

[G.R. No. 3444. February 26, 1907]

**THE CITY OF MANILA, PLAINTIFF AND APPELLEE, VS. CHENG Y CHIANG ET AL.,
DEFENDANTS AND APPELLANTS.**

D E C I S I O N

WILLARD, J.:

The plaintiff, claiming to be the owner of a lot of land on the corner of Calles San Fernando and Madrid, in the city of Manila, brought this action to recover possession thereof against the defendants by whom the same is occupied. Judgment was entered in the court below in favor of the plaintiff and the defendants appealed.

That the plaintiff, prior to 1872, was the sole owner of the land in question; that in 1872 it constructed thereon a building at its own cost and expense, and between 1878 and 1880 at an expense of more than 17,000 pesos, which it paid, it enlarged the building; that from the time the building was constructed until 1898 it was continuously occupied by the city for governmental purposes; and that all of the expenses of maintenance and repairs during that time were paid by the city, are facts so clearly established by the documentary evidence that they can not be successfully contradicted.

The building was called the "Tribunal of the gremio of the Chinese." There the *gobernadorcillo*, a public functionary, transacted the public business relating to the Chinese, and it was prior to the occupation of these Islands by the Americans in every sense a public building.

Upon the arrival of the Americans, it was at first occupied by the soldiers of the Army; afterwards, by order of the commanding general of the American forces, the Chinese consul was permitted to occupy it, and now it is in the possession of the defendants, who are a committee of what seems to be a voluntary Chinese benevolent association. The exact nature of this organization does not appear from the evidence, nor does it clearly appear how the committee is elected, but it does appear that it is a purely voluntary association,

having no connection with the Government and, of course, no connection with the “gremio” of the Chinese, which ceased to exist upon the transfer of the Islands to the United States.

The facts above stated show that the defendants have no right to the possession of the property and that it belongs to the city of Manila.

Practically the only claims made by the defendants are the following:

The tribunal of the “gremio” formerly was located in Calle Nueva, in Binondo. It was destroyed by fire on the 29th of March, 1870. The city of Manila, having in mind at that time the widening of one of the streets in that vicinity, it was determined that the ground on which the building formerly stood would not be large enough after such widening to admit of the construction of a new building and it, accordingly, was transferred to the place where it is now located. The claim of the defendants is that the Chinese were the owners of the lot and building in Calle Nueva, and that the city, having taken that lot of land for the purpose of widening a street, gave to the Chinese in exchange therefor the lot of land on Calle San Fernando.

The evidence fails to establish either one of these propositions. It is not proven that the Chinese were the owners of the lot of land in Calle Nueva, nor is it proven that there was any contract by which the city agreed to exchange the lot in Calle San Fernando for the lot in Calle Nueva. The parol evidence introduced by the defendants for the purpose of supporting these two claims is entirely insufficient.

It appears that between the 1st day of June, 1872, and the 21st day of June, 1873, there had been collected by the General Government 35,014 pesetas from 8,720 Chinese who had arrived in the Islands between those dates; that this tax was illegally collected; that the 8,720 Chinese being scattered over the Islands and their residences being unknown, it was impossible to return to them the money so collected; and that the *gobernadorcillo* of the “gremio” of the Chinese asked that this money be used in paying for the construction of the new building in Calle San Fernando. This request was granted and the General Government turned that amount over to the city, and it was used by it in paying the cost of the building, which was about equal to such amount.

We see nothing in these facts which in any way confers any title upon the defendants to the property in question. It is to be noted that the present defendants, as representatives of the voluntary benevolent association above referred to, have no legal connection whatever with the 8,720 Chinese who paid this money. Moreover the money was the property of the

General Government and could be used for any purpose to which that Government might devote it. It saw fit to turn it over to the city to assist the latter in the construction of a new building, the General Government taking into consideration, as the record shows, the poor financial condition of the city, and its lack of resources.

The judgment of the court below is affirmed, with the costs of this instance against the appellants. After 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, Johnson, Carson, and Tracey, JJ., concur.
