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**SECOND DIVISION**

[G.R. No. L-41641. September 30, 1976]

**THE GOOD DEVELOPMENT CORPORATION,** *petitioner,* *vs.* **THE HON. EDUARDO C. TUTAAN, GUILLERMO V. DE LOS REYES AND MARCELINA MARCELO,** *respondents.*

**SYLLABUS**

**REMEDIAL LAW; COURT OF FIRST INSTANCE; JURISDICTION; INCLUDES ACTION INVOLVING THE FORECLOSURE OF CHATTEL MORTGAGE COVERING PERSONAL PROPERTY VALUED AT MORE THAN ₱10,000.00; CASE AT BAR.**— On the issue of which court has jurisdiction, the case of *Seno vs. Pastolante, et al.,* is in point. It was ruled therein that although the purpose of an action is to recover an amount plus interest which comes within the original jurisdiction of the Justice of the Peace Court, yet when said action involves the foreclosure of a chattel mortgage covering personal properties valued at more than ₱2,000, (now ₱10,000.00) the action should be instituted before the Court of First Instance. In the instant case, the action is to recover the amount of ₱1,520.00 plus interest and costs, and involves the foreclosure of a chattel mortgage of personal properties valued at ₱15,340.00, so that it is clearly within the competence of the respondent court to try and resolve.

**APPEARANCES OF COUNSEL**

*Manuel R. Singson* for petitioner.
*Raymundo V. Luna & Serafin M. Manila* for respondent.

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

**CONCEPCION, JR., *J.*:**

Petition for *certiorari* to annul and set aside the order of the respondent court dismissing the petitioner's complaint in Civil Case No. Q-18426 of the Court of First Instance of Rizal.

Supreme Court E-Library



The complaint, filed on January 16, 1974, is an action to recover from the private respondents Guillermo De los Reyes and Marcelina Marcelo the sum of ₱1,520.00 plus interest, and the sum equivalent to 25% of the total amount due as attorney's fees and, in default of payment thereof, to order the foreclosure of the chattel mortgage executed by said private respondents covering personal properties valued at ₱15,340.00, located at Meycauayan, Bulacan. Gregorio Emperado and Leonarda de la Cruz were made party defendants for the reason that they were the co-makers of the promissory note executed by the private to evidence the loan.[1]

On October 19, 1974, the private respondents filed their answer thereto claiming that the loan sued upon is only one of five (5) loans secured by them from the petitioner wherein they were charged usurious interest; and that the balance due the petitioner is only ₱1,260.00 which they are willing to pay upon the petitioner's furnishing them with all the copies of the documents signed by them in connection with the loan obtained by them from the petitioner.[2]

For failure to plead, defendant Gregorio Emperado was declared in default while the case against the defendant co-maker Leonarda de la Cruz was dismissed without prejudice.[3]

On February 17, 1975, the private respondents filed a motion to dismiss the complaint for lack of jurisdiction for the reasons that the petitioner, in its complaint, seeks and prays for a sum of money amounting to ₱1,520.00 which comes under the original jurisdiction of the municipal court, and that in view of the alternative prayer for foreclosure of mortgage, the complaint should have been filed in the proper court of Bulacan where the chattels are located and where the deed of chattel mortgage is registered.[4]

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[1] p. 19, *rollo*.

[2] p. 28, *rollo*.

[3] p. 36, *rollo*.

[4] p. 41, *rollo*.

Supreme Court E-Library



On April 25, 1975, the respondent court sustained the motion and dismissed the complaint without prejudice to its refiling in the proper form and in the proper court. The reason for the dismissal is that:

"The complaint filed by plaintiff is clearly one for collection for otherwise, if it were for foreclosure of mortgage, defendants Gregorio Emperado and Leonarda de la Cruz would not have been included as party-defendants. Their inclusion indicates the intent of plaintiff to also collect from them.

"The case being one for a sum of money, the cause of action must be governed by the law on jurisdiction. Assuming the validity of plaintiff's principal claim of ₱1,520.00, interest thereon at 12% per month from August 4, 1973, and attorney's fees equivalent to 25% of said amount, the total thereof cannot and will not reach ₱10,000.00. It then becomes clear that this case must fall within the exclusive original jurisdiction of the city court."[5]

On May 7, 1975, the petitioner filed a motion for the reconsideration of said order of dismissal[6] but the same was denied on June 25, 1975.[7]

On July 27, 1975, the petitioner, without prior leave of court, again filed a motion for the reconsideration of the order of dismissal[8] which the respondent court denied on August 8, 1975.[9]

Hence, the present recourse.

On the issue of which court has jurisdiction, the case of *Seno vs. Pastolante, et al.*,[10] is in point. It was ruled therein that although the purpose of an action is to recover an amount plus interest which comes within the original jurisdiction of the

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[5] pp. 49-50, *rollo*.

[6] p. 51, *rollo*.

[7] p. 66, *rollo*.

[8] p. 67, *rollo*.

[9] p. 75, *rollo*.

[10] 103 Phil. 414.

Supreme Court E-Library



Justice of the Peace Court, yet when said action involves the foreclosure of a chattel mortgage covering personal properties valued at more than ₱2,000, (now ₱10,000.00) the action should be instituted before the Court of First Instance.

In the instant case, the action is to recover the amount of ₱1,520.00 plus interest and costs, and involves the foreclosure of a chattel mortgage of personal properties valued at ₱15,340.00, so that it is clearly within. the competence of the respondent court to try and resolve.

**WHEREFORE**, the petition is granted and the orders of the respondent court dated April 25, 1975 and August 8, 1975 are hereby set aside and the respondent court directed to resume further proceedings in Civil Case No. Q-18426 of the Court of First Instance of Rizal. Costs against the private respondents.

**SO ORDERED.**

*Fernando (Chairman), Barredo, Antonio*, and *Aquino, JJ.*, concur.

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**SECOND DIVISION**

[G.R. No. L-41824. September 30, 1976]

**JESUSA R. QUIAOIT,** *petitioner, vs.* **HON. FRANCISCO CONSOLACION, in his capacity as Presiding Judge of Branch II, Court of First Instance of Davao, VALERIANA B. BLANCES and FRANCISCO BLANCES,** *respondents.*

**SYLLABUS**

**1. REMEDIAL LAW; CIVIL PROCEDURE; MOTION TO DISMISS; FAILURE OF THE COMPLAINT TO STATE A CAUSE OF**