

81 Phil. 303

[G.R. No. L-2133. July 22, 1948]

MONS. JUAN JAMIAS, PETITIONER, VS. EULOGIO B. RODRIGUEZ, DIRECTOR OF PUBLIC LIBRARIES, AND MANUEL V. GALLEG0, SECRETARY OF EDUCATION, RESPONDENTS.

D E C I S I O N

PERFECTO, J.:

Alleging to be the Bishop Maximus of the Philippine Independent Church, petitioner seeks a peremptory order to compel respondents, the Director of the Bureau of Public Libraries and the Secretary of Education, to immediately issue to Bishops Leopoldo A. Ruiz and Juan T. Kijano, of said church, authorizations to solemnize marriages. It is alleged that on January 11, 1948, petitioner, as duly elected Bishop Maximus of said church, filed with the respondent Director of Public Libraries an application for renewal of the authority to solemnize marriages issued in favor of Bishop Leopoldo A. Ruiz, which authority, as granted by said respondent expired on April 30, 1948, said application having been accomplished as required by law and accompanied by a tender of payment of the legal fee. It is also alleged that sometime prior to January 11, 1948, Bishop Juan T. Kijano was duly authorized by respondent Director of Public Libraries to solemnize marriages as a bishop of the Philippine Independent Church, which authority, however, was later withdrawn or cancelled when said bishop refused to recognize Isabelo de los Reyes, Jr., as the supreme head of the church. On January 11, 1948, petitioner filed an application for authority to solemnize marriages for Bishop Juan T. Kijano.

On January 22, 1948, respondent Director of Public Libraries turned over to petitioner a letter stating that renewal of the authorization to solemnize marriages in favor of Bishop Leopoldo A. Ruiz "may be granted provided that Mons. Isabelo de los Reyes, Jr. is recognized as Supreme Head of the Iglesia Filipina Independiente, in accordance with the administrative decision of the Secretary of Education of June 23, 1947 * * * It must be shown in the application of Mons. Kijano that he recognizes Isabelo de los Reyes, Jr. as the

Supreme Head of the Church.”

The administrative decision of respondent Secretary of Education dated June 23, 1947, provides that Isabelo de los Reyes, Jr., “is hereby recognized, for administrative purposes, as the sole Head of the said religious organization. Applications of priests of the Iglesia Filipina Independiente for permits to solemnize marriages may be granted provided that it is shown thereon that they recognize Isabelo de los Reyes, Jr. as the Obispo Maximo of the Church they represent.”

On July 12, 1947, the Secretary of Education addressed to respondent Director of Public Libraries a memorandum to the effect that the authorization given to the bishops and priests of the Iglesia Pilipina Independiente under Juan Jamias, was a misinterpretation of the ruling of the Department dated June 23, 1947, but it appearing that the permits were already renewed since May, 1947, said permits are declared valid up to May 1, 1948.

Petitioner complains that respondent Secretary of Education, in recognizing Isabelo de los Reyes, Jr., as the Supreme Head of the Philippine Independent Church, has gravely abused his power and has committed a clear case of contempt of court, the question as to who is the Bishop Maximus or Supreme Head of the church being the subject of litigation in Civil Case No. 72138 of the Court of First Instance of Manila, entitled “Iglesia Pilipina Independiente, et al. *versus* Santiago A. Fonacier,” Petitioner complains also that respondents are guilty of downright discrimination in favor of the faction headed by Isabelo de los Reyes, Jr. and against the faction headed by petitioner, for while authorization to solemnize marriages is allowed to Isabelo de los Reyes, Jr. faction, the same is denied to those of petitioner and, furthermore, that the action of the Secretary of Education is a flagrant violation of the following constitutional provision that guarantees freedom of religion:

“No law shall be made respecting an establishment of religion, or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed. No religious test shall be required for the exercise of civil or political rights.” (Sec. 1, Cl. 7, Art. III of the Constitution.)

Petitioner alleges also that respondents’ action is contrary to a legal opinion of the Department of Justice dated June 3, 1946, where it is stated:

“As a matter of principle, and in order to avoid conflicts of decisions, officers pertaining to the executive department refrain from deciding questions pending decision before the courts of justice. Adhering to this principle, and following well established precedents, the Department of Justice has consistently declined to render opinion on questions which are sub-judice. Similarly, it would seem advisable, therefore, that the Department of Instruction refrain from passing upon the question referred to in the first indorsement thereon.”

The present case is one of the aftermaths of a schism within the Philippine Independent Church, where the members have been divided into two opposing groups, one formerly headed by Bishop Santiago A. Fonacier, who is now substituted by petitioner Bishop Juan Jamias, and the other headed by Bishop Gerardo P. Bayaca, now substituted by Bishop Isabelo de los Reyes, Jr.

The former charges the members of the second with having merged themselves with the Protestant Episcopal Church of the United States of America and having abandoned the teachings, tenets, and rituals of the Philippine Independent Church as originally founded by Bishop Gregorio Aglipay. The members of the second group deny that they have joined the Protestant Episcopal Church and allege that the granting of apostolic succession by the Episcopal Church of America to the Iglesia Filipina Independiente, through the reconsecration of its bishops, does not mean the absorption of the said Iglesia Filipina Independiente by, or its merger with, the said Episcopal Church and, as alleged by respondents, Bishop Isabelo de los Reyes, Jr. and his faction have neither seceded from the Filipina Iglesia Independiente nor effected a fusion with the American Episcopal Church “the truth on the matter, as disclosed by the records in the office of the Director of Public Libraries, being that the negotiations and/or agreement had between the two religious groups were for the purpose of securing the reconsecration of the Bishops of the Iglesia Filipina Independiente by those of the Protestant Episcopal Church in order to erase any doubt in the validity of the consecration and ordination of the bishops and priests of the Iglesia Filipina Independiente, but in no way to incorporate or fuse, much less to subordinate the Iglesia Filipina Independiente to the American Episcopal Church.”

We are not concerned here with the above controversy between the two groups. That controversy, especially the question as to who is the legitimate Supreme Head of the Philippine Independent Church and is entitled to represent it, is directly raised in civil case No. 72138 of the Court of First Instance of Manila. To elide the contrary allegation of

respondents, it is enough to peruse the complaint, the amended complaint and the answer in said case. Said pleadings will show that the controversies in the case hinge on the question as to who should be recognized as the Bishop Maximus of the Philippine Independent Church.

The question that we have to decide is whether respondents, pending final decision of the suit in the Court of First Instance of Manila, can refuse to issue in favor of the bishops and priests headed by the petitioner Juan Jamias the authorization provided by law to solemnize marriages.

The pertinent legal provisions are those of sections 34 and 35 of Act 3613, which reads as follows:

“SEC. 34. *Authorization of priests and ministers.*—Every priest or minister authorized by his church, sect, or religion to solemnize marriage shall send to the Philippine National Library a sworn statement setting forth his full name and domicile, and that he is authorized by his church, sect, or religion to solemnize marriage, attaching to said statement a certified copy of his appointment. The director of the Philippine National Library, upon receiving such sworn statement containing the information required, and being satisfied that the church, sect, or religion of the applicaiiiooperates in the Philippine Islands and is in good repute, shall record the name of such priest or minister in a suitable register and issue to him an authorization to solemnize marriage. Said priest or minister shall be obliged to exhibit his authorization to contracting parties, to their parents, grandparents, guardians, or persons in charge demanding the same. No priest or minister not having the required authorization may solemnize marriage.

“The authorization shall be renewed on or before the first day of May of each year, upon payment of the required fee.

“SEC. 35. *Cancellation of authorization.*—The Director of the Philippine National Library shall cancel the authorization issued to a bishop, chief, priest, pastor or minister of the gospel of any denomination, church, sect, or religion, on his own initiative or at the request of any interested party, upon showing that the church, sect, or religion whose ministers have been authorized to solemnize marriage is no longer of good repute. The cancellation of the authorization granted to a priest, pastor, or minister shall likewise be ordered upon the request of the

bishop, chief, or lawful authorities of the church, sect, or religion to which he belongs.”

There is nothing of record to show that the Philippine Independent Church or its faction headed by Bishop Juan Jamias does not fulfill the “good repute” condition obligating respondent Director, under section 34 of Act 3613, to issue the authorization to solemnize marriages, or that said church or faction has lost said qualification as a result of which, according to section 35 of the same law, the authorization may be cancelled. The second ground provided by same section 35 cannot be considered in this case because the question as to who are the lawful authorities of said church is yet to be settled in the pending litigation before the Court of First Instance of Manila.

There is no allegation or pretense to the effect that the bishops and priests of the faction headed by petitioner have disqualified themselves from continuing to solemnize marriages. The conflict between the two factions, until finally decided by the competent court, cannot have the effect of automatically divesting the members of one group or the other of their legal rights as bishops and priests of the Independent Philippine Church. Until the litigation is finally decided, both groups are entitled to represent themselves as members of the same church to which they belonged before the conflict has arisen.

The question as to who is who within the Philippine Independent Church is undoubtedly a judicial question and both parties have agreed to settle that question in the proper court. Respondents have misstepped their official function when, without waiting for the competent judicial decision on the question, they have decided to recognize Bishop Isabelo de los Reyes, Jr. as the Supreme Head of the Philippine Independent Church, thereby materially effecting the ouster of the bishops and priests of the faction headed by Bishop Juan Jamias. There is no provision of law that authorizes respondents to make such decision and much less to steal the show from the Court of First Instance of Manila.

Until the pending litigation is finally decided, respondent Director of Public Libraries has a ministerial duty to issue authorization to solemnize marriages to the bishops and priests of the group headed by Bishop Juan Jamias as bishops and priests of the Philippine Independent Church. The followers of said faction, in the meantime, should not be deprived of the means of satisfying one of their fundamental necessities, that their marriages be solemnized by bishops and priests they recognize as true representatives of their religion in whom they have faith. To compel them against their conviction to have their marriages

solemnized by the bishops and priests of the opposing faction or of other religions is to violate their freedom of worship. There is a strong reason of public policy why the bishops and priests under petitioner Juan Jamias should be granted immediately the corresponding authorizations to solemnize marriages. The members of said religious group who want to be married should not be kept waiting for an indefinite period pending final decision of the litigation. All inducements for concubinage and illicit relationship should be avoided. It is not easy to keep under control for a long time natural impulses, such as the sexual urge.

The orders of respondent Secretary of Education dated June 23 and July 12, 1947, are set aside and, as prayed for, respondent Director of Public Libraries is ordered to issue to Bishops Leopoldo A. Ruiz and Juan P. Kijano the corresponding authorizations to continue solemnizing marriages, without costs. Considering the urgent nature of the case, this decision shall be immediately executory upon promulgation.

Feria, Pablo, Briones, Padilla, and Tuason, JJ., concur.

Parás, Actg. C. J., concurs in the result.

CONCURRING

BENGZON, J.:

In agreeing to the decision, I do not wish to be understood as denying to the administrative authorities their duty and power to determine *in the first instance* the reputation and standing of the sect or church of the minister requesting for authorization to solemnize marriages. Such power must be acknowledged; and their determination must be accorded all the presumptions of correctness to which executive rulings are entitled. But in this particular case, the error is so patent and the need for appropriate remedy so urgent that nothing less than mandamus will do. Let it be issued.

