

PHILIPPINE INDEPENDENT CHURCH, REPRESENTED BY HILARION S. ZUMEL, PETITIONER, VS. JUANA MATEO AND ISIDRO G. OLAÑO, RESPONDENTS.

G.R. No. L-14793. April 28, 1961

Ponente: PAREDES, J.

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PAREDES, J.:

This case was certified to this Court by the Court of Appeals on the ground that it involves purely questions of law.

On December 11, 1952, the Philippine Independent Church, represented by Hilarion S. Zumel, filed a petition for review of the decree of registration in Cadastral Case No. 38, GLRO No. 1554, Lot No. 748, issued in the name of spouses Juana Mateo and Isidro G. Olaño. In the petition, it is alleged that said Isidro G. Olaño, formerly parish priest of petitioner church, and as such in charge and trustee of the properties of the same, by gross misrepresentation and with intent to defraud the petitioner, succeeded in having lot 748 adjudicated to him and his wife in Cadastral Case No. 88 on September 9, 1940, and subsequently procured, thru actual fraud, the registration of said lot, resulting in the issuance in their names of decree of registration No. 6172 on December 14, 1951; that the property (Lot No. 748) is the exclusive property of petitioner church and that the petition was presented within the prescribed period of one (1) year.

On January 24, 1953, at the hearing of the petition, counsel for respondents verbally asked that Hilarion S. Zumel be required to allege in the petition whether he represented the De los Reyes faction or the Fonacier faction of the Philippine Independent Church. The lower court ordered petitioner to file a pleading making reference as to his faction. On January 26, 1953, petitioner filed an amended petition alleging therein that he belonged to the Fonacier Faction of the Philippine Independent Church. On January 28, 1953, counsel for respondents presented a "Motion for Bill Particulars", asking the court to order petitioner to make a definite, positive and clear allegation as to the identity of said petitioner, whether the Philippine Independent Church headed by Isabelo de los Reyes, Jr. or that headed by Bishop Santiago Fonacier. On February 6, 1953, upon order of the lower court, Zumel filed another amended petition, stating that it was the Philippine Independent Church headed by Bishop Santiago Fonacier (Fonacier faction).

No further proceedings was had on the case until October 4, 1955, or after the lapse of more than two (2) years, when respondents, thru counsel, filed a Motion to Dismiss the petition on the ground that the petitioner had no legal interest in the land and, therefore, had no legal capacity and/or personality to seek the relief prayed for. It was argued that because the Supreme Court had finally decided the controversy as to who is the lawful titular head of the Philippine Independent Church, vesting the same in Isabelo de los Reyes, Jr.[1] the party entitled to the relief embodied in Sec. 38 of the Land Registration Act was the Philippine Independent Church headed by De los Reyes, Jr. and not that faction headed by Fonacier, with whom Zumel was affiliated.

An opposition to the above motion was presented by Zumel claiming, among others, that the averment "Fonacier

Faction" appearing in the amended complaint was not at all an indication of a factual or formal division of the Philippine Independent Church; that the controversy extended only to the difference in opinion as to who is the rightful head of said church; that after the courts have decided that De los Reyes is the lawful head, Zumel has finally recognized him as such; that De los Reyes had authorized him (Zumel), thru a Special Power of Attorney, to act as agent of said De los Reyes in the case; that the respondents in registering the property in their own private names, have deprived the petitioner church (whether headed by Fonacier or De los Reyes) of its property; and that the Philippine Independent Church represented by Zumel is one and the same church headed by De los Reyes, and as such it has legal interest in the property, sufficient in law to vest it personality to seek the relief.

The trial court on October 31, 1955, rendered judgment, the dispositive portion of which reads:—

"WHEREFORE, the motion to dismiss filed by Atty. Melanio T. Singson, should be, as it is hereby, granted. This case is definitely dismissed, without costs, and without prejudice of a more proper separate action".

Petitioner-appellant in its brief contends that it was error (1) to dismiss the petition upon a mere motion, since the petition raised issues which are evidentiary in nature; (2) to rule that the amendments made in the original petition after one (1) year reglementary period, took it out of the jurisdictional period provided for the review of decree of registration.

There is no merit in the first assignment of error. There was nothing to be proved, because all the facts upon which the trial court could base its resolution, were all in the pleadings. Anent the second assignment of error: it is true that averments were made, by way of amendments in the original petition to review, so as to include the faction with which representative Zumel was affiliated. The trial court deemed the procedure necessary, considering the fact that there was then pending before the Courts the determination as to who the lawful head of the petitioner church was. Factually, however, the affiliation of petitioner's representative is of no moment. The true petitioner is the Philippine Independent Church, which under the allegations of the petition, appears to be the owner of the property in litigation, registered by appellees in their own names. We have held that the erroneous designation of the representative when defendant itself is named, is not sufficient to set aside proceedings had in a case (*De Nilo vs. Romero*, G. R. No. L-15193, Feb. 29, 1961). In the case at bar, whether the representative of the petitioner belongs to the Fonacier faction or De los Reyes faction, could not have deprived the Philippine Independent Church of its rights and interests in the land in question, it appearing that the principal petitioner is the said church. The fact that De los Reyes, the lawful head of the petitioner church as found by this Court, had subsequently authorized Zumel to represent said church in the litigation, (Exhs. A & B) is more than sufficient to meet the requirements of Sec. 38, of Act No. 496. Of course, the lower court discounted the authority given by De los Reyes to Zumel by stating:

"The aforequoted power of attorney does not ratify the past actuations of Rev. Zumel in initiating this case. In the hypothesis that it has the effect of ratifying his previous acts in this case, it cannot have the effect of automatically or ipso jure reviving the 'original' petition, outside of the said period, because a pleading superseded by a subsequent pleading, ceases to be a pleading in the case. Under the same assumption, it may have the effect, at most, of maintaining the re-amended petition which was filed beyond the jurisdictional period of one year. In order to properly implement the ultimate purpose of the said power of attorney, the proper remedy should be sought in a separate ordinary action".

Amendments in pleadings do not necessarily expunge those previously filed. Amendments made, more so when ordered by the court, relate back to the date of the original complaint, if, as in the case at bar, the claim asserted in the amended pleading arose out of the same conduct, transaction or occurrence. Amendment presupposes the existence of something to be amended and, therefore, the tolling of the period should relate back to the filing of the pleading sought to be amended. The recommendation of the trial court that the implementation of the power of

attorney should be in a separate ordinary action, is frowned upon by the rules on multiplicity of suits. It would be to the greater advantage of the litigants and the courts to have incidents in litigations decided in a singular action.

In view hereof, we find that the dismissal of the petition on the grounds stated in the resolution in question is erroneous. The same should be, as it is hereby set aside and another entered, remanding the case for further proceedings wherein the parties may present their evidence to prove their respective averments and/or defenses.

Bengzon, C.J., Padilla, Bautista Angelo, Concepcion, Reyes, J.B.L., Barrera, and Dizon, JJ., concur.

[1] *Fornacier vs. De los Reyes*, 96 Phil. 415.

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