

7 Phil. 566

[ G.R. No. 3007. February 28, 1907 ]

**THE ROMAN CATHOLIC APOSTOLIC CHURCH ET AL., PLAINTIFFS, VS. THE MUNICIPALITY OF BADOCC ET AL., DEFENDANTS.**

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

**JOHNSON, J.:**

This was an action commenced by the plaintiffs against the defendants in this court on the 4th day of November, 1905, under the provisions of Act No. 1376 of the Philippine Commission.

The defendants, Gregorio Aglipay et al., and the said municipalities, each presented an answer to the said complaint.

Upon the 10th day of October, 1906, the attorneys for the following defendants presented the following motion:

“Comparecen ahora el Emmo. Sr. Gregorio Aglipay, Obispo Maximo de la Iglesia Filipina Independiente, y los municipios de Badoc, Paoay, Pasuquin, S. Miguel de Sarratt, Batac, Piddig, Dingras, Bacarra, Bangui, Laoag, de la Provincia de Ilocos Norte, Islas Filipinas, por medio de Buencamino y Diokno, sus abogados, y al Ilustrisimo Tribunal Supremo piden que sobresea la causa arriba titulada y absuelva definitivamente a los referidos respondentes.

“Esta mocion se funda:

“1. En el hecho de que todas y cada una de las alegaciones de los peticionarios en su solicitud han sido general y especificamente negadas en la contestacion de los respondentes con muy pocas excepciones, cuya admision en nada apoya la accion de dichos peticionarios.

“2. En el hecho de que ha transcurrido ya con exceso el plazo de sesenta dias contados desde la fecha en que esta causa se hallo en estado de conocerse por este alto Tribunal, sin que los peticionarios hayan presentado pruebas en apoyo de su solicitud;

“3. En el hecho de que no hay pruebas que apoyan la solicitud de los peticionarios, y,

“4. En el hecho notorio y publico, de conocimiento general, consignado en un sinnúmero de disposiciones del fenecido Gobierno Español en estas Islas, vigentes aun, de que las propiedades en cuestion fueron siempre de dominio publico, y como tales pertenecieron a la Corona de España, que por virtud de la cesion de las Islas a los Estados Unidos y de acuerdo con el art. 12 de la ‘Ley disponiendo provisionalmente la administracion de los asuntos del Gobierno Civil en las Islas Filipinas y para otros fines’ aprobada por el Congreso de la Metropoli el 1.º de Julio de 1902, son actualmente de la propiedad y del dominio de los municipios donde radican, y no de ninguna otra entidad, ni menos de los peticionarios, ni mucho menos aun de la Iglesia Catolica, Apostolica Romana que no ha tenido nunca personalidad juridica en estas Islas hasta antes del año 1902.”

This motion was duly argued by the attorneys for the respective parties upon the 22d day of October, 1906.

The mere fact that the defendants have filed answers denying all and each of the allegations of the complaint does not constitute a sufficient basis for the dismissal of the action commenced by the plaintiffs. The plaintiffs under such conditions have the right to present proof to sustain the facts presented in this complaint; therefore, the defendant’s motion can not be granted upon the first ground upon which the same is based.

The second reason alleged by the defendants to support their motion to dismiss the plaintiffs’ action is based upon the ground that the sixty days provided by law (Act No. 1376, section 5) within which the plaintiffs shall take evidence in support of the averments of their petition have expired, and that, therefore, they have no right to take any evidence to support their cause. This reason given by the defendants to support the motion is based upon the ground, evidently, that the sixty days mentioned in said law shall begin to run from the day on which the issue is presented and accepted by the pleading. The issue was

*presented* when the petition of the complaint was filed in the court, and was *accepted* when the defendants filed answers denying the facts set forth in said petition. Section 5 of said law provides that:

“After an action shall be at issue the petitioner or petitioners shall have sixty days within which to take evidence in support of the averments of their petition, and the defendant or defendants shall likewise have sixty days after the time fixed for the taking of the petitioner’s proof within which to take evidence to sustain the averments of their answer or answers, and thereafter the petitioner or petitioners shall have thirty days in which to reply.”

The contention of the defendants might be supported if the law contained no other provision. Section 6, however, of the same law provides that—

“The attorneys for the parties litigant, within seven days after the action shall be at issue, *shall* appear before the Supreme Court of the Philippine Islands and stipulate, so far as is possible, what facts may be taken as agreed upon by the parties in interest *so as to save the necessity of taking evidence*; and these stipulations shall be reduced to writing, and the facts therein agreed upon shall be taken and considered as established.”

This provision, alone, would seem to indicate that the sixty days mentioned in section 5 should not begin to run until after the expiration of the seven days mentioned in section 6, for the manifest reason, that perchance the parties might, by these stipulations, agree as to all the facts at issue, in which case there would be no question upon which to take testimony at all.

Moreover, said section 5 further provides that:

“The court (supreme), in order to facilitate the taking of evidence, may appoint such special commissioners as may be necessary to that end, etc.”

Certainly the time in which the plaintiffs are required to take testimony could not begin to run until the court itself had indicated that it would hear the testimony or had designated

some one before whom such testimony might be presented. The Supreme Court has not, as yet, indicated its willingness to hear this proof; neither has it appointed a commission to facilitate the taking of evidence. We therefore hold that the sixty days mentioned in section 5 of said law will not begin to run until this court has itself indicated its willingness to hear the testimony or has appointed a commissioner for that purpose, and not then until the court shall name a day on which the taking of testimony shall begin.

The questions presented by the pleadings in this case are too important to the people of the Philippine Islands and especially to the parties directly interested to permit any narrow or technical interpretation of said law.

The above motion of the defendants can not be granted, based upon the *third* ground mentioned therein, for the reason that the plaintiffs have not had an opportunity to support their petition by proof.

The fourth ground mentioned in the above motion for the dismissal of said cause is one which can only be decided in connection with the evidence adduced during the trial of the cause; we therefore refuse to consider it now.

For the foregoing reasons, the above motion is denied.

On the 19th day of December, 1906, the plaintiffs presented the following motion:

“Comparecen los demandantes en los litigios numeros 3163, 3157, 3013, 3164 y 3007 y desisten de las mociones anteriormente presentadas en dichos litigios pidiendo el sobreseimiento de los mismos.

“Los demandantes ademas piden que se señalen los dias marcados por la ley para practicar las pruebas ante esta Honorable Corte Suprema o que se nombre un comisionado o comisionados ante quien se pueden practicar las pruebas.”—

which motion was opposed by the defendants.

On the 28th day of January, 1907, the plaintiffs presented the following motion:

“Habiendo los demandantes en el juicio arriba titulado desistido de la mocion pidiendo el sobreseimiento de este litigio, ahora comparecen y

“Piden a la Honorable Corte Suprema que se señalen los sesenta dias en conformidad con el articulo quinto de la Ley No. 1376 para la practica de las pruebas de los demandantes en este litigio, y que se nombre un comisionado o comisionados ante quien practicar dichas pruebas.”

To the granting of this latter motion, the defendants presented a written protest, giving their reasons therefor.

The plaintiffs having withdrawn the first part of the above motion of January 28, the request contained in the same is not now before the court.

With reference to the request of the plaintiffs in their motion of the 5th of February, 1907, asking this court to appoint a commissioner to take evidence in said cause, the same is granted upon the following conditions:

First. That the parties to this cause, *within seven days* after the receipt of this decision, shall file a stipulation in accordance with the provisions of section 6 of Act No. 1376.

Second. That if the said parties, after the expiration of ten days from the receipt of this decision, fail to agree upon a commissioner before whom the testimony shall be taken, then this court will appoint such commissioner, who shall, upon receipt of notice of his appointment, immediately fix a time and place for the taking of such testimony, and give notice thereof to the attorneys of the respective parties. So ordered.

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

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