

## NOTES and COMMENT

### Jurisdiction of Justices of the Peace Courts Over Forcible Entry and Detainer Cases When the Question of Title is Put in Issue

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THE late Associate Justice Benjamin Nathan Cardozo of the United States Supreme Court once said that there can be no constancy in law. It changes as often as the human mind that conceives it deems it wise to change, alter, or repeal it. Thus, what was considered as the law yesterday may no longer be found in the statute book today, and whether or not it will ever become the law again tomorrow, nobody can tell. It may or it may not, depending on the human mind on which the life of any law depends. This inconstancy of law has given rise to no little confusion in its application by the courts of justice to the cases brought before them for decisions. For instance, in any particular case involving a question of law, while a lawyer may contend that the law on the subject is such and such, the opposing counsel may argue that such is no longer the law, thereby leaving to the judge the whole responsibility of declaring what the law really is.

To be more specific, let us come to a question which has perplexed not only students of law but also lawyers and justices of the peace, who have original jurisdiction to try forcible entry and detainer

cases. This question is: In an action of forcible entry and detainer, will the mere filing of an answer, claiming title to the premises involved, divest a justice of the peace of jurisdiction? A review of our jurisprudence will reveal that the Supreme Court has answered this question both in the affirmative and in the negative, thereby creating a doubt in our minds as to which answer is the correct one.

In the case of *Falcon and Falcon vs. Barretto* (26 Phil. 72) the Supreme Court held that in an action of forcible entry and detainer when the defendant sets up in his answer the defense of ownership over the property in litigation, the justice of the peace court automatically loses jurisdiction over the case as said court has no jurisdiction to adjudicate title. Analyzing the possible grounds for actions of forcible entry and detainer as provided for in Sec. 80 of the Code of Civil Procedure, the Supreme Court went on to say: "There is not a case mentioned in Section 80 in which the title to the property can come in question. If it does arise and its determination is necessary for a resolution of the case, then instantly the case is taken from the domain of section 80 and the jus-

tice's court loses jurisdiction. Perhaps, it were better said, and more correctly, that the case was never within the section."

This doctrine of the Supreme Court was reiterated in the case of *Tiempo vs. Vda. e Hijos de Reyes* (27 Phil. 33).

For a time, it was thought that such a ruling was to become a permanent one. But several years later, the Supreme Court created no little surprise when it upheld just the opposite view in the case of *Mediran vs. Villanueva* (37 Phil. 752) holding as follows: "It is clear that under the law now in force it is beyond the jurisdiction of a justice of the peace to adjudicate in any case upon the question of title of real property, or to declare that one person rather than another is the owner. But it does not result from this that when an action of forcible entry and detainer is instituted to recover possession the defendant can defeat the proceedings merely by asserting ownership in himself. Though the jurisdiction to determine the question of ownership is vested exclusively in the superior court, the inferior court of the justice of the peace possesses full power to determine the right of possession and assess the damages incident to the unlawful detention. To this end it may consider the evidence of ownership." According to this case, the justice of the peace may proceed hearing the case even if the defendant sets up in his answer the claim of ownership—a doctrine which is clearly in contrast to that of the *Falcon* case.

This same legal point was again presented squarely before the Supreme Court in the subsequent case of *Kiong Pha vs. Ti Bun Lay* (45 Phil. 670) in which, faced by the two contradictory doctrines, the Court chose to follow the Fal-

con case and to ignore the *Mediran* case. "In an action of forcible entry and detainer," it said, "when it is made to appear by the answer of the defendant that a real question of title and ownership of property is presented, the court of the justice of the peace has no jurisdiction to hear and determine the question presented. If the justice of the peace does take jurisdiction under such circumstances and an appeal is taken to the Court of First Instance, the latter has no jurisdiction to determine the question presented. An appeal from the judgment of the court which has no jurisdiction does not give the appellate court jurisdiction to try the cause."

We have seen above that the question under discussion in this article was answered by the Supreme Court in the affirmative in the case of *Falcon and Falcon vs. Barretto*, reaffirmed in the case of *Tiempo vs. Vda. e Hijos de Reyes*, in the negative in the case of *Mediran vs. Villanueva*, and again in the affirmative in the later case of *Kiong Pha vs. Ti Bun Lay*. And as if fulfilling the prediction of certain members of the bar that the Supreme Court would again change its opinion on the matter, the same Court in the case of *Sevilla vs. Tolentino* (51 Phil. 333) speaking through Mr. Chief Justice Ramon Avanceña, decided to forget the *Falcon* and *Kiong Pha* cases and answered the same question in the negative, holding that "the decision of this court in the case of *Mediran vs. Villanueva* (37 Phil. 752) abounds in weighty considerations to this effect."

Realizing that its "inconsistent" stand on the matter has complicated, rather than clarified, the pertinent law on the subject, the Supreme Court took the opportunity

of declaring which is which when the case of *Supia and Batioco vs. Quintero and Ayala* (59 Phil. 312) was taken before it for decision. With a view to settle the controversy once and for all, the Court said: "It will be perceived that the real controversy between the parties in this case centers around an apparent conflict between two lines of decisions of this court on the subject of the jurisdiction of a justice of the peace in actions of forcible entry and detainer. Experience has shown the necessity for laying down a clear and, as far as possible, definite rule on the question, in order to avoid further confusion and unnecessary litigation. *After a careful consideration of the whole question in the light of pertinent authorities, we have come to the conclusion that in an action of forcible entry and detainer, the mere filing of an answer claiming title to the premises involved or raising the question of ownership, will not divest a justice of the peace of jurisdiction.*"

Perhaps because the foregoing pronouncement was not unanimous (Justice Villareal dissented), many still believed that the Supreme Court may yet change its mind and reverse its stand. But such apprehension is now without foundation. In the case of *Fuentes vs. Justice of the Peace of Pila* (G. R. No. 45576, April 19, 1939) the Supreme Court, in a unanimous decision, followed the doctrine in the *Supia* case. The rule, therefore, as finally enunciated is this: *the fact that in an action for unlawful entry and detainer of realty filed in the justice of the peace court the question of title is raised by the defendant, does not deprive said court of jurisdiction over the case, except*

*when title thereto is necessarily involved.*

That such a doctrine as finally enunciated by the Supreme Court is in consonance with law and justice may be seen from the very purpose of an action of forcible entry and detainer:

"The general purpose of the statute does not regard the actual condition of the title of the property, but, where any person is in the peaceable and quiet possession of it, he shall not be turned out by force, by violence, or by terror. The party so using force and acquiring possession may have a superior title, or may have the better right to the present possession; but the policy of the law is to prevent disturbances of the public peace, and to forbid any person righting himself by his own hands and by violence, and requiring that the party who has obtained possession in this manner shall restore it to the party from whom it has been so obtained. The party out of possession must resort to legal means to obtain possession if he be entitled thereto." (Chishol vs. Wise, 5 Okla. 217; 47 Pac. 1086).

In line with the real purpose of an action for forcible entry and detainer, which is to decide who has the better right to possession regardless of the ownership of the property, our legislature has provided that although a justice of the peace shall have original jurisdiction over forcible entry and detainer proceedings, *he may receive evidence upon the question of title therein solely for the purpose of determining the character and extent of possession and damages for detention.* (Sec. 68 of Act No. 136, as amended by Act No. 3881).

The conclusion thus reached by the Supreme Court in the *Supia* and *Batioco* cases is not only in consonance with the pertinent Philippine law on the subject but is also in harmony with sound American principles of law and jurisprudence. As stated by the court in *Pettit vs. Black* (13 Neb.

142), "the answer is a mere statement of the facts which the party filing it expects to prove, but it is not evidence. If, however, on the trial it should appear that the action is not in fact for the recovery of the possession of the premises, but to determine a question of title, the court will have no authority to proceed, and the case must be dismissed. In other words, where the question to be determined is one of title, it will oust the court of jurisdiction. But the court has authority to proceed with the hearing of the cause until this fact is clearly established."

And again in *Green vs. Morse* (57 Neb. 391), the Court held that jurisdiction of forcible entry and detainer proceedings is not ousted by a mere averment in an answer that such proceedings involve the question of title. The Court said: "Nor were the forcible entry and detainer proceedings without jurisdiction because of the averment in the supplemental peti-

tion here that they would require an inquiry into the title of land. Even an answer to that effect in the forcible entry suit would not oust the jurisdiction. The court might still proceed until the evidence should disclose that the question involved was one of title."

In conclusion, it can be said that in view of the foregoing considerations, a justice of the peace is not divested of jurisdiction to hear and decide an action of forcible entry and detainer by the mere claim in the answer of title or ownership in the property in litigation. He may proceed with the case and may admit evidence of title for the purpose of determining the extent of possession and damages for detention, and should he find out after trial that the question of ownership is necessarily and indispenseably involved, he may dismiss the complaint for lack of jurisdiction to adjudicate title.

#### CONCENTRATION

"CONCENTRATION is the price of success. Mental and moral atrophy is the penalty of neglect. The wise man will seek a compromise between the price and the penalty."—LORD NORTHCLIFFE.