorney on July 26.

- That after hearing on this last motion of the plaintiff before the Honorable C. D. Johnston, attorneys for both parties being present, on September 9 of the same year defendants filed a motion wherein they set forth that the case had been set for trial that day, and that Baldomero Pobre, attorney for plaintiff, appeared therein and announced in open court that the plaintiff declined to take part in the trial of the case; that defendants were ready to proceed to trial and have judgment rendered on the merits, and they prayed that the case be dismissed on those grounds, with the costs against the plaintiff.

- That on the same day, September 9, a copy of said motion was received by counsel for plaintiff who on the same date filed a writing insisting, in the first place, upon the motion filed by his client on August 23, wherein she prayed for execution of the judgment against the defendants, and furthermore stating that she declined to go to trial of the case set for that day, September 9, because she believed that the judgment rendered therein was final and conclusive and that that court had no jurisdiction to order a new trial. She closed with a prayer that the proceedings be suspended until the next session of the court, or until the remedy she proposed to seek in the Supreme Court should be decided.

- That on the same date, September 9, both the preceding motions were submitted to the court before the Honorable C. D. Johnston, judge, who on or about the 22d of the same month issued an order dismissing the said civil action between said plaintiff and the defendants, with the costs against the former.

In view of these facts and the petitioner alleging furthermore that the said judge, the Honorable C. D. Johnston, had exceeded his jurisdiction and failed to perform the duty imposed upon him by law in granting a new trial of the case upon its merits; in denying her motion to have the judgment rendered by the justice of the peace of Tuguegarao, acting as judge of first instance, declared final; in not suspending the proceedings, as was also requested by her counsel, and in dismissing the case, with the costs against her; and alleging also that she had no other easier and more speedy remedy than to sue out a writ of mandamus against the Honorable C. D. Johnston, she prayed that the said writ issue, directing the said judge to declare final the judgment rendered by the Honorable Ramon Valdez for the plaintiff, and declaring that the proceedings had before the Honorable C. D. Johnston subsequent to the said judgment were null and void. She further prayed that, if this were denied, the said judge be ordered to refrain from ruling on defendant's motion for a new trial, and to transfer the hearing of the said motion to the Honorable Ramon Valdez, who was the judge before whom the evidence was introduced at the trial and who had a recollection thereof.

The Honorable C. D. Johnston and the other respondents, with the exception of one who had died, having filed their answer, the petition was submitted to the decision of the court, after a hearing at which the parties did not appear.

From the allegations made by the petitioner it appears that the ground for the special proceeding brought by her consists in that, in her opinion, since Ramon Valdez, justice of the peace of Tuguegarao, capital of the Province of Cagayan, had tried the civil suit brought before him on appeal from a judgment of the justice of the peace court of Enrile and prosecuted between her, the petitioner, as plaintiff, and Manuel Baricaua, Jacobo Tumacay and

Raymundo Gaffud, as defendants, by virtue of the delegation conferred upon the said justice of the peace, Ramon Valdez, by the Honorable C. D. Johnston, judge of first instance of the district, and since judgment had been rendered in the said case by the aforementioned justice of the peace, after hearing the evidence presented before him by the parties, the judge of first instance, the Honorable C. D. Johnston, lacked power and jurisdiction to rule on defendant's motion for a new trial and to continue to act as he did in the various proceedings and upon divers successive petitions until the issuance of the order of dismissal that brought the case to an end. In short, petitioner maintains that since the Honorable Ramon Valdez, as judge by delegation of the judge of the Court of First Instance of the district, had tried the action and had rendered judgment therein, he should have continued to hear such special proceedings as might properly have been brought against that judgment.

Section 1 of Act No. 2131, amending section 68 of Act No. 136, as amended by section 3 of Act No. 2041, provides that justices of the peace in the capitals of the provinces organized under the Provincial Government Act, as Cagayan is, 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 the amount of the demand does not exceed P2,000, exclusive of interest and costs. But there is no provision in this Act or the two it amends to prevent the judge of first instance who delegated his own jurisdiction from trying the same cases, for the hearing and decision of which he may have delegated his powers to the justice of the peace of the capital of the province, as soon as the delegation conferred upon the latter has expired or been withdrawn by said judge of first instance. The delegate can act only in so far as he is vested with the powers conferred upon him by the person who made the delegation, and the exercise of such powers depends upon the will of him who delegated them or upon the expiration of the period that he had fixed for the exercise of the powers by the person upon whom he conferred them.

There can be no question that the Honorable C. D. Johnston, judge of the Court of First Instance of the First Judicial District, was not wholly deprived of jurisdiction to try the case of Tagal against Baricaua and his associates by the fact that he delegated his jurisdiction or his powers as judge of first instance in that case to the justice of the peace of the provincial capital, Ramon Valdez. On the contrary, he retained such jurisdiction, though he did not make use of it so long as the justice of the peace acted as his delegate and he did not deem it advisable to withdraw the delegation he had conferred upon the latter.

Moreover it appears, as set forth in the answer filed by the respondent judge, that on February 18, 1913, the said C. D. Johnston addressed a communication, which is copied in the said answer, to the justice of the peace of Tuguegarao 'informing him that, in pursuance of the authority vested in the writer by sections 1 and 2 of Act No. 2131, he assigned to the said justice of the peace jurisdiction to try and decide civil case No. 398, Tagal vs. Baricaua, then pending in the Court of First Instance of the province, and authorized him to hold a special term of the said court at such a time as he might fix with reference to the convenience of the parties, the attorneys interested, and the personnel of the court, during the month of April, 1913, or in the first two weeks of the month of July of the same year. The justice of the peace of Tuguegarao, by virtue of the power delegated to him in the terms expressed in the communication mentioned, tried the case in question and rendered judgment on July 14, 1913, the very last day of the period within which he could act in the case as judge by delegation. It is evident, therefore, that in fact and in law, the Honorable C. D. Johnston, the judge of first instance who made the delegation, resumed jurisdiction in the case on the following day, the 15th, with full power and jurisdiction to pass upon all the motions which from that date were presented to the Court of First Instance of the district, the first of which, for a new trial, was filed by defendants on July 15, that is, four days after the said justice of the peace of the provincial capital had ceased to act therein in his capacity as judge by delegation from the judge of first instance of the district.

If Judge Johnston had not acted in the case after July 15, or passed upon the motions therein made by the parties after that date, and if the justice of the peace, Ramon Valdez, had continued to act in the case, ruling on the motion for a new trial and presiding, as such judge by delegation of the Court of First Instance of the district, at the rehearing set for September 9, and had rendered judgment therein, it is undeniable that he would have acted without jurisdiction, for after the said 15th of July, the date on which expired the delegation conferred upon him by the judge of first instance, he lacked jurisdiction to act in the case. It would be another matter if the delegation had been conferred upon him by the judge of first instance to try the case without limitation of time. In such case it would still be a debatable question whether such delegation could be considered as terminated by the mere will of the judge of first instance who made the delegation or whether the judge so delegated should have heard the motion for a new trial by defendants and should have ruled upon it, inasmuch as it was before this delegated judge that the evidence was presented by the parties at the trial, and as he had rendered the judgment excepted to, it might have best suited the rights of the litigants that the same judge should render final judgment in the new trial in view of his being better qualified to weigh the evidence therein. But this is not the case in the present proceeding, and even though the petitioner maintains that the justice of the peace of Tuguegarao should continue to have jurisdiction of the matter in question with regard to the rehearing and might wish that these reasons of expediency be taken into account, yet as the period of delegation fixed for the said justice of the peace of Tuguegarao had expired and the jurisdiction of the case had been reassumed by the judge of first instance who made the delegation, such reasons cannot prevail over the quite cogent one that the delegated judge must confine himself solely to the fulfillment of the commission conferred upon him, and upon the termination or expiration of such delegated jurisdiction, as likewise of the commission, since that jurisdiction was confined to a definite period, it could not be extended beyond that period except by the same judge who conferred the delegation.

Moreover, aside from the fact that it is not absolutely necessary nor required by the law that the same judge who decides a case should sit at the new trial or at the rehearing requested or had therein, the ends of justice can be as well served by the same judge's hearing and deciding such incidental matters as by their being heard and decided by a different one, provided he has jurisdiction, for the reason that in either instance the merits of the case can be duly considered before the proper decision is rendered.

In conclusion, since the jurisdiction delegated to the justice of the peace of the provincial capital in the case at bar was not extended in point of time by the only person who could have done so, viz., the judge of first instance of the district; and since seasonable exception was taken by counsel for the defendants to the judgment rendered by the delegated justice of the peace, and four days thereafter, consequently within the legal period, a new trial was asked for by the same counsel, wherefore the said judgment did not become final; and since the new trial was afterwards allowed and a day set for the same within the regular term of the Court of First Instance of the district, by the same judge of first instance, the Honorable C. D. Johnston, who had exclusive and full jurisdiction in the case, notwithstanding the protest counsel for the plaintiff Tagal said that he filed upon the hearing of the motion for a new trial; and since said counsel declined to go to the new trial on September 9, 1913, the day set for holding the same, on which account counsel for defendants moved for the dismissal of the case, the respondent judge, the Honorable C. D. Johnston, did not act in excess of or without jurisdiction, nor did he fail to perform any duty soever in connection with the proceedings in the said case in acting therein from the time of the expiration of the delegated jurisdiction, of the aforementioned justice of the peace of the provincial capital, in dictating the various orders referred to by the petitioner in her petition, in overruling, by the order of September 22, 1910, plaintiff's motion praying that the judgment rendered by the delegated justice of the peace be declared final, and finally, in granting the motion of counsel for defendants and in the same order directing the dismissal of the case, pursuant to the provisions of paragraph 2 of section 127 of the Code of Civil Procedure.

It is therefore ordered that the petition for a writ of mandamus, filed by Francisca Tagal and mentioned at the

begining of this decision, be denied, with the costs against the petitioner. So ordered.

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

Moreland, J., concurs in the result.

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