

8 Phil. 763

[ G.R. No. 2383. March 25, 1907 ]

**THE CITY OF MANILA, PETITIONER AND APPELLANT, VS. THE ROMAN CATHOLIC CHURCH, RESPONDENT AND APPELLEE.**

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

**ARELLANO, C.J.:**

An application was filed by the city of Manila for the registration of a parcel of land situated in the district of Paco, within the jurisdiction of the city of Manila, the boundaries of which are described in the plan and in the application, the same having an area of 16,412 square meters.

The Roman Catholic Church objected thereto, alleging that the said parcel was the site which the church, convent, and cemetery of Paco had occupied since about 1801 until 1899, when both the church and the convent were destroyed by the United States Army; that the applicant was well aware of the exclusive right of possession on the part of the church for all that length of time, because, when the land tax was established in the city of Manila, the church filed its declaration for the exclusive possession of the said property, and up to the present time has been paying to the city of Manila the taxes imposed on said property. Upon the evidence adduced by the parties the Court of Land Registration entered the following conclusions:

“It has been admitted by both parties, as may be inferred from the documents and the testimony of witnesses offered at the trial by the applicant, that the land described in the writing which appears on folio 1 [of the record] is that where the church and convent of Paco had stood since the beginning of the last century until the year 1899, when, during the war, both were destroyed at the fire which raged in the district of the same name.

“It is also a fact, which has been admitted by the same parties, that the plot in

question was a portion of a larger area granted by the Spanish Government to the inhabitants of the town of Dilao or Paco, now a district bearing the latter name, in order that they might there establish themselves and their church; this grant was by way of compensation for the land formerly occupied by them and expropriated because it was nearer the city fortifications than permitted by the royal ordinances." (B. of E., folios 5, 6.)

The said court, for the reasons stated in its decision, rendered the following judgment: "The objection offered by the Roman Catholic Church is sustained. The registration applied for by the attorney for the city of Manila is hereby denied without costs." (B. of E., folio 7.)

The principles set forth in the decision entered in case of *Barlin vs. Ramirez*,<sup>[1]</sup> are applicable in this case and the same should be considered as incorporated herein.

Moreover, the destruction and disappearance of what was once constructed is not one of the means for extinguishing real rights, particularly the right of possession which the possessor held over the soil prior to the destruction and disappearance [of the buildings], in the absence of a legal provision or covenant so providing, the existence of which has not been alleged in this case.

And, finally, the affirmation contained in the brief of the appellant (folio 3) that "the residents permitted or tolerated the construction of the church thereon (on the land in question) by reason, perhaps, of their duty to contribute in conjunction with the Government, towards the erection of their church, as provided in the legislation for the Indies," is in every sense gratuitous and without the least foundation.

Therefore, the judgment appealed from should be affirmed with the costs of this instance against the appellant, and it is so ordered.

*Torres, Mapa, Willard, and Tracey, JJ., concur.*

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<sup>[1]</sup> 7 Phil. Rep., 4.

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