

**ANDRES GARCES, REVEREND FATHER SERGIO MARILAO OSMEÑA,
NICETAS DAGAR AND JESUS EDULLANTES, PETITIONERS, VS. HON.
NUMERIANO G. ESTENZO, PRESIDING JUDGE OF THE COURT OF
FIRST INSTA...**

G.R. No. L-53487. May 25, 1981

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the constitutionality of four resolutions of the barangay council of Valencia, Ormoc City, regarding the acquisition of the wooden image of San Vicente Ferrer to be used in the celebration of his annual feast day. That issue was spawned by the controversy as to whether the parish priest or a layman should have the custody of the image.

On March 23, 1976, the said barangay council adopted Resolution No. 5, "reviving the traditional socio-religious celebration" every fifth day of April "of the feast day of Señor San Vicente Ferrer, the patron saint of Valencia".

That resolution designated the members of nine committees who would take charge of the 1976 festivity. It provided for (1) the acquisition of the image of San Vicente Ferrer and (2) the construction of a waiting shed as the barangay's projects. Funds for the two projects would be obtained through the "selling of tickets and cash donations" (Exh. A or 6).

On March 26, 1976, the barangay council passed Resolution No. 6 which specified that, in accordance with the practice in Eastern Leyte, Councilman Tomas Cabatangan, the chairman or hermano mayor of the fiesta, would be the caretaker of the image of San Vicente Ferrer and that the image would remain in his residence for one year and until the election of his successor as chairman of the next feast day.

It was further provided in the resolution that the image would be made available to the Catholic parish church during the celebration of the saint's feast day (Exh. B or 7).

Resolutions Nos. 5 and 6 were submitted to a plebiscite and were duly ratified by the barangay general assembly on March 26, 1976. Two hundred seventy-two voters ratified the two resolutions (Exh. 2 and 5).

Funds were raised by means of solicitations and cash donations of the barangay residents and those of the neighboring places of Valencia. With those funds, the waiting shed was constructed and the wooden image of San Vicente Ferrer was acquired in Cebu City by the barangay council for four hundred pesos (Exh. F-1, 3 and 4).

On April 5, 1976, the image was temporarily placed in the altar of the Catholic church of Barangay Valencia so that the devotees could worship the saint during the mass for the fiesta.

A controversy arose after the mass when the parish priest, Father Sergio Marilao Osmeña, refused to return that image to the barangay council on the pretext that it was the property of the church because church funds were used for its acquisition.

Several days after the fiesta or on April 11, 1976, on the occasion of his sermon during a mass, Father Osmeña allegedly uttered defamatory remarks against the barangay captain, Manuel C. Veloso, apparently in connection with the disputed image. That incident provoked Veloso to file against Father Osmeña in the city court of Ormoc City a charge for grave oral defamation.

Father Osmeña retaliated by filing administrative complaints against Veloso with the city mayor's office and the Department of Local Government and Community Development on the grounds of immorality, grave abuse of authority, acts unbecoming a public official and ignorance of the law.

Meanwhile, the image of San Vicente Ferrer remained in the Catholic church of Valencia. Because Father Osmeña did not accede to the request of Cabatingan to have custody of the image and "maliciously ignored" the council's Resolution No. 6, the council enacted on May 12, 1976 Resolution No. 10, authorizing the hiring of a lawyer to file a replevin case against Father Osmeña for the recovery of the image (Exh. C or 8). On June 14, 1976, the barangay council passed Resolution No. 12, appointing Veloso as its representative in the replevin case (Exh. D or 9).

The replevin case was filed in the city court of Ormoc City against Father Osmeña and Bishop Cipriano Urgel (Exh. F). After the barangay council had posted a cash bond of eight hundred pesos, Father Osmeña turned over the image to the council (p. 10, Rollo). In his answer to the complaint for replevin, he assailed the constitutionality of the said resolutions (Exh. F-1).

Later, he and three other persons, Andres Garces, a member of the Aglipayan Church, and two Catholic laymen, Jesus Edullantes and Nicetas Dagar, filed against the barangay council and its members (excluding two members) a complaint in the Court of First Instance at Ormoc City, praying for the annulment of the said resolutions (Civil Case No. 1680-0).

The lower court dismissed the complaint. It upheld the validity of the resolutions. The petitioners appealed under Republic Act No. 5440.

The petitioners contend that the barangay council was not duly constituted because Isidoro M. Mañago, Jr., the chair-man of the kabataang barangay, was not allowed to participate in its sessions.

Barangays used to be known as citizens assemblies (Presidential Decrees Nos. 86 and 86-A). Presidential Decree No. 557, which took effect on September 21, 1974, 70 O.G. 8450-L, directed that all barrios should be known as barangays and adopted the Revised Barrio Charter as the Barangay Charter.

"Barrios are units of municipalities or municipal districts in which they are situated. They are quasi-municipal corporations endowed with such powers" as are provided by law "for the performance of particular government functions, to be exercised by and through their respective barrio governments in conformity with law" (Sec. 2, Revised Barrio Charter, R.A. No. 3590).

The barrio assembly consists of all persons who are residents of the barrio for at least six months, eighteen years of age or over and Filipino citizens duly registered in the list kept by the barrio secretary (Sec. 4, Ibid).

The barrio council, now barangay council, is composed of the barangay captain and six councilmen (Sec. 7, Ibid). Section 3 of Presidential Decree No. 684, which took effect on April 15, 1975, provides that "the barangay youth chairman shall be an ex-officio member of the barangay council", having the same powers and functions as a barangay councilman.

In this case, Mañago, the barangay youth chairman, was notified of the sessions of the barangay council to be held on March 23 and 26, 1976 but he was not able to attend those sessions because he was working with a

construction company based at Ipil, Ormoc City (Par. 2[d], Exh. 1).

Mañago's absence from the sessions of the barangay council did not render the said resolutions void. There was a quorum when the said resolutions were passed.

The other contention of the petitioners is that the resolutions contravene the constitutional provisions that "no law shall be made respecting an establishment of religion" and that "no public money or property shall ever be appropriated, applied, paid, or used, directly or indirectly, for the use, benefit, or support of any sect, church, denomination, sectarian institution, or system of religion, or for the use, benefit, or support of any priest, preacher, minister, or other religious teacher or dignitary as such, except when such priest, preacher, minister, or dignitary is assigned to the armed forces, or to any penal institution, or government orphanage or leprosarium" (Sec. 8, Article IV and sec. 18[2], Article VIII, Constitution).

That contention is glaringly devoid of merit. The questioned resolutions do not directly or indirectly establish any religion, nor abridge religious liberty, nor appropriate public money or property for the benefit of any sect, priest or clergyman. The image was purchased with private funds, not with tax money. The construction of a waiting shed is entirely a secular matter.

Manifestly puerile and flimsy is petitioners' argument that the barangay council favored the Catholic religion by using the funds raised by solicitations and donations for the purchase of the patron saint's wooden image and making the image available to the Catholic church.

The preposterousness of that argument is rendered more evident by the fact that counsel advanced that argument in behalf of the petitioner, Father Osmeña, the parish priest.

The wooden image was purchased in connection with the celebration of the barrio fiesta honoring the patron saint, San Vicente Ferrer, and not for the purpose of favoring any religion nor interfering with religious matters or the religious beliefs of the barrio residents. One of the highlights of the fiesta was the mass. Consequently, the image of the patron saint had to be placed in the church when the mass was celebrated.

If there is nothing unconstitutional or illegal in holding a fiesta and having a patron saint for the barrio, then any activity intended to facilitate the worship of the patron saint (such as the acquisition and display of his image) cannot be branded as illegal.

As noted in the first resolution, the barrio fiesta is a socio-religious affair. Its celebration is an ingrained tradition in rural communities. The fiesta relieves the monotony and drudgery of the lives of the masses.

The barangay council designated a layman as the custodian of the wooden image in order to forestall any suspicion that it is favoring the Catholic church. A more practical reason for that arrangement would be that the image, if placed in a layman's custody, could easily be made available to any family desiring to borrow the image in connection with prayers and novenas.

The contradictory positions of the petitioners are shown in their affidavits. Petitioner Garces swore that the said resolutions favored the Catholic church. On the other hand, petitioners Dagar and Edullantes swore that the resolutions prejudiced the Catholics because they could see the image in the church only once a year or during the fiesta (Exh. H and J).

We find that the momentous issues of separation of church and state, freedom of religion and the use of public money to favor any sect or church are not involved at all in this case even remotely or indirectly. It is not a microcosmic test case on those issues.

This case is a petty quarrel over the custody of a saint's image. It would never have arisen if the parties had been

more diplomatic and tactful and if Father Osmeña had taken the trouble of causing contributions to be solicited from his own parishioners for the purchase of another image of San Vicente Ferrer to be installed in his church.

There can be no question that the image in question belongs to the barangay council. Father Osmeña's claim that it belongs to his church is wrong. The barangay council, as owner of the image, has the right to determine who should have custody thereof.

If it chooses to change its mind and decides to give the image to the Catholic church, that action would not violate the Constitution because the image was acquired with private funds and is its private property.

The council has the right to take measures to recover possession of the image by enacting Resolutions Nos. 10 and 12.

Not every governmental activity which involves the expenditure of public funds and which has some religious tint is violative of the constitutional provisions regarding separation of church and state, freedom of worship and banning the use of public money or property.

In *Aglipay vs. Ruiz*, 64 Phil. 201, what was involved was Act No. 4052 which appropriated sixty thousand pesos for the cost of plates and the printing of postage stamps with new designs.

Under that law, the Director of Posts, with the approval of the Department Head and the President of the Philippines, issued in 1936 postage stamps to commemorate the celebration in Manila of the 33rd International Eucharistic Congress sponsored by the Catholic Church.

The purpose of the stamps was to raise revenue and advertise the Philippines. The design of the stamps showed a map of the Philippines and nothing about the Catholic Church. No religious purpose was intended.

Monsignor Gregorio Aglipay, the founder and head of the Philippine Independent Church, sought to enjoin the sale of those commemorative postage stamps.

It was held that the issuance of the stamps, while linked inseparably with an event of a religious character, was not designed as a propaganda for the Catholic Church. Aglipay's prohibition suit was dismissed.

The instant case is easily distinguishable from *Verzosa vs. Fernandez*, 49 Phil. 627 and 55 Phil. 307, where a religious brotherhood, La Archicofradia del Santisimo Sacramento, organized for the purpose of raising funds to meet the expenses for the annual fiesta in honor of the Most Holy Sacrament and the Virgin Lady of Guadalupe, was held accountable for the funds which it held as trustee.

Finding that the petitioners have no cause of action for the annulment of the barangay resolutions, the lower court's judgment dismissing their amended petition is affirmed. No costs.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Guerrero, De Castro, and Melencio-Herrera, JJ., concur.

Teehankee, J., in the result.

Fernandez and Concepcion, Jr., JJ., on official leave.

Abad Santos, J., see concurrence.

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CONCURRING OPINION

ABAD SANTOS, J.:

I concur. I want to add these observations: the images of saints are not worshipped; they are venerated. "Thou shall not have strange gods." A petty dispute on who should have custody of the statue of San Vicente Ferrer should not have taken up the time of the Supreme Court. There can be no doubt that the statue was bought with private funds raised by the barangay council which also decided who should have custody of it. How the cura parroco got it into his head that he should have custody of the statue defies logic. It is not, therefore, surprising to hear statements that religion has no relevance to current problems. Let there be affirmation action by the churches and less concern for inconsequential matters.

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