

7 Phil. 66

[ G.R. No. 2842. November 24, 1906 ]

**THE ROMAN CATHOLIC APOSTOLIC CHURCH AND LORENZO GREGORIO,  
PLAINTIFFS AND APPELLEES, VS. LEONARDO SANTOS ET AL., DEFENDANTS AND  
APPELLANTS.**

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

**WILLARD, J.:**

The plaintiffs brought this action to recover the possession of a chapel and the convent annexed thereto situated in the barrio of Concepcion, in the pueblo of Tambobong, in the Province of Rizal. It is stated in a document presented by the defendants that a chapel had existed on this site for more than one hundred years. The court below made the following finding of fact:

“Tercero. Que desde tiempo inmemorial hasta el aiiio de 1902 dicha capilla ha sido destinada constantemente a las ceremonias del culto de la religion Catolica Apostolica Romana habiendo sido invariables sacerdotes catolicos apostolieos romanos los unicos que en ella decian misa y ejercian el ministerio de la predicacion y la administracion de los sacramentos del bautismo y de la confesion hasta el mes de Diciembre de 1902 en que la comunion aglipayana celebros sus cultos en dicha visita y entro en posesion de la misma hasta la fecha.”

The evidence, as well of the plaintiffs as of the defendants, supports this finding and there is no evidence whatever to the contrary.

The buildings standing upon the site in question were destroyed by an earthquake in 1880 and their reconstruction was at once commenced and completed within a few years. The work of reconstruction was performed, and the materials therefor furnished by the inhabitants of the barrio. One witness for the plaintiffs, Bias Marcelo, describes in detail the

manner of construction, specifying the names of the persons who contributed to the erection of particular parts of the buildings and of persons who donated ornaments and other articles for the use of the church. The witnesses for the defendants, with one exception, all stated, when asked who the owner of the chapel was, that it was owned by the people of the barrio. After its construction it was maintained and repairs were made thereon by the contributions of the Roman Catholics living in the barrio and pueblo. On the 26th of November, 1902, forcible possession of the chapel was taken by representatives of the Independent Filipino Church and since that time the worship therein has been in accordance with the rites of that church. What proportion of the people of the barrio belong to the Independent Church and what proportion belong to the Roman Catholic Church does not appear. There was, however, presented in evidence by the plaintiffs a document signed by 134 persons in which they stated that their desire was that the chapel should be used for the purposes of the religion professed by the Roman Catholic Church.

That this building is a church, is consecrated as such, and was used, occupied, and possessed by the Roman Catholic Church, as a corporation, from the earliest times down to November, 1902, is clearly established by the evidence. This case is therefore ruled by what has been decided in the case of *Barlin vs. Ramirez*<sup>[1]</sup> (5 Off, Oaz., 130). To the authorities mentioned in that case may be added the following statement by the Supreme Court of the United States in the case of *the Mormon Church vs. The United States* (136 U. S. at p. 53):

By the Spanish law, whatever was given to the service of God became incapable of private ownership, being held by the clergy as guardians or trustees; and any part not minimi for their own support, and the repairs, books, and furniture of the church, was devoted to works of piety, such as feeding and clothing the poor, supporting orphans, marrying poor virgins, redeeming captives, and the like. (*Partida* 3, tit. 2S, 11, 12-15.) When property was given for a particular object, as a church, a hospital, a convent or a community, etc., and the object failed, the property did not revert to the donor, or his heirs, but devolved to the Crown, the church, or other convent or community, unless the donation contained an express condition in writing to the contrary. (*Tapia, Febrero Novisimo*, lib. 2, tit. 4, cap. 24-21.)”

It follows that the Roman Catholic Church is entitled to the exclusive possession and occupancy of the property mentioned in the complaint.

The principal claim set up by the defense in its brief is that there existed, and still exists, in the barrio of Concepcion a confraternity; that this confraternity was and is a juridical entity; that it constructed this church building and convent, and has always had the possession thereof, and

has always been and now is the owner thereof, and that among the defendants in this action is the henuano mayor, an officer of the *cofradia*, who is charged with the administration of its affairs.

The proof does not sustain this claim. No evidence of any kind was presented to show the formation of this alleged cofratlin in the manner pointed out by the laws existing prior to the treaty of Paris. No document setting forth the organization of the vofradia or its purposes or objects was introduced, nor does the parol evidence presented at the trial show any of these things. A great many witnesses were examined both for the plaintiffs and for the defendants. With the exception of Angel Luna, the last witness for the defense, no one of them mentions the existence of this *cofradia*. Several of them were asked if there existed a *cofradia* or *hermandad* among the unbaptized Chinese in the town but no one of the witnesses, even of the defendants, with the exception of Luna, testified to the existence of a *cofradia* such as is referred to in the brief of the appellants. The last witness presented by the defendants, Angel Luna, made use of the word *cofradia*. The following questions were asked him and the following answers were given "by him in reference thereto:

"J. Que es lo que constituye esa *cofradia* que V. dice?— T. Creo que es la reunion de los vecinos entre ellos los hermanos mayores que son los que tienen la representacion de los del barrio.

"A. Que fundamento tiene V. para creer que esos representan los intereses del barrio de la Concepcion?—T. Porque son los que me nan nombrado hermano mayor.

"A. Quienes eran los que le ban nombrado a V. hermano mayor?—T. Don Martin Esguerrn, Manuel Tuason, Lino Paez, y varios vecinos que no puedo mencionarlos en este momento, mas o menos de cincuenta vecinos, todos del barrio de la Concepcion tomaron parte en la junta (pie me eligio en los cuales firmaron en el acta de mi nombramiento que no lo lie trafdo aqui pero lo tengo en mi casa.

"A. Y a esta junta llama V. la *cofradia* del barrio de la Concepcion?—T. Si señor."

The memorandum to which he refers is dated the 2d day of October, 1902. It recites, among other things, that the church and convent were erected by the hermanos *mayores* or

*cofradia*, but it will be noticed that this document was drawn up in October, 1902, after difficulties had arisen between the Roman Catholic Church and the Independent Filipino Church, and its recitals are therefore entitled to no weight. The evidence does not show that there ever existed in the barrio any such organization as a *cofradia*.

All of the witnesses, however, both of the plaintiffs and of the defendants, testified that there was a person called the *hermano mayor* (eldest brother) and that he was charged with the supervision of the building", keeping the keys thereof, the collection of the contributions, the making of repairs and the arrangements for the celebration of the *fiesta* of the barrio. As to the way in which he was elected the witnesses differ. Some of the witnesses for the defendants say he was elected by the people of the barrio; others that he was elected by the *ex-hermanos mayores*; others that he was elected by the principal contributors to the maintenance of the church; but in whatever way he was elected, it is very apparent from the evidence that the existence of such a functionary in no way proves the existence of a juridical entity such as a *cofradia* in which was based the legal title to this property. He was rather the representative of the barrio than the representative of a *cofradia*; in fact, many of the witnesses for the defendants testified that the church was owned by the barrio, represented by the *hermano mayor*. The necessity for some such person is apparent when it is considered that these buildings constituted a *visita* or *hermita* which had no resident priest. From time immemorial the *visita* or chapel had been administered by the parish priest of Tambobong, who did not reside, of course, in the barrio. There being no resident priest, it was necessary that some person, resident in the barrio, should be charged with the care of the buildings and in this case that person was called the *hermano mayor*.

The defendants in their answer set up the defense of *res adjudicata*, and alleged that in a former suit between the same parties concerning the possession of these buildings a final judgment had been rendered in favor of the defendants which still remained in force. At the trial, however, they offered no evidence in support of these allegations of their answer.

The judgment of the court below is affirmed, with the costs of this instance against the defendants.

After the expiration of twenty days let judgment be entered in accordance herewith and ten days thereafter let the record be remanded to the court below for proper action. So ordered.

*Arellano, C. J., Torres, Mapa, Carson, and Tracey, JJ., concur.*

*Johnson, J.*, reserves his vote.

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<sup>[1]</sup> Page 41, *supra*.

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