Even if the feelings of the inhabitants of the municipality be against the incumbent mayor, the President cannot remove a municipal mayor from office except for cause, in the manner prescribed by law. (*Cometa v. Andanar, G.R. No.* L-7662, July 31, 1954.)

REMEDIAL LAW

CIVIL PROCEDURE: TEST TO DETERMINE THE JURISDICTION OF A MUNICIPAL COURT; WHERE THE THREE CAUSES OF ACTION IN A COUNTERCLAIM AROSE FROM THREE DIFFERENT TRANSACTIONS, JURISDICTION IS DETERMINED BY THE AMOUNT OF EACH CAUSE OF ACTION AND NOT BY THE AGGREGATE AMOUNT OF THE SEVERAL CAUSES OF ACTION.

FACTS: The plaintiffs brought this action of forcible entry and detainer for the recovery of ₱2,000.00 as damages and ₱200.00 for attorney's fees. In their answer the defendants sought to recover a counterclaim of ₱3,500.00, divided into three causes of action as follows: first, for ₱2,000.00, representing the value of certain properties belonging to them and allegedly taken by the plaintiffs from their apartment; second, for ₱1,000.00, representing expenses incurred by the defendants from the falsity of facts alleged in the complaint; and third, for ₱500.00 as attorney's fees.

The Municipal Court of Manila rendered judgment ordering the defendants to vacate the apartment, but did not award the sums sought by both parties on the ground that the same were beyond its jurisdiction.[27] The defendants appealed to the Court of First Instance, setting up the counterclaim they had sought to recover in the Municipal Court. The plaintiffs moved for the dismissal of the counterclaim on the ground that the CFI had no jurisdiction to try and decide on appeal a counterclaim involving ₱3,500.00. The motion for dismissal was granted and from this order the defendants appealed.

[27] As to the jurisdiction of Inferior Courts, see Sec. 88, Republic Act No. 296, as amended by Rep. Act No. 644.

The issue in this case is whether or not the counterclaim was within the jurisdiction of the Municipal Court and hence whether or not the CFI had appellate jurisdiction.

HELD: The order appealed from should be set aside; the counterclaim of the defendant may be deemed as coming within the jurisdiction of the Municipal Court.

In the case at bar, the three causes of action in the counterclaim arose from three transactions, one different from the other; jurisdiction therefore is determined by the amount of each cause of action and not by the aggregate amount of the several causes of action.

Where several claimants have separate and distinct demands against a defendant, which demands may be joined in a single suit, the claims cannot be added together to make up the required jurisdictional amount; each separate claim furnishes the test to determine jurisdiction.[28] This ruling applies with equal force to a counterclaim.

If a claim is composed of several amounts each distinct from the other, even if the total exceeds the jurisdiction of the Justice of the Peace Courts, each amount furnishes the test of jurisdiction.[29] (*Alicia Go et al. v. Alberto Go et al., G.R.* L-7020, June 30, 1954.)

CIVIL PROCEDURE: PROCEDURE IN INFERIOR COURTS; RULES OF COURT OTHER THAN SEC. 19, RULE 4, ARE APPLICABLE TO PROCEDURE IN INFERIOR COURTS; AN APPEAL FROM AN INFERIOR COURT MUST BE TAKEN WITHIN 15 DAYS FROM ACTUAL NOTICE OR RECEIPT OF COPY OF THE DECISION.

FACTS: On June 3, 1952, the spouses Julita Villareal and Jose Villareal instituted an action in the Municipal Court of Manila against defendant Juan Franco for the recovery of a sum of money, plus damages and costs. In due course, said

[28] A. Soriano y Compañía v. Gonzalez et al., 47 O. G. (12 Supp.) p. 156.

[29] Villaseñor v. Erlanger and Galinger, 19 Phil. 154.

court rendered judgment sentencing Franco to pay the sums of ₱930.00 and ₱335.70 with interest thereon and the costs. The defendant appealed from this decision to the CFI of Manila, which, on the ground that the appeal was taken long after the expiration of the statutory period, dismissed the appeal and remanded the case to the Municipal Court for execution.

The judgment was rendered on June 23, 1952. On July 22, 1952, the Municipal Court issued on motion of the plaintiff the corresponding writ of execution, copy of which was served on the defendant personally on July 30. Four days later, on August 3, the Sheriff filed with the Commissioner of Civil Service an administrative complaint against the defendant, who was a civil service employee. A copy of said judgment and the Sheriff's return were annexed to said administrative complaint, and served on Franco on or before August 14, for in a letter bearing that date, he acknowledged receipt thereof. On August 28, the clerk of the Municipal Court mailed a copy of the said judgment to the defendant, who now claims he has not received it. On September 27, the defendant filed a motion to set aside said writ of execution. By an order dated October 1, this motion was granted, and nine days later, or on October 10, 1952, defendant filed his notice of appeal and appeal bond and the corresponding docket fees.

The appeal hinges on whether or not said judgment of the Municipal Court had become final and executory prior to the appeal interposed by Juan Franco.

HELD: As to the question of the applicability of other Rules of Court to procedure in Municipal Courts, notwithstanding the fact that, in Sec. 19 of Rule 4 covering the procedure of Municipal Courts, only certain Rules of Court are cited, yet in cases decided by this court,[30] other Rules of Court not included under Sec. 19 of Rule 4 were applied to procedure in Municipal Courts.

Rule 40 of the Rules of Court provides that an appeal shall be perfected within 15 days after notification to the party of the judgment complained of.

Neither this section nor any other provision of the Rules of Court determines explicitly the manner in which notice of the judgment of Inferior Courts shall be served. In the case

[30] Manahan v. Aquino, 49 O. G. p. 1834; Viola v. Fernando, 43 O. G. p. 144; Co Tiamco v. Diaz, 75 Phil. 652.

at bar, it is not denied however that on July 30, 1952, a copy of the writ of execution, setting forth the gist of the decision, was served on the defendant-appellant. Moreover, a copy of said decision was received by the defendant on or before August 14, 1950, as part of the administrative complaint filed against him by the plaintiffs herein. What is more, another copy of said decision was mailed to him by the clerk of court on August 14, 1952. This service by mail would have become complete five days later or on or about September 3 or 4, 1952, if we were to apply Sec. 8 of Rule 27, which appellant invoked in his favor. It is obvious therefore that when the appellant's notice of appeal was filed on October 10, 1952, more than 15 days from actual notice or receipt of a copy of the decision of the Municipal Court had elapsed. In other words, even if Sec. 7 of Rule 27 were applied, said decision was then already final. (*Julita Villareal et al. v. Jesus Franco, G.R. No.* L-6552, July 31, 1954.)

EVIDENCE: INCRIMINATORY QUESTION; WHERE, UPON CONSIDERING THE CIRCUMSTANCES OF THE CASE, THE WITNESS APPEARS TO HAVE HAD A PARTICIPATION IN THE PERPETRATION OF THE CRIME, HE CANNOT BE COMPELLED TO ANSWER OR EXPLAIN HIS PRESENCE DURING THE PERPETRATION OF SAID CRIME.

FACTS: The petitioner is a Huk who surrendered to the authorities. While a detention prisoner in the provincial jail of Nueva Ecija, he received a *subpoena* to testify in the case of *People v. Lopez Rayos et al., No. 2672.* The case, which was under the Court of First Instance of that province, involved robbery with homicide.

In his testimony the petitioner declared that he had seen Manuel Jacinto before and after the latter's death on the night of October 26, 1951; that he knew who had killed Manuel Jacinto, that "Commander Joe" had given the order to those who had killed Manuel Jacinto, and that on the said night he, the petitioner, was a member of the Hukbalahap organization. When the fiscal asked him, "Why were you there?" the witness refused to answer, alleging that the answer might incriminate him; he therefore asked that he be not obliged to

answer. The respondent judge denied the request. The caus was brought to the Supreme Court on *certiorari.*

The question to be resolved is whether or not, in accord ance with the facts alleged, the petitioner may be obliged t answer the question posed by the fiscal.

HELD: It is inevitable that we must arrive at the conclu sion that the answer of the petitioner might be incriminating If he had seen Manuel Jacinto before and after the latter wa killed, and that he knew who had killed him, and who ha ordered him killed, it was because the petitioner was one o those who had received the order to kill. In that case he wa responsible for the death of Manuel Jacinto much like th others. If by accident he was present before and after th death and he had nothing to do with the death of Jacinto, i would have been easy for him to say that he was merel passing by. But if he had also known accidentally the orde of the Commander to kill, it was indeed a very suspicious ac cident. Because he had been informed of the many thing that had happened, and taking into consideration the fac that the petitioner was a Huk when Manuel Jacinto was killed it is not unfounded to conclude that he had something to d in the perpetration of the crime, and because of this, undoubt edly, he did not wish to answer the question in order that hi participation might not be discovered. (*Fernando v. Magla nok et al., G. R. No.* L-7018, July 26, 1954.)[31]

[31] See Sec. 79, Rule 123, Rules of Court. In *Worcester v. Ocampo* 22 *Phil.* 42, and *People v. Vidal et al., G. R. No.* 42481, *January,* 193 (unpublished), it was held that when the proven circumstances ten to fix the liability upon a party who has it in his power to offe evidence of all the facts as they existed and thus rebut the inferenc of said circumstances, and he fails to offer such proof, the natura conclusion is that such proof, if produced, instead of rebutting, would support such inference. This case of Fernando v. Maglanok seem to be a qualification of the above ruling.

LEGISLATION

THE JUDICIARY REVAMP ACT

This Act has increased the number of Judges of First Instance from 107 to 120. The increase was made imperative by the fact that court business had expanded to such a volume that the previous number of judges had been unable to cope with it.*

The Act has likewise abolished the positions of Judges-at-large and Cadastral Judges, creating in their stead the new positions of Auxiliary District Judges.** The latter, unlike the former, shall be commissioned to a particular judicial district and have as their permanent station such place or places *within* the judicial district as may be determined by the Secretary of Justice. Only with the prior approval of the Supreme Court may the Secretary of Justice assign an Auxiliary District Judge to any court or province within *another* judicial district. This law therefore takes away from the Secretary of Justice the authority to send a Judge-at-large or Cadastral Judge anywhere in the Philippines.

* Statistics from the Department of Justice showed that as of the end of January, 1954, the total number of cases pending in various Courts of First Instance was 57,336.

** There were 33 positions of Judges-at-large and Cadastral Judges abolished; in their place, 26 positions of Auxiliary District Judges have been created by this Act.