

REV. FR. LUIS R. AYO, JR., PETITIONER, VS. HON. MELQUIADES G. ILAO AND ERNESTO F. JALGALADO, RESPONDENTS.*G.R. No. L-23293. January 16, 1968*

Ponente: CONCEPCION, C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/56b515bb85ce/>**CONCEPCION, C.J.:**

Original action for certiorari with preliminary injunction.

On January 30, 1964, petitioner herein, Rev. Fr. Luis R. Ayo, Jr., Catholic parish priest of Capalonga, Camarines Norte, applied, from the Bureau of Private Schools, for a permit to open a first year high school in said municipality. Respondent Ernesto F. Jalgaldado, Director of the Capalonga Institute, which is authorized to operate a school in the same place, opposed said application. On March 30, 1964, said Bureau gave due course thereto, subject to certain conditions. The application was, however, denied, on April 13, 1964, because some of these conditions – namely, completion of a school building and other facilities necessary for the operation of a school – had not, as yet, been fulfilled. A reconsideration of the decision of the Bureau to this effect having been denied, Fr. Ayo filed, on July 21, 1964, a second petition for reconsideration.

Meanwhile, or on July 14, 1964, Jalgaldado had commenced, in the Court of First Instance of Camarines Norte, presided over by respondent Judge, Hon. Melquiades G. Ilao, Civil Case No. 1606 of said court, against Fr. Ayo, to restrain him from constructing the school building necessary to house the Capalonga Parochial School, from advertising or announcing the opening thereof for the school year 1964-1965 and from enrolling students therefor, as well as to recover P19,900.00 as damages. Jalgaldado, likewise, prayed for a writ of preliminary injunction, which Judge Ilao issued ex parte the next day. On July 28, 1964, Fr. Ayo filed an urgent motion to dissolve said writ and set the motion for hearing on August 1, 1964; but, Judge Ilao postponed the hearing to another date.

Inasmuch as the school year was about to begin, and Fr. Ayo knew that he could not possibly get a school permit unless the school building was completed, on August 4, 1964, he commenced the present action for certiorari against Jalgaldado, and Judge Ilao, to annul and set aside all proceedings before the latter. On August 6, 1964, upon the posting of a bond in the sum of P10,000.00, we issued a writ of preliminary injunction restraining the enforcement of the writ issued by Judge Ilao.

The petition before us is predicated upon the theory that the latter had committed a grave abuse of discretion in issuing said writ, because Jalgaldado's complaint in the lower court did not set forth a cause of action. Indeed, Jalgaldado based his complaint upon the allegation that the Capalonga Institute, of which he was a Director had a permit to operate a school in Capalonga, and that, in consequence of the fact that Fr. Ayo was "advertising thru various catholic organizations, as well as thru his authorized representatives, that the Capalonga Parochial School would open its door to first year high school students, in the school year 1964-1965, despite the fact that its application for a permit therefor had been denied by the Bureau of Private Schools, on April 13, 1964, "not a single student" had "enrolled in the Capalonga Institute for the First Year, for the reason that said municipality" is "predominantly composed of Roman Catholics."

It should be noted, in this connection, that, acting upon Fr. Ayo's second request for reconsideration, dated July 21, 1964, said Bureau gave due course to this request and submitted the matter to the Department of Education, which, in turn, granted said request and issued Temporary Permit No. 755, series of 1964, authorizing the Capalonga Parochial School to open and conduct the "first year of the secondary course (day)," from August 3, 1964 to August 2, 1965, subject to some conditions, one of which was that "the building now Under construction x x x should be completed within the first semester" of said school year. Meanwhile, the Capalonga Parochial School was allowed to hold its classes in Fr. Ayo's convent. Assuming that Jalgado had a right to restrain Fr. Ayo, as long as he did not have the necessary authority from the aforementioned Bureau, such right was extinguished when Fr. Ayo obtained said temporary permit No. 755, series of 1964. In other words, the issue raised by Jalgado's complaint in Civil Case No. 1606 of the Court of First Instance of Camarines Norte has thereby become moot.

In fact, however, the authority of Jalgado's school to operate as such in Capalonga did not confer upon him any exclu-sive right. As a consequence, he had no cause of action against Fr. Ayo for announcing that he would open and operate a parochial school in Capalonga, and for undertaking the construction of a school building therefor, even if Fr. Ayo had not, as yet, secured the permit necessary for such parochial school. Jalgado could have reported said announcement to the Bureau of Private Schools, for such action as it may deem proper; but, he had no right to sue directly Fr. Ayo, who had no legal obligations towards Jalgado.

The latter's allegation to the effect that not a single student had renrolled in his school for the first year secondary course, because of the announcement that the Parochial School would be open – as it eventually opened legally – for first year students during the school year 1964-1965, did not suffice to give Jalgado a cause of action. There is no allegation that, in the absence of such announcement, said students would have enrolled in Jalgado's school. Worse still, his complaint suggests the contrary, for said school is non-sectarian, whereas Jalgado's complaint alleges that the inhabitants of Capalonga are "predominantly Roman Catholics". At any rate, since Fr. Ayo had the requisite building permit, Judge Ilao obviously committed a grave abuse of discretion in issuing the writ prohibiting the construction – or completion – of said building.

WHEREFORE, the writ of preliminary injunction issued by Judge Ilao is, accordingly, annulled, and the preliminary injunction issued by this Court hereby made permanent.

IT IS SO ORDERED.

Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar, Sanchez, Castro, Angeles, and Fernando, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.