

[Act No. 2588., February 04, 1916]

AN ACT AMENDING' SECTION EIGHTY-EIGHT OF ACT NUMBERED ONE HUNDRED AND NINETY, ENTITLED "AN ACT PROVIDING A CODE OF PROCEDURE IN CIVIL ACTIONS AND SPECIAL PROCEEDINGS IN THE PHILIPPINE ISLANDS, AS AMENDED BY ACT NUMBERED SEVENTEEN HUNDRED AND SEVENTY-EIGHT, BY CHANGING THE CONDITIONS UNDER, WHICH A DEFENDANT MAY BE ALLOWED TO APPEAL FROM A JUDGMENT OF A JUSTICE OF THE PEACE ORDERING THE RESTITUTION OF POSSESSION OF ANY LAND OR BUILDING.

By authority of the United States, be it enacted by the Philippine Legislature, that:

SECTION 1. Section eighty-eight of Act Numbered One hundred and ninety, entitled "An Act providing a Code of Procedure in Civil Actions and Special Proceedings in the Philippine Islands," as amended by Act Numbered Seventeen hundred and seventy-eight is hereby further amended to read as follows:

"SEC. 88. *Appeal.*-Either party may appeal from the judgment of the justice of the peace to "the Court of First Instance within five days after receipt by him of notice of the rendition of the judgment, and the suit shall be conducted therein in the same manner as appeals from justices of the peace in other civil actions. If the plaintiff recovers possession of the premises in the Court of First Instance he shall have judgment for the amount of rents and damages then due. If the defendant appeals from the judgment of the justice, and desires to stay execution of the judgment pending the appeal, he shall give to the plaintiff security by an obligation, with sufficient sureties, approved by the justice of the peace, to enter the action in the Court of First Instance, and to pay rents, damages, and costs, and the defendant and the sureties shall be liable upon their obligation for damages and costs down to the time of the final judgment in the action. No stay of execution of a judgment for restitution of possession shall be allowed until such obligation has been filed with the justice. During the pendency of the appeal in any case in which a stay of execution of a judgment restoring possession, has been allowed, it shall be the duty of the defendant to pay the plaintiff or into the Court of First Instance, at the option of the defendant, the amount of rent due from time to time under the contract, if any, as found by the judgment of the justice of the peace to exist, or, in the absence of a contract, to pay to the plaintiff or into court, as above provided, or on before the tenth day of each calendar month, the reasonable value of the use and occupation of the premises for the preceding month at the rate determined by the judgment. All moneys so paid to the Court of First Instance shall be deposited in the provincial treasury, or in the city of Manila disposition of the appeal. Should the defendant fail to make the payments above prescribed from time to time during the pendency of the appeal, the Court of First Instance, upon the motion of the plaintiff, of which the defendant shall have notice, upon proof of the failure of the defendant to make such payments, shall order the execution of the judgment of the court which had original cognizance of the case relative to the possession of the property in litigation: *Provided*, That such execution shall be a bar to the appeal taking as course in the Court of First Instance until the final decision thereof on its merits. If the case is tried on its merits in the Court of First Instance any money paid into court by the defendant for the purposes of the appeal shall be disposed of in