

FELIPE C. ALVIAR ET AL., PLAINTIFFS-APPELLANTS, VS. REV. LEO A. CULLUM, S.J., DEFENDANT-APPELLEE.*G.R. No. L-2523. April 24, 1950*

Ponente: MORAN, C.J.

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This is an action brought in the Court of First Instance of Manila by Felipe Alviar and other 164 plaintiffs against Rev. Father Leo A. Cullum, in his own name and as Father Superior of the Society of Jesus in the Philippines, to enforce the "Pragmatica Sancion" issued by King Charles the 3d of Spain on April 2d, 1767, expelling the Jesuits from all the dominions of Spain including the Philippines, and confiscating all their personal and real property on behalf of the Crown of Spain; also, to enforce the "Real Cedula" issued by Queen Elizabeth the 2nd on October 19, 1852 allowing the Jesuits to come back to the Philippines but without restoring them in the possession or enjoyment of their properties; and consequently to enjoin all the Jesuits from interfering with the plaintiffs in the ownership and possession of the property called "Hacienda de San Pedro Tunasan", .or with, the ownership and possession of other parsons on the other properties from which the Jesuits had been excluded by said "Pragmatica Sancion" and "Real Cedula."

On motion of defendant, upon the ground that the plaintiffs have no cause of action, the case was dismissed by the lower court. Hence, this appeal by plaintiffs.

The theory of the lower court is that the "Pragmatica Sancion" and "Real Cedula" above mentioned are political in nature and had ceased to be in force in the Philippines upon the cessation of the Spanish Sovereignty over this country. We find this holding to be correct for there can be no question that said "Pragmatica Sancion" and "Real Cedula" were political in character for they concerned matters affecting the relations between the inhabitants of the Philippines and their sovereign.

But even supposing that the confiscated properties of the Jesuits belonged to the Crown of Spain which by the treaty of Paris were ceded to the United States and later to the Republic of the Philippines, it is this Republic, not the plaintiffs, who may claim said properties.

It appears, further, that the title of the Roman Catholic Church over the "Hacienda de San Pedro Tunasan" was recognized in a contract executed and signed by and between the Secretary of War, Honorable William H. Taft and the Most Rev. Jeremiah Harty, Archbishop of Manila, and expressly approved by the President of the United States of America, and that such a recognition has been ratified by the Government of the Philippines through Act No. 1724, Section 2 of which in part provides "that the Supreme Court of the Philippine Islands shall enter judgment in the said action decreeing to the Roman Catholic Church of the Philippine Islands, as represented by the Archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, said college to be administered for the specific purposes of its foundation". And this Court, on December 3, 1909, rendered judgment upholding the title and ownership of the

Roman Catholic Church over said properties, including the "Hacienda de San Pedro Tunasan" (T. H. Pardo de Tavera et al., vs. the Roman Catholic Church, 14 Phil. 775).

On May 3d, 1910, Pope Pius X ordered the Father Superior of the Society of Jesus in the Philippines to resume the administration of the Colegio de San Jose and its tempo rail ties. On June 5, 1915, the Colegio de San Jose was made a corporation sole under the laws of the Philippines and acquired juridical personality to on properties and temporalities including the "Hacienda de San Pedro Tunasan". In Government of the Philippines vs. Colegio de San Jose (53 Phil., 423), this Court held that the two parcels of land in litigation form an integral part of the "Hacienda de San Pedro Tunasan" belonging to the claimant Colegio de San Jose", and the Original Certificate No. 10851 was issued in favor of Colegio de San Jose over portions of land included in said "Hacienda de San Pedro Tunasan".

Furthermore, the plaintiffs have once recognized the title of Colegio de San Jose over the "Hacienda de San Pedro Tunasan. In Guevara vs. Young G. R. No. 46698, the plaintiffs herein brought an action to compel the Colegio de San Jose to respect its contract of lease with them over several portions of the "Hacienda de San Pedro Tunasan", and this is certainly inconsistent with. their attitude in the instant case.

For all the foregoing, the order of dismissal appealed from is hereby affirmed with costs against appellants.

Ozaeta, Pablo, Bengzon, Tuason, Montemayor, and Reyes, JJ., concur.

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