

**Criminal Law** — Estafa — In Estafa under Article 316 of the Penal Code, Prejudice or Damage Need Not Involve the Owner of the Object Swindled. *People v. Luzentales*, CA-GR No. 14488-R, August 1, 1958. .... 200

**Criminal Law** — Illegal Possession of Firearms — Where the Possessor Has a Pending Application for a Permanent License To Possess, and His Possession Is Not Unknown to an Agent of the Law, There Is No Illegal Possession. *People v. Mallari*, CA-GR No. 7716-R, October 4, 1958. .... 200

**Land Titles and Deeds** — Public Land Law — Once Entry or Possession over a Public Land Is Authorized by the Bureau of Lands Pursuant to Law, the Applicant-Possessor May Look upon the Executive and Judicial Departments for the Protection of His Rights — from the Former for the Issuance of a Homestead Patent, and from the Latter for the Maintenance of His Peaceful Possession. *Suanson v. Magallanes*, CA-GR No. 13578-R, September 30, 1958. .... 201

**Political Law** — Administrative Law — Republic Act 546 Did Not Transfer to the Board of Examiners for Marine Officers the Authority of the Commissioner of Customs and, with His Authorization and Approval of the Secretary of Finance, the Collectors of Customs To Appoint Boards To Investigate Marine Accidents under Section 1198 of the Revised Administrative Code. *Isaac v. Jacinto*, CA-GR No. 15823-R, August 30, 1958. .... 201

**Political Law** — Law of Public Officers — Taking the Oath of Office, Receiving the Salary Accruing to the Office, and Otherwise Discharging the Duties of the Office Distinctly Make an Appointee a *De Facto* Officer. *Cumigad v. Soriano*, CA-GR No. 20779-R, September 22, 1958. .... 202

**Remedial Law** — Civil Procedure — Courts of First Instance Are Absolutely without Jurisdiction in Customs Forfeiture Cases. *People v. Soria*, CA-GR Nos. 16771-R & 1677-R, August 29, 1958. .... 202

**BOOK NOTES**

Jurado: Comments and Jurisprudence on Obligations and Contracts ..... 204

Jurado: Comments and Jurisprudence on Succession ..... 204

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The *Ateneo Law Journal* is published four times during the academic year by the student body of the Ateneo College of Law.

Unsigned and uninitialed writings are by members of the Editorial Board.

Subscription rates: P4.00 per issue; P14.00 per year. Foreign rates: \$1.50 per issue; \$5.00 per year.

**ATENEO LAW JOURNAL**

**THE JURISDICTION OF PHILIPPINE COURTS†**

*Jaime R. Nuevas\**

**A. Concept and Definitions**

THE word "jurisdiction" (*jus dicere* in Latin which means the right to speak) is a term of large and comprehensive import and embraces every kind of of judicial action and, hence, every movement by a court is necessarily the exercise of jurisdiction. It includes jurisdiction over the subject-matter, over the persons of the parties, and over the issues. However, in its most fundamental and strict sense, jurisdiction may be concisely stated as the right to adjudicate concerning the subject-matter in a given case. It has been variously defined as the power to decide a justiciable controversy; as the right to determine actual controversies arising between adverse litigants duly instituted in courts of proper jurisdiction; as the power to decide a case either way as the merits may require; and the power to hear, to determine, and to enforce.<sup>1</sup>

Philippine cases have defined jurisdiction as the authority to hear and determine a cause — the right to act in a case.<sup>2</sup> It is the power one has to govern or to execute the laws and especially the power with which judges are invested for administering justice, that is, for trying civil or criminal cases, or both, and deciding them and rendering judgment in accordance with the laws.<sup>3</sup> Jurisdiction is vested in the court, and not in any branch

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<sup>1</sup> 14 Am. Jur. 363-364; Ballentine's Law Dict., 2nd Ed., 707.

<sup>2</sup> *Herrera v. Barreto*, 25 Phil. 245 (1913); *Napa v. Weissenhagan*, 29 Phil. 180 (1915); *De la Cruz v. Moir*, 36 Phil. 213 (1917).

<sup>3</sup> *Escruche*, *Diccionario de Legislacion y Jurisprudencia*, Vol. 3, p. 743, Ed. 1875, cited in *Conchada v. Director of Prisons*, 31 Phil. 95 (1915).

or judge thereof. Hence, when an action is filed in one branch or judge of a court, jurisdiction does not attach to said branch or judge alone to the exclusion of the others. Trial may be had and proceedings may continue in another branch or judge.<sup>4</sup>

Complete jurisdiction includes not only the power to hear and determine a cause, but also the power to enforce the judgement.<sup>5</sup>

## B. Distinctions

### 1. Distinguished from Exercise of Jurisdiction

Since jurisdiction is the power to hear and determine, it does not depend either upon the regularity of the exercise of that power or upon the rightfulness of the decision made. The authority to decide a cause at all, and not the decision rendered therein, is what makes up jurisdiction. Where there is jurisdiction of the person and subject matter, the decision of all other questions arising in the case is but an exercise of that jurisdiction.<sup>6</sup> When a court exercises its jurisdiction, an error committed while engaged in that exercise does not deprive it of the jurisdiction which it is exercising when the error is committed. If it did, every error committed by a court would deprive it of jurisdiction and every erroneous judgment would be a void judgment. The existence and subsistence of the jurisdiction of the court does not depend upon the correctness of the court's resolution.<sup>7</sup>

### 2. Distinguished from Power or Authority of Judge to Preside

There is a clear distinction between the jurisdiction of a court and the power or authority of a judge to preside over it. The authority of a judge to preside over a certain court may terminate, his term of office may expire, while the jurisdiction of the court remains the same. The judge presiding over a particular court may be changed without altering its jurisdiction.<sup>8</sup>

### 3. Distinguished from Inherent Powers of Court

The inherent powers of a court are those which are essential to its existence, dignity, and functions from the very fact that it is a court.<sup>9</sup> They result from the very nature of its organization and are essential to its existence and protection and to the due administration of justice. In constitutional governments, jurisdiction is conferred by the provisions of the Constitution and of statutes enacted in the exercise of legislative authority. This is not true with respect to such powers as are necessary to

<sup>4</sup> Lumpay v. Moscoso, G. R. No. L-14723, May 29, 1959; People v. Fule, G. R. No. L-12915, July 28, 1959.

<sup>5</sup> 14 Am. Jur., *supra*; Ballentine's Law Dict., *supra*.

<sup>6</sup> Herrera v. Barreto, *supra*.

<sup>7</sup> De la Cruz v. Moir, *supra*; Gandicela v. Lutero, G. R. No. L-4069, March 5, 1951.

<sup>8</sup> Lontok v. Battung, 63 Phil. 1055 (1936).

<sup>9</sup> 14 Am. Jur. 370-372.

the orderly and efficient exercise of jurisdiction. Such powers, from both their nature and their ancient exercise, must be regarded as inherent. They do not depend upon express constitutional grant or in any sense upon the legislative will.<sup>10</sup> Independently of any statutory provision, every court has inherent power to do all things reasonably necessary for the administration of justice within the scope of its jurisdiction.<sup>11</sup>

### 4. Distinguished from Procedure

Certain statutes confer jurisdiction, power, or authority. Others provide for the procedure by which that power or authority is projected into judgment. The one class deals with the powers of the court in the real and substantive sense; the other with the procedure by which such powers are put into action. The one is the thing itself; the other is the vehicle by which the thing is transferred from the court to the parties. The whole purpose and object of procedure is to make powers of the court fully and completely available for justice, not to restrict the jurisdiction of the court but to give that jurisdiction effectiveness.<sup>12</sup>

## C. Kinds and Definitions

Jurisdiction is commonly classified as follows:

1. *General* jurisdiction is the authority of a court to hear and determine all actions and suits, civil or criminal, personal, real, and mixed;<sup>13</sup> *limited* or *special* jurisdiction is the authority of a court to hear and determine particular cases or which can only be exercised subject to the limitations prescribed by statute.<sup>14</sup>

2. *Original* jurisdiction is the power of a court to take cognizance of a case at its inception or commencement; *appellate* jurisdiction is the power vested in a superior tribunal to review and revise the judicial action of an inferior tribunal.<sup>15</sup>

3. *Exclusive* jurisdiction is that possessed by a court to the exclusion of all others; *concurrent* or *coordinate* jurisdiction is that possessed by a court together with another or others over the same subject matter, the court obtaining jurisdiction first retaining it to the exclusion of the others. However, this rule requires that jurisdiction over the person of the defendant shall have been obtained by the court in which the first case was filed.<sup>16</sup> In criminal cases, if the offense falls under the concurrent jurisdiction of

<sup>10</sup> *Ibid*.

<sup>11</sup> Shioji v. Harvey, 43 Phil. 344 (1922); Romasanta v. Platon, 62 Phil. 854 (1936).

<sup>12</sup> Manila Railroad Co. v. Attorney-General, 20 Phil. 523 (1911).

<sup>13</sup> 14 Am. Jur. 249.

<sup>14</sup> Hahn v. Kelly, 34 Cal. 391 (1868); 14 Am. Jur. 25.

<sup>15</sup> Ballentine's Law Dict., 2nd Ed., 91 and 917.

<sup>16</sup> 14 Am. Jur. 435-438; Crisologo v. People, 50 O. G., No. 3, March 1954, p. 1021 (1954).

the Court of First Instance and inferior courts and the case is filed in the latter only for the purpose of preliminary investigation, then that is the only power obtained by the inferior court, which must, if it finds probable cause, transmit the case to the Court of First Instance for trial on the merits, and not try the case itself. Otherwise, the Court of First Instance would, in fact and in effect, be deprived of its concurrent jurisdiction on the merits in practically all cases of this kind.<sup>17</sup>

4. *Territorial jurisdiction* refers to the limits of the geographical boundaries of a district within which a court has jurisdiction to act judicially and outside of which its judicial acts are null and void.<sup>18</sup>

5. *Jurisdiction of the person* is that which is obtained by a court to render a personal judgment through the service of process or by voluntary appearance of the party during the progress of the cause.<sup>19</sup>

6. *Jurisdiction of the res* is that jurisdiction over the thing or property in contest in an action which is obtained by a seizure under process of the court whereby it is held to abide such order as the court may make concerning it.<sup>20</sup>

7. *Jurisdiction of the subject-matter* means not simply jurisdiction of the particular case then occupying the attention of the court but jurisdiction of the class of cases to which that particular case belongs.<sup>21</sup>

8. *Jurisdiction of the issue* is the authority of the court to hear and decide questions falling within the issues raised by the parties in their pleadings.<sup>22</sup>

#### D. How Acquired

##### 1. Of the Person

Jurisdiction over the person of the plaintiff is acquired upon commencement of the action by the filing of the complaint. Jurisdiction over the person of the defendant is acquired upon service on him of a coercive process in the manner provided by law or by his voluntary submission to the jurisdiction of the court.<sup>23</sup>

<sup>17</sup> *People v. Padios*, 51 O. G., No. 5, May 1955, p. 2363 (1955); *Neñaria v. Veluz*, G. R. No. L-4684, May 29, 1952.

<sup>18</sup> *Ballentine's Law Dict.*, 2nd Ed., 1275; *Mendoza v. Batangas Trans. Co.*, G. R. No. L-4803, Feb. 20, 1952.

<sup>19</sup> *Ballentine's Law Dict.*, 2nd Ed., 708; *Banco-Español-Filipino v. Palanca*, 37 Phil. 921 (1918); *Perkins v. Dizon*, 69 Phil. 186 (1939).

<sup>20</sup> *Ballentine's Law Dict.*, 2nd Ed., 708; *Banco Español-Filipino v. Palanca*, *supra*; *Perkins v. Dizon*, *supra*.

<sup>21</sup> *Ballentine's Law Dict.*, 2nd Ed., 708; *Banco Español-Filipino v. Palanca*, *supra*; *Reyes v. Diaz*, 73 Phil. 484 (1941); *Bernabe v. Vergara*, 73 Phil. 676 (1942).

##### 2. Of the Subject-Matter

Jurisdiction, whether general or special, over the subject-matter in litigation is conferred by statute and is never acquired by consent or by submission of the parties. None of the parties to the litigation can enlarge or diminish it or dictate when it shall attach or when it shall be removed. That is a matter of legislative enactment which none but the legislature may change,<sup>24</sup> and grants of this kind of jurisdiction cannot be merely implied from the law.<sup>25</sup>

It is, however, well-settled that jurisdiction over the subject-matter of a particular case is something more than the general power conferred by law upon a court to take cognizance of cases of the general class to which the particular case belongs. It is not enough that a court has power in the abstract to try and decide the class of litigations to which a case belongs; it is necessary that said power be properly invoked, or called into activity, by the filing of a petition, complaint, or other appropriate pleadings.<sup>26</sup>

Therefore, it is the allegations of the complaint that not only determine the jurisdiction of the court over the subject-matter, but confer that jurisdiction.<sup>27</sup> When conferred as shown by the allegations of the complaint, the same is not removed by the averments of the answer. Trial must be held and, if the evidence shows lack of jurisdiction, the court shall dismiss the complaint.<sup>28</sup> On the other hand, if the complaint, on its face, does not confer jurisdiction upon the court, it would be error for the court to deny or postpone a motion to dismiss on that ground until after the hearing on the pretext that the evidence might show that the court has jurisdiction. In such a case, the court must dismiss the complaint forthwith.<sup>29</sup>

##### 3. Of the Res

Jurisdiction over the thing or property subject of litigation may result either from a seizure of the property under legal process, whereby it is brought into the actual custody of law, or it may result from the institution of legal proceedings wherein, under special provisions of law, the power of the court over the property is recognized and made effective. In the latter case, the property, though at all times within the potential power of the court, may never be taken into actual custody at all. An illustration

<sup>22</sup> *Reyes v. Diaz*, *supra*; *Bernabe v. Vergara*, *supra*; *Busacay v. Buenaventura*, 50 O. G., No. 1, Jan. 1954, p. 111 (1953).

<sup>23</sup> *Manila Railroad Co. v. Attorney-General*, *supra*; *Banco Español-Filipino v. Palanca*, *supra*; *Toledano v. Severino*, 78 Phil. 783 (1947).

<sup>24</sup> *Manila Railroad Co. v. Attorney General*, *supra*; *Tabada v. Zanduetta*, 47 Phil. 859 (1925); *Caluag v. Pecson*, 46 O. G., No. 2, Feb. 1950, p. 514 (1948).

<sup>25</sup> *Dimagiba v. Germaldez*, 54 O. G., No. 11, June 15, 1958, p. 3502 (1958).

<sup>26</sup> *Caluag v. Pecson*, *supra*.

<sup>27</sup> *Rosario v. Carandang*, 51 O. G., No. 5, May 1955, p. 2387 (1955); *Belandres v. Lopez Sugar Central*, 51 O. G., No. 5, May 1955, p. 2881 (1955); *Fernandez v. Gala-Sison*, 50 O. G. No. 12, Dec. 1954, p. 5761 (1954); *Baiguio v. Barrios*, 77 Phil. 120 (1946); *Infante v. Dulay*, 67 Phil. 159 (1939).

<sup>28</sup> *Basilio v. David*, 52 O. G., No. 7, July 16, 1956, p. 3586 (1956); *Manlapaz v. Pagdañanan*, 54 O. G., No. 34, Dec. 1, 1958, p. 7896 (1957).

<sup>29</sup> *Administrator v. Alberto*, G. R. No. L-12133, Oct. 31, 1958.

of jurisdiction acquired by actual seizure is found in attachment proceedings where the property is seized at the beginning of the action, or some subsequent stage of its progress, and held to abide the final event of the litigation. An illustration of what is termed potential jurisdiction over the *res* is found in the proceeding to register the title of land under the Torrens system. Here, the court, without taking actual physical control over the property, assumes, at the instance of some person claiming to be owner, to exercise a jurisdiction *in rem* over the property and to adjudicate the title in favor of the petitioner against all the world.<sup>30</sup>

#### 4. Of the Issue

Jurisdiction over the issue is conferred by the pleadings. Unlike jurisdiction over the subject-matter, it may be conferred by consent, either express or implied, of the parties. Although an issue is not duly pleaded, it may validly be tried and decided if no timely objection is made thereto by the parties. In truth, jurisdiction over the issue is an expression of a principle that is involved in jurisdiction over the person of the parties. Where, for instance, an issue is not duly pleaded in the complaint, the defendant cannot be said to have been served with process as to that issue. At any rate, whether or not the court has jurisdiction over a specific issue is a question that requires nothing except an examination of the pleadings.<sup>31</sup>

#### 5. Appellate Jurisdiction

Appellate jurisdiction is conferred by law and may only be exercised in the manner provided by law. It is acquired upon perfection of the appeal. The jurisdiction of the court of origin, over the subject-matter and the parties, is transferred to the proper appellate court by the mere perfection of the appeal.<sup>32</sup>

#### E. As Subject of Agreement

Jurisdiction over the person is, in some instances, made to depend, indirectly at least, on the party's volition. Jurisdiction over the person may be conferred by consent, expressly or impliedly given, or it may, by an objection, be prevented from attaching or removed after it has attached.<sup>33</sup>

The same is true with jurisdiction over the issues. It may be the subject of agreement, express or implied, between the parties. Even if an issue is not duly pleaded, it may be validly tried and decided if no timely objection is made thereto.<sup>34</sup>

Jurisdiction over the subject-matter may not be conferred by agreement

<sup>30</sup> Banco Español-Filipino v. Palanca, *supra*.

<sup>31</sup> Reyes v. Diaz, *supra*; Bernabe v. Vergara, *supra*.

<sup>32</sup> Santiago v. Valenzuela, 78 Phil. 397 (1947); Lim To v. Go Fay, 80 Phil. 166 (1948).

<sup>33</sup> Manila Railroad Co. v. Attorney-General, *supra*.

<sup>34</sup> Reyes v. Diaz, *supra*; Bernabe v. Vergara, *supra*.

of the parties; neither may the parties by their agreement oust the court of jurisdiction. Such an agreement is void. Thus, a stipulation in a contract to the effect that any controversy arising therefrom shall be referred to an arbitrator whose decision shall be final is void. However, the parties may agree to make arbitration a condition precedent to resort to the court.<sup>35</sup>

As to appellate jurisdiction, the parties may not, by their agreement, confer upon an appellate tribunal jurisdiction to hear and decide a case still in the process of trial in the lower court.<sup>36</sup>

The Chief Executive cannot, by executive order, deprive the courts of jurisdiction. Under the Constitution, Congress alone has the power to define, prescribe and apportion the jurisdiction of courts, and Congress cannot delegate this power.<sup>37</sup>

#### F. Particular Jurisdiction of Philippine Courts

##### 1. Supreme Court

The Supreme Court exercises both original and appellate jurisdiction.<sup>38</sup> Its original jurisdiction is of two kinds, exclusive and concurrent.<sup>39</sup> It has original and exclusive jurisdiction in petitions for the issuance of writs of certiorari, prohibition and mandamus against the Court of Appeals.<sup>40</sup>

In the following cases, the Supreme Court exercises original and concurrent jurisdiction with Courts of First Instance:

- (a) In petitions for the issuance of writs of certiorari, prohibition, mandamus, quo warranto, and habeas corpus;
  - (b) In actions between the Roman Catholic Church and the municipalities or towns, or the Filipino Independent Church, for controversy as to title to, or ownership, administration or possession of hospitals, convents, cemeteries or other properties used in connection therewith;
  - (c) In actions brought by the Government of the Philippines against the Roman Catholic Church, or vice versa, for the title to, or ownership of, hospitals, asylums, charitable institution or any other kind of property;
  - (d) In actions brought to prevent and restrain violations of law concerning monopolies and combinations in restraint of trade;<sup>41</sup> and
  - (e) Cases affecting ambassadors, other public ministers and consuls.<sup>42</sup>
- Where the Supreme Court has concurrent jurisdiction with Courts of

<sup>35</sup> Wahl v. Donaldson, 2 Phil. 301 (1903); Molina v. De la Riva, 6 Phil. 12 (1906); Puentebella v. Negros Coal Co., 50 Phil. 69 (1927); Vega v. San Carlos Milling Co., 51 Phil. 908 (1924).

<sup>36</sup> Lopez v. Dinglasan, 84 Phil. 292 (1949).

<sup>37</sup> UST v. Board of Tax Appeals, 49 O. G., No. 6, June 1953, p. 2245 (1953).

<sup>38</sup> JUDICIARY ACT OF 1948 (hereinafter cited as Judiciary Act) § 17.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*

<sup>41</sup> *Ibid.*

<sup>42</sup> Schneckenburger v. Moran, 63 Phil. 249 (1936).

First Instance, except for sufficient reasons being shown, the action will be left for determination by the Court of First Instance. This practice is especially to be commended where questions of fact are involved, since the Court of First Instance is better equipped for the taking of testimony and resolution of questions of fact than is the appellate court.<sup>43</sup>

The appellate jurisdiction of the Supreme Court is exclusive to review, revise, reverse, modify or affirm on appeal, certiorari or writ of error, as the law or rules of court may provide, final judgments and decrees of inferior courts in —

(a) All cases in which the constitutionality or validity of any treaty, law, ordinance, or executive order or regulation is in question:

(b) All cases involving the legality of any tax, impost, assessment or toll, or any penalty imposed in relation thereto;

(c) All cases in which the jurisdiction of any inferior court is in issue;

(d) All criminal cases involving offenses for which the penalty imposed is death or life imprisonment; and those involving other offenses which, although not so punished, arose out of the same occurrence or which may have been committed by the accused on the same occasion, as that giving rise to the more serious offense, regardless of whether the accused are charged as principals, accomplices, or accessories, or whether they have been tried jointly or separately;

(e) All civil cases in which the value in controversy exceeds two hundred thousand pesos, exclusive of interests and costs, or in which the title or possession of real estate exceeding in value the sum of two hundred thousand pesos to be ascertained by the oath of a party to the cause or by other competent evidence, is involved or brought in question. The Supreme Court likewise has exclusive jurisdiction over all appeals in civil cases, even though the value in controversy, exclusive of interests and costs, is two hundred thousand pesos or less, when the evidence involved in said cases is the same as the evidence submitted in an appealed civil case within the exclusive jurisdiction of the Supreme Court; and

(f) All other cases in which only errors or questions of law are involved.<sup>44</sup>

In order that the Supreme Court may consider a question of constitutionality in accordance with (a) above, the same must be raised in the trial court. However, this general rule admits of exceptions. Courts, in the exercise of sound discretion, may determine the time when a question of constitutionality should be presented. Thus, in criminal cases, it has been held that the question may be raised for the first time on appeal. Even in civil cases, it has been held that it is the duty of the appellate court to pass upon a constitutional question raised for the first time on appeal if it appears that a determination of the question is necessary to a decision of

<sup>43</sup> Veraguth v. Isabela Sugar Co., 57 Phil. 266 (1932).

<sup>44</sup> JUDICIARY ACT § 17, as amended by Rep. Act 2613 re No. 5.

the case. Furthermore, a constitutional question will be considered by the appellate court at any time where it involves jurisdiction of the court below.<sup>45</sup>

The term jurisdiction, as used in (c) above, refers to jurisdiction over the subject-matter.<sup>46</sup> However, in order that a claim of lack of jurisdiction over the subject-matter may bring the case within the appellate jurisdiction of the Supreme Court, the claim must be real and substantial and not a mere claim in words.<sup>47</sup> This means that the issue of jurisdiction be justifiably and properly made; that a *prima facie* case of lack of jurisdiction of the inferior court concerned be made out; and that the alleged lack of jurisdiction of the inferior court be possible of ascertainment and determination from the record of the case, particularly the pleadings, or from facts not disputed. But, if the determination of said jurisdiction depends upon facts yet to be ascertained and found from the evidence, it is the Court of Appeals that shall assume appellate jurisdiction.<sup>48</sup>

Where the jurisdiction of a court is dependent upon the "value in controversy," as in (e) above, such amount must be determined by the facts existing at the time when the jurisdiction of the court is invoked. In an original action, this time is determined by the filing of the complaint; and in an appeal, it is determined as of the moment the appellate court acquires jurisdiction of the case.<sup>49</sup>

An error or question of law, within the purview of (f) above, is that which can be decided without an examination of the evidence and determination of the weight and probative value thereof. In other words, the appeal does not pose any question as to the facts and the only question is the correctness of the conclusions drawn therefrom by the trial court.<sup>50</sup>

Besides the foregoing, the Supreme Court has special appellate jurisdiction in the following:

(a) Review of an order or decision of the Public Service Commission;<sup>51</sup>

(b) Review of an order or decision of the Securities and Exchange Commission;<sup>52</sup>

(c) Appeal from an award, order or decision of the Court of Industrial Relations;<sup>53</sup>

(d) Appeal from the decision of the Auditor General;<sup>54</sup>

(e) Review of the decision, order or ruling of the Commission on Elections;<sup>55</sup>

<sup>45</sup> People v. Vera, 65 Phil. 56 (1937).

<sup>46</sup> Reyes v. Diaz, 73 Phil. 484 (1941); Eernabe v. Vergara, 73 Phil. 676 (1942); People v. Ocampo, 53 O. G., No. 3, Feb. 15, 1957, p. 612 (1956).

<sup>47</sup> People v. Imas, 64 Phil. 419 (1937); Uy v. Villafranca, 64 Phil. 561 (1937).

<sup>48</sup> Zapanta v. Bartolome, 46 O. G. No. 11, Nov. 1950, p. 5447 (1949).

<sup>49</sup> Macondray & Co. v. Yangtze Ins. Assn., 51 Phil. 789 (1928).

<sup>50</sup> Joaquin v. Navarro, G. R. Nos. L-5426 and 5428, May 27, 1953.

<sup>51</sup> RULE 43.

<sup>52</sup> Id.

<sup>53</sup> RULE 44.

<sup>54</sup> RULE 45.

<sup>55</sup> C. A. No. 657 § 9.

- (f) Decision of the Workmen's Compensation Commission;<sup>56</sup>
- (g) Decision or order of the Director of Patents;<sup>57</sup>
- (h) Ruling, order or decision of the Court of Tax Appeals;<sup>58</sup> and
- (i) Decision or order of the Court of Agrarian Relations.<sup>59</sup>

## 2. Court of Appeals

Like the Supreme Court, the Court of Appeals exercises both original and appellate jurisdiction.<sup>60</sup>

Its original jurisdiction, which is concurrent with the Supreme Court, extends to the issuance of writs of mandamus, prohibition, injunction, certiorari, habeas corpus, and all other auxiliary writs and processes in aid of its appellate jurisdiction.<sup>61</sup>

A writ of mandamus, prohibition, or certiorari against a lower court is said to be in aid of the appellate jurisdiction of the Court of Appeals, within the meaning of Section 30 of the Judiciary Act of 1948 and the corresponding provision of the former Organic Act of the Court of Appeals, if the latter has jurisdiction to review; by appeal or writ of error, the final orders or decisions of the former, and said writs are issued by the Court of Appeals in the exercise of its supervisory power or jurisdiction over the wrongful acts or omissions of the lower court that are not appealable. But, if the Court of Appeals has no appellate jurisdiction, it could not issue writs of mandamus, prohibition, or certiorari in aid of an appellate jurisdiction which it does not have. In other words, the supervisory power or jurisdiction of the Court of Appeals to issue mandamus, prohibition, or certiorari must co-exist with and be a complement to its appellate jurisdiction to review, by appeal or writ of error, the final orders and decisions of the lower court, in order to have a complete supervision over the acts of the latter. It follows, therefore, that a petition for mandamus, prohibition, or certiorari against acts or omissions of inferior courts cannot be entertained by the Court of Appeals, because the latter has no appellate jurisdiction over the final orders and decisions of the justice of the peace and municipal courts; that the Court of Appeals cannot originally issue said writs in civil or criminal cases cognizable by the Courts of First Instance and appealable to the Supreme Court; and that writs of mandamus, prohibition, or certiorari cannot be originally secured from the Court of Appeals against boards, corporations or persons who unlawfully neglected to perform their ministerial duty, for example against a register of deeds, or who acted or are about to act without or in excess of jurisdiction in the exercise of their semi-judicial or ministerial func-

<sup>56</sup> R. A. No. 772 § 46.

<sup>57</sup> R. A. No. 165 § 61.

<sup>58</sup> R. A. No. 1125 § 18.

<sup>59</sup> R. A. No. 1267 § 13, as amended by R. A. No. 1409.

<sup>60</sup> JUDICIARY ACT §§ 29 & 30.

<sup>61</sup> *Id.* at § 30; *Breslin v. Luzon Stevedoring Co.*, 84 Phil. 618 (1949).

tions, for there is no right to appeal to the Court of Appeals from their acts or decisions that may be aided or complemented by said writs.<sup>62</sup>

The appellate jurisdiction of the Court of Appeals is exclusive over all cases actions and proceedings not enumerated in Section 17 of the Judiciary Act of 1948 properly brought to it from the Courts of First Instance. The decision of the Court of Appeals in such cases is final. However, the Supreme Court in its discretion may, in any case involving a question of law, upon petition of the party aggrieved by the decision and under rules and conditions that it may prescribe, require by certiorari that the said case be certified to it for review and determination, as if the case has been brought before it on appeal.<sup>63</sup>

Hence, an appeal involving questions of fact and of law, or only questions of fact and the value of the subject-matter involved does not exceed two hundred thousand pesos falls within the exclusive appellate jurisdiction of the Court of Appeals.<sup>64</sup> However, in a petition for certiorari against the decision of the Court of Appeals, where the petitioner raises not only questions of law but also of fact, the Supreme Court shall disregard the questions of fact and confine itself to those of law.<sup>65</sup>

## 3. Courts of First Instance

The jurisdiction of Courts of First Instance is of two kinds, original and appellate.<sup>66</sup>

They have original jurisdiction over the following:

- (a) All civil actions in which the subject of the litigation is not capable of pecuniary estimation;
- (b) All civil actions which involve the title to or possession of real property, or any interests therein, or the legality of any tax, impost or assessment, except actions of forcible entry into and detainer of lands or buildings, original jurisdiction of which is conferred upon justice of the peace and municipal courts;
- (c) All cases in which the demand, exclusive of interest, or the value of the property in controversy, amounts to more than five thousand pesos;
- (d) All actions in admiralty and maritime jurisdiction, irrespective of the value of the property in controversy or the amount of the demand;
- (e) All matters of probate, both of testate and intestate estates, appointment of guardians, trustees and receivers, and all actions for the annulment of marriage, and all such special cases and proceedings as are not otherwise provided for;

<sup>62</sup> *Roldan v. Villaroman*, 69 Phil. 12 (1939); *Breslin v. Luzon Stevedoring Co.*, *supra*; *Pineda & Ampil Mfg. Co. v. Bartolome*, G. R. No. L-6904, Sept. 30, 1954; *Mialhe v. Halili*, G. R. No. L-12646, April 30, 1958.

<sup>63</sup> JUDICIARY ACT § 29.

<sup>64</sup> *Estrada v. Noble*, 48 O. G., No. 1, Jan. 1952, p. 141 (1950); *Heirs of Arceo v. Varela*, G. R. No. L-11703, May 30, 1958; *Pablo v. Ledda*, G. R. No. L-8726, Nov. 28, 1958.

<sup>65</sup> *Velasco v. Court of Appeals*, G. R. No. L-3726, Jan. 23, 1952.

<sup>66</sup> JUDICIARY ACT § 43.

(f) All criminal cases in which the penalty provided by law is imprisonment for more than six months or a fine of more than two hundred pesos;

(g) All crimes and offenses committed on the high seas or beyond the jurisdiction of any country or within any of the navigable waters of the Philippines, on board a ship or water craft of any kind registered or licensed in the Philippines in accordance with the laws thereof; this jurisdiction may be exercised by the Court of First Instance in any province into which the ship or water craft upon which the crime or offense was committed shall come after the commission thereof, provided, that the court first lawfully taking cognizance thereof shall have jurisdiction of the same to the exclusion of all other courts in the Philippines;

(h) Said courts and their judges, or any of them, shall have the power to issue writs of injunction, mandamus, certiorari, prohibition, quo warranto, and habeas corpus in their respective provinces and districts, in the manner provided in the Rules of Court.<sup>67</sup>

Where the jurisdiction of a court is restricted by a minimum limit, as in (c) above, and proper averments of value are made in the pleading of the plaintiff, the court will not lose jurisdiction by reason of the fact that the ultimate recovery is for a less sum than such minimum limit.<sup>68</sup> In other words, in ordinary civil cases, the jurisdiction of courts of general jurisdiction is determined by the amount of the demand, that is, the amount claimed in the complaint, and not the sum which the plaintiff may recover under it, which is the amount proved at the trial,<sup>69</sup> nor the value of the transaction out of which the demand arose.<sup>70</sup>

Where there are several causes of action or claims set forth in the complaint, the jurisdiction of the court depends upon the totality of the demand in all the causes of action irrespective of whether the plural causes constituting the total claim arose out of the same or different transactions. This rule, known as the totality or aggregation rule, not only affords the plaintiff a means to avoid multiplicity of suits but permits him to reduce the number of courts that he must resort to in obtaining relief.<sup>71</sup> The only

<sup>67</sup> *Id.* at § 44, as amended by R. A. No. 2613 re No. 3.

<sup>68</sup> *Macondray & Co. v. Yangtze Ins. Assn.*, *supra*.

<sup>69</sup> *Oteng v. Tan Kiem*, 61 Phil. 87 (1934); *Quisumbing v. Tanglao*, 64 Phil. 59 (1937); *Almeda v. Suanes*, 73 Phil. 573 (1942); *Lim Bing v. Ibañez*, 49 O. G., No. 4, April 1953, p. 1420 (1953); *Gutierrez v. Ruiz*, 50 O. G., No. 6, June 1954, p. 2480 (1954); *Tolsa v. Panlilio*, 50 O. G., No. 6, June 1954, p. 2505 (1954); *Fernandez v. Gala-Sison*, *supra*; *Firestone Tire & Rubber Co. v. Delgado*, G. R. No. L-11162, Dec. 4, 1958.

<sup>70</sup> *Cruz v. Tan*, 48 O. G., No. 4, April 1952, p. 1320 (1952).

<sup>71</sup> R. A. No. 2613; *Soriano v. Omila*, 51 O. G., No. 7, July 1955, p. 3465 (1955); *Campos Rueda Corp. v. Sta. Cruz Timber Co., Inc.*, 52 O. G., No. 3, March 1956, p. 1387 (1956); *Vda. de Rosario v. Justice of the Peace*, 52 O. G., No. 11, Sept. 15, 1956, p. 5157 (1956); *Carlos v. Kiener Const. Ltd.*, 52 O. G., No. 15, Nov. 15, 1956, p. 6555 (1956); *Hodges v. Repospolo*, 54 O. G., No. 33, Nov. 24, 1958, p. 7730 (1958); *Manila Blue Printing Co. v. Teacher's College, Inc.*, G. R. No. L-10911, March 21, 1958.

exceptions are: (1) where the claims joined in the same complaint are separately owned by, or due to, different parties, in which case each separate claim furnishes the jurisdictional test<sup>72</sup> and (2) where not all the causes of action joined are demands or claims for money.<sup>73</sup> So also, a plaintiff may not unduly exaggerate a demand to the jurisdictional amount in order to defeat the law.<sup>74</sup>

But where the several causes of action or claims are against several defendants and said claims do not arise from the same transaction or series of transactions and there is no question of law or fact common to all of the defendants and where the several claims do not exceed ₱5,000.00 each, even if the sum total exceeds said amount, it is not permissible to join said several claims and several defendants in a single complaint filed in the Court of First Instance. In such a case, it is the inferior court that shall have jurisdiction, if and when new complaints are filed.<sup>75</sup>

The jurisdiction of Courts of First Instance over admiralty and maritime cases is exclusive, regardless of the amount of the demand or the value of the property in controversy.<sup>76</sup>

The jurisdiction of Courts of First Instance over adoption and guardianship proceedings is concurrent with the inferior courts.<sup>77</sup>

In criminal cases, the jurisdiction of Courts of First Instance is, likewise, determined by the allegations of the complaint or information, and as long as said allegations conferred jurisdiction, the fact that the accused was convicted of a lesser offense included within those allegations did not deprive the court of its jurisdiction.<sup>78</sup> However, the criminal action must be instituted and tried in the place where the crime was committed or where any of its essential ingredients took place because, in criminal cases, the place of commission of the offense is an element of jurisdiction.<sup>79</sup>

The jurisdiction of Courts of First Instance to issue the writs enumerated in (h) above is concurrent with the Supreme Court.<sup>80</sup>

While Courts of First Instance are courts of general jurisdiction, they

<sup>72</sup> R. A. No. 2613; *Soriano y Cia. v. Jose*, 47 O. G., No. 12, Supp., p. 156 (1950); *Argonza v. International Colleges*, G. R. No. L-3884, Nov. 29, 1951.

<sup>73</sup> *Vda. de Rosario v. Justice of the Peace*, *supra*; *Carlos v. Kiener Const. Ltd.*, *supra*.

<sup>74</sup> *Soriano v. Omila*, *supra*.

<sup>75</sup> *Drillo v. Buklatan*, 48 O. G., No. 2, Feb. 1952, p. 595 (1950); *Gacula v. Martinez*, G. R. No. L-3038, Jan. 31, 1951.

<sup>76</sup> *International Harvester Co. v. Aragon*, 84 Phil. 363 (1949); See also Sec. 88, 2nd par., Judiciary Act of 1948, as amended by Rep. Act 644.

<sup>77</sup> R. A.'s Nos. 643 & 644.

<sup>78</sup> *People v. Mission*, 48 O. G., No. 4, April 1952, p. 1330 (1950); *Fernandez v. Gala-Sison*, 50 O. G., No. 12, Dec. 1954, p. 5761 (1954); *Punzalan v. People*, 52 O. G., No. 18, Dec. 31, 1956, p. 7609 (1956); *People v. Celis*, G. R. No. L-9625, May 27, 1957.

<sup>79</sup> *U. S. v. Cunanan*, 26 Phil. 376 (1913); *People v. Mercado*, 65 Phil. 665 (1938); *People v. Chapman*, 50 O. G., No. 9, Sept. 1954, p. 4177 (1954); *Beltran v. Ramos*, 50 O. G., No. 12, Dec. 1954, p. 5762 (1954); *People v. Dipay*, 51 O. G., No. 12, Dec. 1955, p. 6224 (1955).

<sup>80</sup> JUDICIARY ACT § 17; *Veraguth v. Isabela Sugar Co.*, *supra*.

are also vested by law with special jurisdiction over certain cases. Thus, when a Court of First Instance takes cognizance of an election case, a land registration case, or a cadastral case, it does so in the exercise of its special jurisdiction, so that, with reference to said cases, its powers are determined by the special law.<sup>81</sup> Hence, a Court of First Instance cannot appoint a receiver in a cadastral case because the cadastral law does not so empower it.<sup>82</sup> Similarly, in a cadastral case, a Court of First Instance cannot determine whether or not a certain document reflects the true agreement of the parties, or whether the execution thereof is tainted with fraud; much less may it render judgment for the payment of a sum of money, for the use and occupancy of the land.<sup>83</sup>

In the Court of First Instance of the Sixth Judicial District, all cases relative to the registration of real estate in the City of Manila and all matters involving the exercise of the powers conferred upon the fourth branch of said court or the judge thereof in reference to the registration of land shall be within the exclusive jurisdiction of said fourth branch and shall go or be assigned thereto for disposition according to law.<sup>84</sup> However, the jurisdiction of said fourth branch over "consultas" has been transferred to the land Registration Commission.<sup>85</sup>

The appellate jurisdiction of Courts of First Instance covers all cases arising in Municipal and Justice of the Peace Courts in their respective provinces, except those criminal cases mentioned in the last paragraph of Section 87 of the Judiciary Act of 1948 as amended by Republic Act 2613.<sup>86</sup>

#### 4. Justices of the Peace and Judges of Municipal Courts

Municipal and Justice of the Peace Courts, otherwise known as inferior courts,<sup>87</sup> are courts of limited jurisdiction. They can take cognizance only of those cases and exercise those powers expressly provided by law.<sup>88</sup> Their jurisdiction consists of:

(a) Original jurisdiction to try criminal cases in which the offense charged has been committed within their respective territorial jurisdiction.

(b) Original jurisdiction in civil actions arising in their respective muni-

<sup>81</sup> *Viola v. Court of First Instance*, 47 Phil. 849 (1925); *Portillo v. Salvani*, 54 Phil. 543 (1930); *Enrique v. Enriquez*, 44 Phil. 885 (1922); *Haw Pia v. Cruz*, 73 Phil. 634 (1942); *Reinante v. Apostol*, 50 O. G., No. 1, Jan. 1954, p. 90 (1953); *Gov't of PI v. Abad*, 55 O. G., No. 11, March 16, 1959, p. 1916 (1958).

<sup>82</sup> *Haw Pia v. Cruz*, *supra*.

<sup>83</sup> *Gov't of PI v. Abad*, *supra*.

<sup>84</sup> JUDICIARY ACT § 60, as amended by R. A. No. 1186.

<sup>85</sup> R. A. No. 1151 §§ 3 & 4.

<sup>86</sup> JUDICIARY ACT § 45, as amended by R. A. No. 2613.

<sup>87</sup> RULE 4 § 1.

<sup>88</sup> *Elumbaring v. Elumbaring*, 12 Phil. 384 (1909); *Tuason v. Crossfield*, 30 Phil. 543 (1915); *Africa v. Gronke*, 34 Phil. 50 (1916); *Romey v. Roxas*, 40 O. G. (8th Supp.) 240 (1941); *Singson v. Aragon*, 49 O. G., No. 2, Feb. 1953, p. 515 (1953).

icipalities and cities, and not exclusively cognizable by the Courts of First Instance; and

(c) The last phrase of paragraph (e) of section forty-four of the Judiciary Act of 1948 notwithstanding, justices of the peace and judges of municipal courts shall have concurrent jurisdiction with the Courts of First Instance in the appointment of guardians and adoption cases.<sup>89</sup>

In criminal cases, justices of the peace and judges of municipal courts of chartered cities have original jurisdiction over:

(a) All violations of municipal or city ordinances committed within their respective territorial jurisdiction;

(b) All criminal cases arising under the laws relating to:

(1) Gambling and management or operation of lotteries;

(2) Assaults where the intent to kill is not charged or evident upon the trial;

(3) Larceny, embezzlement and estafa where the amount of money or property stolen, embezzled, or otherwise involved, does not exceed the sum or value of two hundred pesos;

(4) Sale of intoxicating liquors;

(5) Falsely impersonating an officer;

(6) Malicious mischief;

(7) Trespass on Government or private property;

(8) Threatening to take human life;

(9) Illegal possession of firearms; and

(c) All other offenses, except violation of election laws, in which the penalty provided by law is imprisonment for not more than six months, or a fine of not more than two hundred pesos, or both such fine and imprisonment.<sup>90</sup>

Where the penalty provided by law for the offense is *destierro* or banishment, regardless of the period thereof, the inferior courts shall have jurisdiction. This is so because in the graduated scale of penalties provided in Article 71 of the Revised Penal Code, as amended by section 3 of Commonwealth Act No. 217, *destierro* is below the penalty of *arresto mayor*. Inasmuch as the Legislature placed offenses punishable with *arresto mayor* under the jurisdiction of the inferior courts, it is reasonable and logical to infer, in the absence of any provision of law to the contrary, that its intention was to place offenses penalized with *destierro* also under the jurisdiction of inferior courts, not under that of the Courts of First Instance.<sup>91</sup>

The jurisdiction given to inferior courts over all criminal cases enumerated in paragraph (b) of Section 87 of the Judiciary Act of 1948, as amended

<sup>89</sup> JUDICIARY ACT § 86, as amended by R. A. No. 644.

<sup>90</sup> *Id.* at § 87, as amended by R. A. No. 2613.

<sup>91</sup> *Hua v. Dinglasan*, G. R. No. L-2709, June 30, 1950; *People v. Santos*, G. R. No. L-3582, Nov. 29, 1950; *De los Angeles v. People*, G. R. No. L-10969, March 31, 1958.



by Republic Act 2613, is not exclusive but concurrent with the Courts of First Instance. However, the concurrence takes place if the penalty provided by law for said offenses is imprisonment exceeding six months or a fine exceeding ₱2000.00. The reasons for this rule are: (1) Section 44(f) of the Judiciary Act of 1948 expressly confers original jurisdiction on the Courts of First Instance over all criminal cases in which the penalty provided by law is imprisonment for more than six months or a fine of more than ₱200.00. Section 87, paragraph (b), of the same act, as amended, also confers original jurisdiction on justices of the peace and judges of municipal courts of chartered cities over all crimes therein mentioned, without any limitation as to penalty. There is no inconsistency in giving the two courts concurrent jurisdiction over the same offense. To construe Section 87 (b) as conferring exclusive original jurisdiction on justices of the peace and judges of municipal courts over all criminal cases therein enumerated, regardless of the penalty provided by law for the offense, would be to nullify *pro tanto* Section 44 (f) of the same act; and (2) formerly, judges of municipal courts of chartered cities had concurrent jurisdiction with the Courts of First Instance over all criminal cases mentioned in said Section 87 (b), while the justices of the peace did not. Sections 86, 87 and 88 of the Judiciary Act of 1948, as amended, placed justices of the peace and judges of municipal courts on the same level by giving them the same jurisdiction in both criminal and civil cases. Said Section 87 (b) of the Judiciary Act of 1948, as amended, was adopted from the provisions of the Revised Administrative Code on Chartered Cities with regard to the jurisdiction of municipal courts.<sup>92</sup>

However, if the penalty provided by law for those offenses enumerated in Section 87 (b) of the Judiciary Act of 1948, as amended, is imprisonment not exceeding six months or a fine not exceeding ₱200.00, or both such fine and imprisonment, it is the inferior courts that shall have exclusive original jurisdiction in view of Section 87 (c) of said act.<sup>93</sup> This is true even if the subject of the attempted theft has a sum or value in excess of ₱200.00 because sub-paragraph (3) of Section 87 (b) of said act refers to the consummated offense, and not to those merely attempted or frustrated.<sup>94</sup>

The jurisdiction of inferior courts over criminal cases is not affected by accessory penalties; however, if the law provides for the imposition of an

<sup>92</sup> *People v. Blanco*, 47 O. G., No. 7, July 1951, p. 3425 (1950); *People v. Palmon*, G. R. No. L-2860, May 11, 1950; *People v. Ferrer*, G. R. Nos. L-2922 and L-2923, June 23, 1950; *Natividad v. Robles*, G. R. No. L-3612, Dec. 29, 1950; *People v. Colicio*, G. R. No. L-2885, Feb. 26, 1951; *Nefaria v. Veluz*, G. R. No. L-4683, May 29, 1952.

<sup>93</sup> *People v. Ocampo*, 53 O. G., No. 3, Feb. 15, 1957, p. 612 (1956); *Dimagiba v. Gerales*, 54 O. G., No. 11, June 15, 1958, p. 3502 (1958).

<sup>94</sup> *People v. Ocampo*, *supra*.

additional penalty, the case is removed from the jurisdiction of inferior courts.<sup>95</sup>

Justices of the peace and judges of municipal courts may also conduct preliminary investigation of any offense alleged to have been committed within their respective municipalities and cities, without regard to the limits of punishment, and may release, or commit and bind over any person charged with such offense to secure his appearance before the proper court.<sup>96</sup>

Justices of the peace in the capitals of provinces and judges of municipal courts shall have like jurisdiction as the Court of First Instance to try parties charged with an offense committed within the province in which the penalty provided by law does not exceed *prision correccional* or imprisonment for not more than six years, or a fine not exceeding three thousand pesos, or both, and, in the absence of the district judge, shall have like jurisdiction within the province as the Court of First Instance to hear applications for bail.<sup>97</sup> All these cases shall be tried and decided on their merits by the respective justice of the peace of the capital or municipal judge. Proceedings had shall be recorded and decisions therein shall be appealable direct to the Court of Appeals or the Supreme Court, as the case may be.<sup>98</sup>

In all civil actions, including those mentioned in Rules 59 and 62 of the Rules of Court, arising in his municipality or city, and not exclusively cognizable by the Court of First Instance, the justice of the peace and the judge of a municipal court have exclusive original jurisdiction where the value of the subject-matter or amount of the demand does not exceed five thousand pesos, exclusive of interest and costs.<sup>99</sup>

In the inferior courts, in determining the jurisdictional amount in civil cases, the totality or aggregation rule also governs,<sup>100</sup> and in the determination of the same, the law excludes "interests and costs" only, but not attorney's fee and damages.<sup>101</sup> Being courts of limited jurisdiction, they cannot render judgment for an amount in excess of the maximum limit of ₱5000.00.<sup>102</sup>

Where the amount claimed, although not exceeding ₱5000.00, is merely part and parcel of the complaint for recovery of land, it is the Court of

<sup>95</sup> *People v. Fajardo*, 49 Phil. 206 (1926).

<sup>96</sup> JUDICIARY ACT § 87, as amended by R. A. No. 2613.

<sup>97</sup> *Id.* at § 87, 3rd par., as amended by R. A. No. 2613.

<sup>98</sup> *Id.* at § 87, 4th par., as amended by R. A. No. 2613.

<sup>99</sup> *Id.* at § 88, 1st par., as amended by R. A. No. 2613.

<sup>100</sup> *Singson v. Aragon*, 49 O. G., No. 2, Feb. 1953, p. 515 (1953); *Vda. de Rosario v. Justice of the Peace*, *supra*; *Carlos v. Kiener Const. Ltd.*, *supra*.

<sup>101</sup> *Suanes v. Almeda Lopez*, *supra*; *Vda. de Rosario v. Justice of the Peace*, *supra*; *Carlos v. Kiener Const. Ltd.*, *supra*; *Manila Blue Printing Co. v. Teachers' College, Inc.*, *supra*; *Bachrach Motor Co. v. Lejano*, G. R. No. L-10910, Jan. 16, 1959.

<sup>102</sup> *Singson v. Aragon*, *supra*.

First Instance that shall have jurisdiction.<sup>103</sup> Similarly, if the amount claimed does not exceed ₱5000.00, but the plaintiff prays, in the alternative, for the foreclosure of a chattel mortgage covering personal properties valued at more than ₱5000.00, it is the Court of First Instance that has jurisdiction.<sup>104</sup>

In forcible entry and detainer proceedings, the justice of the peace or judge of the municipal court has original jurisdiction, but the said justice or judge may receive evidence upon the question of title therein, whatever may be the value of the property, solely for the purpose of determining the character and extent of possession and damages for detention. In forcible entry proceedings, he may grant preliminary injunctions, in accordance with the provisions of the Rules of Court, to prevent the defendant from committing further acts of dispossession against the plaintiff.<sup>105</sup>

The jurisdiction of a justice of the peace and that of a judge of a municipal court shall not extend to civil actions in which the subject of litigation is not capable of pecuniary estimation, except in forcible entry and detainer cases; nor to those which involve the legality of any tax, impost, or assessment; nor to actions involving admiralty or maritime jurisdiction; nor to matters of probate, the appointment of trustees or receivers; nor to actions for annulment of marriages.<sup>106</sup>

Over actions for forcible entry or unlawful detainer, the inferior courts have exclusive original jurisdiction regardless of the amount of rentals claimed, but if the action is for collection of rentals only, then the amount claimed determines jurisdiction.<sup>107</sup> In an unlawful detainer case, the inferior court has jurisdiction to determine whether or not the lease contract had already expired notwithstanding the fact that this question is not capable of pecuniary estimation.<sup>108</sup>

If a contract of lease contains a stipulation to the effect that in case of litigation for non-compliance with the contract, the lessee shall pay to the lessor attorney's fee and other expenses, while the inferior court retains jurisdiction over the case for ejectment and collection of rentals, it has no jurisdiction over the claim for attorney's fee and other expenses if in excess of the jurisdictional amount.<sup>109</sup>

<sup>103</sup> Pajarillo v. Manahan, 52 O. G., No. 15, 1956, p. 6538 (1956): In this case, P gave D ₱2,000.00 for the latter to buy a parcel of land in behalf of the former, but latter bought the land in his name. The complaint was for conveyance of the land and for "other relief which may be just and equitable in the premises." The judgment dismissed the complaint as to recovery of the land but ordered return of the ₱2,000.00, plus interest.

<sup>104</sup> Seno v. Pestolante, G. R. No. L-11755, April 23, 1956.

<sup>105</sup> JUDICIARY ACT § 88, 1st par., as amended by R. A. No. 2613.

<sup>106</sup> *Id.* at 2nd par., as amended by R. A.'s Nos. 644 & 2613.

<sup>107</sup> Boga v. Vecina, 11 Phil. 409 (1908); Hahn v. Tuazon, 40 O. G., Oct. 4, 1941, p. 2808 (1941); Tenerio v. Gomba, 45 O. G., No. 12, Dec. 1949, p. 5398 (1948); Hian v. Almada Lopez, G. R. No. L-1950, May 16, 1949; Rosario v. Carandang, 51 O. G., No. 5, May 1955, p. 2387 (1955).

<sup>108</sup> Cruz v. Ycasiano, G. R. No. L-10278, March 28, 1958.

<sup>109</sup> Pamintuan v. Tiglao, 53 Phil. 1 (1929).

Where a complaint prays for alternative relief, payment of a sum of money or specific performance, the prayer for specific performance, is capable of pecuniary estimation at the same amount as the amount prayed for, otherwise, plaintiff would not have made that alternative demand. In such a case, the jurisdiction of the inferior court is determined by the amount claimed.<sup>110</sup>

In addition, justices of the peace courts may exercise what is termed as delegated jurisdiction. Thus, the law provides that justices of the peace may, with the approval of the Secretary of Justice, be assigned by the respective district judge in each case to hear and determine cadastral or land registration cases covering lots where there is no controversy or opposition, or contested lots the value of which does not exceed five thousand pesos, such value to be ascertained by the affidavit of the claimant or by agreement of the respective claimants, if there are more than one, or from the corresponding declarations of real property.<sup>111</sup> When in the exercise of its delegated jurisdiction, a justice of the peace court acts as a Court of First Instance.<sup>112</sup>

Justices of the peace in the capitals of provinces and sub-provinces and municipal judges of chartered cities, in the absence of the district judge from the province, may exercise within the province like interlocutory jurisdiction as the Court of First Instance, which shall include the hearing of all motions for the appointment of a receiver, for temporary injunctions, and for all other orders of the court which are not final in their character and do not involve a decision of the case on its merits, and the hearing of petitions for a writ of habeas corpus.<sup>113</sup>

Justices of the peace and judges of municipal courts of chartered cities shall have concurrent jurisdiction with the Courts of First Instance to appoint guardians or guardians *ad litem* for persons who are incapacitated by being of minor age or mentally incapable in matters within their respective jurisdiction.<sup>114</sup> However, the concurrence in guardianship takes place if the value of the property of the minor or incompetent does not exceed five thousand pesos.<sup>115</sup> This qualification does not apply to adoption cases.<sup>116</sup>

<sup>110</sup> Cruz v. Tan, 48 O. G., No. 4, April 1952, p. 1320 (1950): In this case, the complaint prayed for judgment ordering defendant to finish construction of the house mentioned in the complaint or to refund the sum of ₱644.31, value of the unfinished work.

<sup>111</sup> JUDICIARY ACT § 88, 2nd par., as amended by R. A.'s Nos. 644 & 2613.

<sup>112</sup> Calampiano v. Tolentino, 29 Phil. 116 (1914); Abrenica v. Gonda, 34 Phil. 739 (1916).

<sup>113</sup> JUDICIARY ACT § 88, 3rd par., as amended by R. A. No. 2613.

<sup>114</sup> *Id.* at § 90, as amended by R. A. No. 643.

<sup>115</sup> R. A. No. 643 § 2, amending RULE 91 § 1, and as impliedly amended by R. A. No. 2613.

<sup>116</sup> JUDICIARY ACT § 86 (c), as amended by R. A. No. 644.