

ALFREDO VERZOSA, BISHOP OF THE ROMAN CATHOLIC APOSTOLIC CHURCH FOR THE DIOCESE OF LIPA, PLAINTIFF AND APPELLEE, VS. ZOSIMO FERNANDEZ ET AL., DEFENDANTS AND APPELLANTS.*G.R. No. 32276. November 19, 1930*

Ponente: STREET, J.

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This action was originally instituted in the Court of First Instance of the Province of Laguna, on June 22, 1925, by Monsenor Alfredo Verzosa, as Roman Catholic Apostolic Bishop for the Diocese of Lipa, constituted as a unipersonal religious corporation, for the purpose of compelling the defendants Zosimo Fernandez and others to account for a fund held by them as members of the board of directors, or directorate, of the Brotherhood (Hermano Mayor y Demas Hermanos de la Mesa de la Archicofradia) of the Most Holy Sacrament, of the town of Pagsanjan, and for other purposes. The complaint was amended on October 16, 1925, for the purpose of adding to the allegations of the complaint certain facts relative to a litigation heretofore conducted by the Roman Catholic Apostolic Archbishop of Manila against certain predecessors of the same defendants. The defendants demurred both to the original and amended complaints, and the demurrer was sustained. From that decision an appeal was prosecuted to the Supreme Court; and, on November 22, 1926, the judgment sustaining the demurrer was reversed and the cause remanded to the court of origin for further proceedings in conformity with the opinion of this court (Verzosa vs. Fernandez, 49 Phil., 627). Our opinion, overruling the demurrer upon that occasion, was in general terms, but the principal feature of the decision was that the complaint contained a statement to the effect that the defendants were employing the properties of the brotherhood in contravention of the spirit and purposes of the trust. Upon this it was held that, in the exercise of their equitable powers, our courts have undoubted jurisdiction to compel a trustee to account for the trust funds in his hands and properly to perform his trust. In this connection we note that, under the terms of the foundation, the board of directors of the brotherhood was required to account to the gobernadorcillo, for the time being, of the town of Pagsanjan. But in view of the fact that officials of the civil government have, since the change of sovereignty in these Islands, ceased to concern themselves with the performance of this trust, it was observed that in this action the defendants should be required to account to the court.

When the cause was returned to the court of origin for further proceedings in accordance with our opinion in the case mentioned, the complaint was amended by the addition of supplemental allegations, for the purpose of adjusting the allegations of the complaint to interim changes in the personnel of the directorate, resulting from

elections occurring after the filing of the original complaint. Finally, by referring to the petitory part of the amended and supplemental complaint of August 30, 1928, we note that the purpose of the complaint is not only to require the defendants, as members of the directorate or administrative board of the brotherhood, to account for the funds alleged to be illegally held and administered by them, but for the further purpose of securing a judicial declaration to the effect that the defendants have been illegally elected to office as members of said board and to obtain a decree excluding them from office and directing a new election to fill the same positions, namely, the offices of elder brother, secretary, treasurer, steward, and three deputies.

The cause was heard upon answer of the defendants, in connection with the proof submitted, and the trial judge found that the allegations with respect to maladministration of the funds in the hands of the defendants were not well founded. His Honor nevertheless found that Zosimo Fernandez, as elder brother, Salvador Unson, as secretary, Ramon Fabella, as steward, Primitivo Cabreza, as treasurer, Mariano Zalamea, Jose Lavadia and Lino Ebio, as deputies, and Tomas Cabreza, Pedro F. Caballes, Pedro Lavadia, Felix Unson and Domingo Abella, as members of the board of the brotherhood, had been illegally elected, wherefore he declared their offices vacant and ordered the celebration of a new election to fill such offices. From this decision an appeal was taken in behalf of the various individuals affected by the judgment.

The problem presented in this case depends, for its solution, upon a determination of the true character of the Brotherhood of the Most Holy Sacrament (Archicofradia del Santisimo Sacramento), of Pagsanjan, inasmuch as the plaintiff asserts that said brotherhood is a religious foundation, while the defendants maintain that, at least since the sovereignty of the Islands passed to the United States, it has been a purely civil institution. To arrive at a proper conclusion upon this contention, it is necessary to give an account of the history of said brotherhood and a brief analysis of certain provisions in its articles of constitution relative to the duties of its officials.

On February 20, 1807, a number of individuals constituting or representing the guild of sangley mestizos of the pueblo of Pagsanjan, in the Province of Laguna, united themselves into a religious association or brotherhood for the purpose of raising and supplying, from year to year, the means necessary to meet the expenses of the annual fiestas in honor of the Most Holy Sacrament and of their patroness the Virgin Lady of Guadalupe, as well as for the further purpose of procuring the celebration of an annual requiem mass for the repose of the souls of the deceased members. The step met the approval of their superior, the Archbishop of Manila, who was at the time upon a pastoral visit in Pagsanjan, and the brotherhood was formally organized under the name of La Archicofradia del Santisimo Sacramento. We observe in passing that this brotherhood has, at all times in its history, exhibited the features of a cofradia, as known to Spanish law, and it has never been in any true sense an archicofradia. For the purposes of this decision, therefore¹, the first component (archi-) in the name of the institution is ignored, the whole term being translated by the word "brotherhood," without more.

Under the law as it existed when this brotherhood was formed, royal approval was essential to the legality of an association of this character; and it was not until July 23, 1819, that a royal cedula was issued by the king of Spain, placing the brotherhood upon a lawful basis and defining the manner in which it should be organized and conducted. Meanwhile, however, under the approval of the archbishop, the association had begun exercising its functions and had maintained a de facto existence from the time of its first organization.

On August 10, 1807, or within less than six months from the inception of the project, the members of the guild who were cooperating in the creation of the brotherhood held a meeting in which they raised a fund of P1,128.86, for the purpose of promoting the purposes expressed in the minutes of the meeting and of which more specific mention will presently be made. The administration of this fund was confided to the love, zeal and prudence of "the Elder Brother and other Brothers of the Executive Board"—an expression for which we may substitute the briefer collective term "Board of Directors," or "Directorate,"—this body being in effect trustee of the fund. From

this it will be seen that, instead of being the particular property of the brotherhood, the fund was intended to be merely held and administered by the directorate in trust for the purposes specified by the founders. With respect to the administration of the fund it was, among other things, provided that the money should be lent from year to year upon interest at the rate of 5 per centum per annum, preferably to the founders or their descendants other than the actual administrators of the fund. A number of other provisions, not necessary to be here specified, were made with a view to the conservation of the fund and the accumulation of the interest with the capital until the amount of the fund should reach at least P6,000.

With respect to the uses to which the income might be applied, it was declared that, in consideration of the management of the fund by the directorate of the brotherhood, the founders ceded to the brotherhood, in its own particular right, so much of the income as might be necessary to supplement other available funds for the celebration of the fiestas to the maintenance of which the brotherhood had obligated itself, as well as the amount necessary to pay the salary of the school teacher of the guild and the further amount needed for the celebration of two masses for any member of the directorate who might die. Then follows a provision to the effect that, when the fund reaches the amount of P6,000, there should be applied from the income an amount necessary to pay a teacher of grammar for the instruction of the children of mestizos who desired to follow the literary career. Among other provisions, we note the requirement that members of the directorate shall respond personally for any part of the fund lost by their remissness or malice, and to this end it is declared that they shall account to the gobernadorcillo, for the time being, of the place.

Proceeding now to examine the provisions contained in the royal cedula of July 23, 1819, relative to the constitution of the board of directors of the brotherhood (called junta in the royal cedula), the election of its members, and the supervision over the acts of the body, we find that the board has, for Rector, the parish priest ex officio, or in case of the absence or illness of this dignitary, his senior coadjutor. The other members of the board are elective, being seven in number, namely, the elder brother, the steward, the treasurer, the secretary, and three deputies exercising the function of vicars in divine worship.

The provisions governing the election of the seven elective members of the incoming board are a little complicated, since said members are chosen by an electoral college of twelve, consisting of the seven elective members of the existing board, assisted by five electors, who must themselves be first chosen in the manner prescribed in the cedula. The election for members of the board is to be held on December 12 of each year; and the meetings held for this purpose are presided over by the alcalde mayor of the province, as representative of royal authority, or in case of his absence or illness, by the official succeeding to the command of the province, with the assistance of the rector. The duty of canvassing the votes cast for the members of the board is confided to the chairman (alcalde mayor) and the rector. In case of a tie the rector is given the deciding vote. It is enjoined upon the rector to attend all meetings of the board, and he is given authority to propose matters for discussion relative to the welfare of the brotherhood and its funds, but in an advisory capacity only, without vote. To the rector is also confided one of the three several keys to the safe, or safes, in which the money and valuables of the brotherhood are kept.

In article 20 of Chapter 5 of the royal cedula attention is given to the sources, from which will be derived the means necessary to meet the obligations of the brotherhood, and reference is here made to the duty of the guild of mestizos, as founders, to supply whatever may be lacking for the pious purposes of the brotherhood. In article 21 of the same chapter it is declared that as soon as the funds of the brotherhood reach the amount of P5,000, the guild of mestizos shall be free from the aforesaid obligation; and it is directed that the money shall be put out at interest under substantially the same conditions as had been prescribed in the resolution of August 10, 1807, establishing the fund already mentioned. In article 22 of the same chapter the pious uses are defined to which the

income shall be applied when the fund reaches the amount of P5,000, and an additional pious use when it reaches P10,000. Upon this follows a provision to the effect that, in this state of the fund, a primary teacher shall be employed for the guild of mestizos with an appropriate salary at the discretion of the board, and, upon a further considerable increase of said fund, a foundation for a teacher in Latin grammar shall be endowed with a salary determined by the same board.

In the foregoing statement we have followed, with slight modification, the language used by us in the opinion written when this case was before us upon the former appeal (*Verzosa vs. Fernandez*, 49 Phil., 627); and at the end of our survey of the facts in said opinion, the following conclusion pertinent to the present controversy was stated:

"Upon comparing the original resolution of August 10, 1807, establishing the fund, with articles 21 and 22 of the royal cedula of July 23, 1819, and bearing in mind the fact that the association was wholly devoid of legality until royal approval was obtained and the further fact that, in approving the cedula, the king was entirely free to fix such conditions as he then saw fit, it is a necessary conclusion that the original conditions of the trust must be considered as having been incorporated in the royal cedula and the trust, as we now have it, is effectually defined and determined by said cedula. It results, therefore, in our opinion, that since July 23, 1819, when the royal cedula took effect, the administration of the trust fund has pertained to the board of directors of the brotherhood as one of its inherent functions; and it is no longer appropriate to conceive of the trust as a mere institution administered by the brotherhood for the founders of the fund and their successors. In this connection we do not overlook the provision in the closing paragraph of the royal cedula declaring that the property and funds of the brotherhood must not be understood as having been 'spiritualized' at any time. But the idea expressed in that provision is fulfilled by the continued application of the fund to the lawful pious and civil uses for which it was intended."

It is now necessary to examine the royal cedula,—which is the constitution of the brotherhood,—for the purpose of discovering the fundamental idea and purpose underlying the institution, with reference, more particularly, to the religious duties of the officials pertaining to it. In this connection we note that, in the preamble of the approval given by the king to said cedula, it is recited that application had been made to the council of the Indies, on the part of the guild of sangley mestizos of the pueblo of Pagsanjan, showing that the establishment of a brotherhood had been resolved upon "for the more abundant worship and veneration of the Most Holy Sacrament." In Chapter IV, Rule 1, in the section devoted to the elder brother, it is declared to be his duty, by all conducive means, to promote the growth of the brotherhood and the augmentation of its funds, as well as to propagate the worship of the Most Holy Sacrament and of its patroness, the Virgin, Our Lady of Guadalupe. Rule 6 of the same chapter and section enjoins upon the elder brother, upon receiving notice that any member of the brotherhood is seriously ill, to visit him with the object of exhorting him to receive the Holy Sacrament; and he is likewise enjoined, upon learning the day and hour when the Sacred Viaticum is to be administered, to give notice to the members of the board, in order that, upon hearing the bell, they all may proceed, jointly with other brothers, to the church, to be present and assist with lighted candles. In Rule 7, of the same chapter and section, the elder brother is further enjoined, upon receiving notice of the death of any brother, to order the beadle to ring a bell through the streets, so that the other brothers may be informed and may commend the deceased to God, thus complying with that which is disposed in the obligations of the brotherhood.

With respect to the steward, it is provided in Chapter IV, Rule 6, of the section dealing with this official, that it shall equally be his obligation to provide what is necessary for all the functions pertaining to the brotherhood, and in particular for the conveying of the Sacred Viaticum, when it is taken to any sick person, upon which occasion he shall cause it to be conducted with lighted candles and with decency corresponding to so religious an act.

The treasurer and secretary are officials whose duties are in the main of a financial and secretarial nature, and

these officials are not especially appointed for the performance or religious functions, but they participate of course in the religious duties made incumbent upon all the members of the board and the members of the brotherhood in general. In Rules 1-4, Chapter IV, of the section dealing with the three deputies, who are vicars of divine service, they are required, in addition to assisting in the general religious observances of the brotherhood, to collect voluntary alms from the members for the expenses incident to the celebration of the three fiestas of the brotherhood; to see that, when the Sacred Viaticum is carried to the sick, it shall go out accompanied by the brothers, with the composure and devotion corresponding to an act of so devout and religious a nature; and further to take care that the high altar where the Most Holy Sacrament and other sacred mysteries are placed (such as the image of Our Lady of Guadalupe, patroness of the Brotherhood) shall be decorated with propriety and decency, not permitting that any image shall be exposed which, instead of calling to devotion, may be the occasion of levity or scoffing.

In Rule 12, Chapter IV, of the section dealing with the obligations of the members of the board in common, it is prescribed that as soon as notice has been received from the elder brother that any deputy, either actual incumbent of the office or one who may have been such in the past, is gravely ill and disposed to receive the Sacred Viaticum, the board shall fix the day and hour when it shall be conducted to the home of the sick, accompanied by particular brothers, and thence to the church, two deputies being later appointed who shall visit and console the sick, on behalf of the board, until he shall expire.

In the section of Chapter V dealing with the obligations of members of the brotherhood in general, stress is laid upon the duty of the members, of both sexes, to say weekly five Pater Nosters and five Ave Marias, with Gloria Patri, in memory of the Crucified Lord and for the suffrage of souls in Purgatory. In Rule 4 of the same section the spiritual penalties are defined corresponding to infractions of the obligations laid upon the members.

These provisions show that the purposes of the foundation are intimately inwrought with catholic worship; and it is readily seen that the members of the brotherhood, especially the officials composing the directorate, are clothed with religious functions, with their respective modest places in the system of catholic ritual. The conclusion is thus inevitable that, under the organic instrument controlling the brotherhood, all these defendants are clothed with ecclesiastical duties and discharging ecclesiastical offices. Furthermore, it is obvious that this brotherhood cannot be said to be a civil institution merely because provision is made in the cedula for lending the funds to members at 5 per centum. That provision is designed to conserve and increase the funds, it is true, but this end is subordinate to the fundamental religious purposes of the brotherhood. The institution was not intended to be primarily a money-lending concern. Still less can the brotherhood be said to be a civil institution from the fact that the board is permitted to employ a primary teacher, and even a teacher of Latin grammar, when the funds have been sufficiently augmented. These purposes, though undeniably of a charitable nature, are nevertheless strictly subordinate to the purely religious ends which the organization was intended to serve.

With the conclusion thus established that the brotherhood in question was founded for religious ends and that it cannot be said to be merely a civil, as distinguished from a religious, institution in any true sense, we proceed to consider the facts bearing on the capacity and qualifications of the defendants to serve the functions of the offices now occupied by them.

It will have been observed, from the preceding narrative, that under the organic cedula the civil authority had a right to participate to a certain extent in the control of the affairs of the brotherhood, conjointly with the religious authority represented by the parish priest and his superior. Thus, the mayor (alcalde mayor), as representative of the royal power in the province, presided over the election for members of the board, and the board was required to account to the gobernadorcillo for the funds under its administration. However, after the change of sovereignty of the Islands to the United States, it seems to have been taken for granted by all that, in view of the principle of

separation of Church and State prevailing under the American system, it was no longer permissible for civil authority to cooperate in the direction of the brotherhood. In addition to this, the offices through which such cooperation had been previously exerted ceased to exist, at least nominally, and the authority previously vested in them passed to other officials. For this reason, we no longer find the civil side of the Government taking any part in the administration of the affairs of the brotherhood; and in 1902 a general meeting of the members of the brotherhood adopted a resolution declaring that the affairs of the brotherhood should in the future be conducted without the intervention of either civil or ecclesiastical authority. The power to adopt such a resolution was derived, so it was supposed, from article 5, Chapter VI of the cedula, which gave a limited power to the brotherhood to amend its provisions.

Proceeding under the authority of the aforesaid resolution, the brotherhood proceeded to elect officials without regard to their ecclesiastical qualifications, and the situation resulted very much like that with which we are here confronted. As a consequence, Mgr. Jeremias J. Harty, Roman Catholic Apostolic Archbishop of the Archdiocese of Manila, instituted an action against Vicente Cabreira and others, members of the board, for the purpose of declaring their election invalid and removing them from office (civil cause No. 513, Court of First Instance of Cavite). The decision entered in that case in the Court of First Instance was favorable to the plaintiff, and no appeal was taken from said decision. The present action is substantially a reproduction of all the essential features; of the litigation just mentioned and the decision there made is naturally relied upon by the herein plaintiff as a conclusive adjudication of the issues involved in the present case. We note, however, that the proceeding referred to was not litigated as a class suit, and inasmuch as the parties were different from those before us in the present litigation, the plea of *res judicata* is not sustainable. But of course the decision is entitled to be viewed as a precedent, with such value as may appertain to it by virtue of the reasons underlying the decision.

Passing over a space of some twenty years, or more, from the date of the decision above referred to, we find that on December 11, 1924, certain members were elected to the directorate of the brotherhood who, in the opinion of the bishop presiding over the Diocese of Lipa, plaintiff in this case, were not qualified to fill the offices to which they were elected. Accordingly, on March 14, 1925, the said bishop declared the election invalid; and a short while thereafter the present litigation was started. Inasmuch, however, as this litigation has been protracted over several years, and more than one election for officers of the brotherhood have intervened, the filing of various amended and supplemental complaints has been necessary. As a result of these changes we have before us the defendants who are now impleaded as such in this case; and in order to exhibit truly the facts upon which the appellants in this case were removed from office, we here transcribe, from the appealed decision, the following passage relative to the qualifications of said appellants:

"From the testimony presented as to the personal qualifications of the defendants, the following is to be deduced: that Zosimo Fernandez is an Apostolic Roman Catholic, but belongs to the association called Legionarios del Trabajo; that the defendant Salvador Unson is an Apostolic Roman Catholic, but is a freemason; that the defendant Tomas Cabreza belongs to the Legionarios del Trabajo, as. also the defendant Ramon Fabella; that Pedro F. Caballes is an Aglipayano and belongs to the Legionarios del Trabajo; that the defendant Pedro Lavadia is an Apostolic Roman Catholic, but belongs to the Legionarios del Trabajo; that Felix Unson is an Apostolic Roman Catholic, but was married by a justice of the peace; * * * that Mariano Zalamea is a member of the Legionarios del Trabajo; that Lino Ebio is an Aglipayano; that Domingo Abella is a Protestant; * * * that Primitivo Cabreza, the present treasurer of the board of directors of the archicofradia, is, and continues to be, an Apostolic Roman Catholic, although he was married in the Philippine Independent Church for two reasons: (1) Because he did not have money at the time of his marriage to pay for the expenses of a wedding in the Roman Catholic Apostolic Church; and (2) In obedience to the wishes of his wife's parents; that Jose Lavadia is an Aglipayano."

We are now in a position to understand the nature of the controversy, and it will be seen that the defendants are in possession of certain offices in the brotherhood, wherein they are charged with the management and administration of a fund in a trust capacity. This circumstance gives the civil court jurisdiction to inquire into their administration of the fund and their right to retain the offices to which the control of this fund is appurtenant. But it will be noted that this fund was created for religious purposes and that the offices held by the defendants require the ecclesiastical qualification that the occupants of such offices should be qualified members of the Roman Catholic Church. In other words, the right of the appellants to hold these offices depends upon their relation to their church; and it is an established rule that, where a civil right depends upon matters of an ecclesiastical nature, the civil tribunal tries the civil right and nothing more, taking the ecclesiastical decision out of which the civil right arises as it is found, and accepting such decision as a matter adjudicated by another jurisdiction (*Gonzalez vs. Roman Catholic Archbishop of Manila*, 51 Phil., 420). Furthermore, in the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunal on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular courts as conclusive (*Conzalez vs. Roman Catholic Archbishop of Manila*, 280 U. S., 1). This idea is in our opinion applicable here, and inasmuch as the Bishop of the Diocese of Lipa, to which the town of Pagsanjan pertains, has pronounced the defendants to be disqualified on ecclesiastical grounds from occupying the offices in the brotherhood now held by them, it is apparent that this point must be accepted by the civil court, whether the conclusion be right or wrong.

It is true that the royal cedula constituting the articles of foundation of this brotherhood does not expressly declare that the officers elected to the board shall be Catholics. But this fundamental assumption underlies the whole institution. At the time this cedula was issued, the Spanish Constitution positively prohibited the exercise of any other religion than that of the Roman Catholic Church (art. 12, Const. of 1912); and it was far from the imagination of the founders of this brotherhood to discern in the future a time when the association should ever fall into non-Catholic hands. It was evidently taken for granted by the founders that the brotherhood would remain, as it was in the beginning, a society devoted to the propagation of certain forms of catholic worship.

In the learned briefs for the appellants much energy is expended in distinguishing the civil from the religious features of the brotherhood, and in this connection attention is directed to the royal cedula of January 3, 1854, which reads as follows:

"XXIII. Cofradias established in due form in parishes or places annexed thereto shall be subject to their respective rectors in all that pertains to the time and manner of celebrating religious functions, without prejudice to the dispositions contained in their legally approved Constitutions and By-Laws as to their internal management." (III Alcubilla, 5th ed., p. 147.)

From this it is argued that the Spanish law recognizes the distinction between the civil and religious functions of the brotherhood, and restricts ecclesiastical supervision to the time and manner of celebrating religious functions. But this passage is in no wise determinative in favor of the appellants; and it takes but little reflection to show that when the ecclesiastical authority is clothed with the right to determine the manner of celebrating religious functions, it can prescribe the religious qualifications of the persons who are to take part in such celebrations. Can it be supposed to have been the intention of the founders and of the sovereign who promulgated the royal cedula to allow a non-catholic element in the brotherhood to obtrude itself into the religious services of the Catholic Church? Of course not. In order to interpret the provisions of the cedula aright on this point, it is necessary to take into account the ecclesiastical and political conditions existing at the time the brotherhood was created, and in this connection it is again pertinent to direct attention to the constitutional provision above-mentioned, which prohibited the exercise of any other religion in Spain than that of the Roman Catholic Church.

In one of the briefs for the appellants attention is directed to a line of early decisions emanating chiefly from the

Court of New York State, wherein it is held that only the constituent corporators of a religious corporation can have control over the management of church property and church funds, and that where they have placed the management of such property and funds in particular officials, these officials, in the exercise of their powers as trustees, are not subject to ecclesiastical restrictions. This doctrine was, however, abrogated in New York State by a statute, passed in 1875, providing, inter alia, that the trustees of a religious corporation shall administer the temporalities of the church and hold and apply the estate for the benefit of such corporation according to the rules and usages of the denomination to which the church members of the corporation belong (23 R. C. Lt, p. 454, note; 24 L. R. A. EN. S.L 716). In the light of this fact it is not believed that any court in which the point should now arise for the first time would follow the early cases.

The appellants rely upon a provision in the Philippine Autonomy Act (Jones Law, sec. 3) to the effect that "no religious test shall be required for the exercise of civil or political rights;" and it is supposed that this provision inhibits our courts from discriminating against the appellants on the ground that they are not Catholics. But the provision mentioned has more particular reference to tests for the exercise of civil rights tinder general laws. "Civil right," in this connection, evidently means a right which, under the law, may be exercised by any citizen, such as the right to hold office, to vote, or to exercise a secular profession like law, medicine, or pharmacy. The rule has no reference to a right derived from the association of individuals in private organizations of a religious character. Liberty of private association is complete under this provision, regardless of the tests, religious or otherwise, which the associated persons may see fit to adopt.

The conclusion to which we are thus conducted is that non-Catholics and other persons who have been declared by the Bishop of the Diocese of Lipa to be disqualified on religious grounds from performing the ecclesiastical duties imposed upon the members of the board of directors by the royal cedula which created this brotherhood, are incompetent to act as ex-officio guardians and trustees of the funds belonging to the association.. This conclusion finds support in the analogy supplied by American decisions dealing with the rights of factions seceding from a mother church; for it is well settled that where the governing body of a church decides that certain members of the church have seceded, the decision binds the civil courts; and the seceding faction, although it may actually embrace a majority of the congregation, loses its rights to the church property (Trinity M. E. Church vs. Harris, 73 Conn., 216; 50 L. R. A., 636; 23 R. C. L., 455). The right to control a church fund is clearly in like case with the right to use church property; and though it may be a fact that some of these defendants have never been in orthodox communion with the Catholic Church and hence are not seceders in a true sense, the analogy nevertheless holds good.

The judgment will be affirmed, and it is so ordered, with costs against the appellants.

Avanceña, C. J., Johnson, Malcolm, Villamor, Ostrand, Romualdez and Villa-Real, JJ., concur.

Johns, J., dissents.

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