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The Court cannot and should not be deceived by such deplorable maneuver. But because the Court is informed that Atty. Ogsimer has already died, it is not possible to take any disciplinary action against him. The members of the Bar may, however, be admonished to take note of the above observations so they will be careful to avoid committing any similar fault.

SECOND DIVISION

[G.R. No. L-28979. July 31, 1978]

RAFAEL BARICAN, *petitioner, vs.* **HON. JUDGE WALFRIDO DE LOS ANGELES, MELENCIO C. CRUZ and CITY SHERIFF of Quezon City,** *respondents.*

SYLLABUS

1. **REMEDIAL LAW; COURTS OF FIRST INSTANCE; JURISDICTION; SCOPE.**— Section 44(c) of the Judiciary Law provides that the Court of First Instance shall have original jurisdiction "in all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than ten thousand pesos."

2. **ID.; ID.; ID.; JURISDICTION OVER THE SUBJECT MATTER OF A CASE IS DETERMINED BY THE PLEADINGS FILED THEREIN; CASE AT BAR.**— "Jurisdiction over the subject matter of a case is determined by the pleadings therein" (*Pineda vs. CFI of Davao,* 111 Phil. 643, 648). The peculiarity of this case is that defendant (now petitioner) Barican annexed to his *motion to lift the writ of replevin* the two deeds of sale, which reveal that he purchased the two jeepneys for *P11,500.* That fact nullified the basis of his subsequent motion to dismiss the complaint for lack of jurisdiction. He himself refuted the allegation of the *complaint* that the value of the jeepneys was six thousand pesos only.

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DECISION

AQUINO, *J.*:

This case is about the jurisdiction of the Court of First Instance of Rizal, Quezon City Branch IV, to issue a writ of replevin. It appears that on September 6, 1966 Melencio C. Cruz filed with the said court a complaint against his wife, Bonifacia Aguilar, and Rafael Barican (she allegedly abandoned her seven children and eloped with Barican, a married man) for the recovery of two passenger jeepneys which were supposedly the conjugal properties of Cruz and his estranged wife (Civil Case No. Q-10397).

Cruz alleged in his complaint that the jeepneys were valued at around six thousand pesos. Respondent Judge issued an order for the seizure of the two jeepneys after Cruz had posted a bond in the sum of twelve thousand pesos. Pursuant to that order, the sheriff seized the two jeepneys.

On September 12, 1966, Barican filed a motion to dissolve the writ of replevin on the ground that, as shown in two deeds of sale dated January 7 and 21, 1966, he purchased the said jeepneys for *₱11,500* and that, consequently, the claim of ownership advanced by Cruz was false and fictitious. Cruz opposed the motion. Respondent Judge denied it.

Defendants Barican and Bonifacia Aguilar in their answer denied the claim of ownership set forth by Cruz. They filed a counterclaim and prayed that Cruz be ordered to pay them P14,000 as moral and exemplary damages and attorney's fees plus thirty pesos a day as "boundary" or rental for the two jeepneys. However, that answer was stricken out of the record for not having been seasonably filed.

On November 17, 1967, Barican, through a new counsel, filed a motion to annul the proceedings on the ground of lack of jurisdiction because, as alleged in paragraph 10 of the complaint, the value of the two jeepneys was only six thousand pesos. The lower court denied the motion.

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On May 3, 1968, Barican filed in this Court the instant petition for *certiorari* and prohibition, praying that the proceedings in the lower court be declared void for lack of jurisdiction; that the respondents be directed to restore the two jeepneys to him; that the lower court's order for the registration of one of the jeepneys in the name of Cruz be set aside, and that the lower court be enjoined from taking any further action in the case.

The issue is whether the lower court has jurisdiction over the case. Section 44(c) of the Judiciary Law provides that the Court of First Instance shall have original jurisdiction "in all cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than ten thousand pesos."

"Jurisdiction over the subject matter of a case is determined by the pleadings therein" (*Pineda vs. CFI of Davao*, 111 Phil. 643, 648). The peculiarity of this case is that defendant (now petitioner) Barican annexed to his *motion to lift the writ of replevin* the two deeds of sale, which reveal that he purchased the two jeepneys for *₱11,500*. That fact nullified the basis of his subsequent motion to dismiss the *complaint* for lack of jurisdiction. He himself refuted the allegation of the complaint that the value of the jeepneys was six thousand pesos only.

Consequently, contrary to his own contention, the value of the property appears to be within the lower court's original jurisdiction. Barican's petition is devoid of merit. (See *The Good Development Corporation vs. Tutaan*, L-41641, September 30, 1976, 73 SCRA 189 as to the rule in the foreclosure of a chattel mortgage and *Carpena vs. Manalo*, 111 Phil. 685 as to the effect of a counterclaim on the court's jurisdiction).

WHEREFORE, the petition is dismissed and the writ of preliminary injunction is dissolved. Costs against the petitioner.

SO ORDERED.

Fernando (Chairman), Barredo, Antonio, Concepcion Jr., and *Santos, JJ.*, concur.