

34 Phil. 323

[G.R. No. 8979. March 22, 1916]

ADRIANO PANLILIO, PLAINTIFF AND APPELLANT, VS. THE PROVINCIAL BOARD OF PAMPANGA BT AL., DEFENDANTS AND APPELLEES.

D E C I S I O N

JOHNSON, J.:

This was a petition for the writ of *certiorari*, presented in the Court of First Instance of the Province of Pampanga, on the 29th of October, 1912. To the petition the defendants duly answered.

After hearing the respective parties, the Honorable Julio Llorente, judge, rendered the following decision upon the questions presented:

“Section 217 of Act No.. 190 provides as follows:

” ‘When the ground of the complaint in an action in a Court of First Instance is that an inferior tribunal, board, or officer exercising judicial functions, has exceeded the jurisdiction of such tribunal, board, or officer, and there is no appeal, nor any plain, speedy, and adequate remedy, and the court, on trial, finds the allegations of the complaint to be true, it shall render a judgment ordering such inferior tribunal, board, or officer, or other person having the custody of the record or proceedings, at a specified time and place, to certify to the court a transcript of the record and the proceedings * * * that the same may be reviewed by the court; etc.’

“According to the law, it is therefore necessary, in order that a writ of *certiorari* may issue, that the inferior court, board, or officer have exceeded his jurisdiction. The provincial board of Pampanga, in annulling the resolution passed by the municipal council of San Fernando, mentioned in the complaint, did not exceed its jurisdiction. Section 5 of Act No. 1791

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confers power upon the provincial board to approve all acts, ordinances, resolutions and orders which are within the powers conferred upon the council or the municipal president, and to declare null and void such as are not within said powers. Whether the provincial board of Pampanga erred or not in annulling the resolution of the municipal council of San Fernando, by ordering a new auction sale, such error, if committed, can be corrected by an appeal, but does not warrant the issuance of a writ of certiorari.

“The writ of certiorari prayed for, is denied. So ordered.”

From that decision the defendants appealed to this court. The only question presented by the appellant is one relating to the jurisdiction of the provincial board in annulling a resolution of the municipal council.

Without discussing in detail, at this time, the question presented, we are of the opinion and so hold that the conclusions reached by the lower court are in conformity with the law. Its judgment is therefore hereby affirmed, with costs. So ordered.

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

Trent, J., dissents.

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