

G.R. No. 7657

[ G.R. No. 7657. March 06, 1904 ]

**AMBROSIO TIEMPO, PLAINTIFF AND APPELLANT, VS. VIUDA E HIJOS DE PLACIDO REYES, SOCIEDAD COLECTIVA, ET AL., DEFENDANTS AND APPELLEES.**

**D E C I S I O N**

**MORELAND, J.:**

This is an appeal from an order of the Court of First Instance of Misamis, sustaining a demurrer to a complaint, wherein plaintiff sought relief from a judgment of a justice of the peace, alleging that that judgment was void for lack of jurisdiction.

Plaintiff in this action alleges that the justice of the peace assumed jurisdiction to hear and decide a complaint, wherein plaintiff sought possession of certain real estate, alleging that by virtue of a contract for the sale thereof, under the terms of which the vendor retained the right to repurchase prior to a certain date (*venta con pacto de retro*), he had become the owner of this real estate, the vendor having failed to exercise his right to repurchase within the time stipulated. The justice of the peace assumed jurisdiction on the ground that the facts set forth gave the vendor the right to an action in his court for the possession of the land, under the provisions of section section 80 of Act No. 190.

The trial judge, in the case at bar, was of opinion that the justice of the peace had jurisdiction to hear and decide the case, and on that ground sustained the demurrer to the complaint. But this court, in the case of *Falcon vs. Barretto* (26 Phil. Rep., 72), held that justices of the peace have no jurisdiction to hear and decide cases in

summary proceedings as provided in section 80 of Act No. 190, wherein plaintiff seeks possession of land by virtue of alleged rights of ownership acquired under the terms of deeds of sale with the right to repurchase (*ventas con pacto de retro*).

It is clear that under the ruling in that case the justice of the peace had no jurisdiction to enter the judgment, relief from which is sought in the case at bar, and that the order entered in the court below, sustaining the demurrer to the complaint, should be set aside.

*Arellano, C. J., Moreland, Trent, and Araullo, J., concur.*

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