

**CHURCH OF CHRIST, DADIANGAS CONGREGATION, INC.,
REPRESENTED BY LAUREANO N. BELO, CELESTINO M. CRUZ,
ULDARICO S. LAYAG, PETRONILA G. GESULGA, JOSUE G. GESULGA,
PATERIO C. GESULGA...**

G.R. No. L-43726. August 15, 1988

Ponente: PARAS, J.

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PARAS, J.:

This is a petition for review on certiorari seeking to set aside the judgment of the then Court of First Instance of South Cotabato, Branch I, General Santos City[*] promulgated on April 2, 1976 in Civil Case No. 1568 for unlawful detainer reversing the decision of the City Court, Branch III, of General Santos City and dismissing the complaint and counterclaim.

The undisputed findings of fact of the City Court of General Santos City, Branch III, as adopted in the decision of the Court of First Instance of South Cotabato, Branch I, are as follows:

"In 1953 Laureano N. Belo, as traveling minister, organized the Church of Christ in Dadiangas. On March 27, 1957, he filed a Sales Application in the name of the CHURCH OF CHRIST by LAUREANO N. BELO for Lot No. 5744, Ts-217, Dadiangas, General Santos, Cotabato (Exh. B), which was entered in the records of the Bureau of Lands as Misc. Sales Appl. (VIII-4) 656 (Exh. C). On September 10, 1973, the Church of Christ organized by Laureano N. Belo at Dadiangas was registered with the Securities and Exchanged Commission as Church of Christ, Dadiangas Congregation, Inc. (Exh. A) and on December 21, 1973 paid P2,649.91, with the Board of Liquidators (LASEDECO) as deposit for the said lot. As registered, it became the plaintiff in this case. The defendants were members of the Church of Christ, who, with the consent of the church officers and members had a small house transferred to the church lot, Lot No. 5744, Ts-217, in 1964 (Exh. F and F-1), where they lived without paying rent but with the understanding that when the church needs the space the defendants would vacate. In 1966, with the permission of the same officers and members, a new building was constructed by the defendants on the same site upon application of a building permit by the same Church of Christ (Exh. G and G-1) and subject to the same terms and conditions. On March 5, 1968 the Church of Christ of Dadiangas, General Santos, South Cotabato, removed from membership (disfellowshipped) the defendants along with nine (9) others for believing and preaching religious doctrines different from the dogmas affirmed by the universal Church of Christ (Exh. E). Demands were then made for the defendants to vacate the church lot and in November, 1968, the Church of Christ (New Testament) represented by its minister Laureano N. Belo, filed with this Court Civil Case No. 486, for unlawful detainer. This case was dismissed without prejudice for failure of the plaintiff to prosecute. Plaintiff's reason for allowing the dismissal of the case is that the defendants promised every now and then, to conform to the accepted teachings of the Church of Christ organized by Minister Laureano M. Belo. In spite of the promise, however, defendants shied away from the church. Finally, written demand to vacate was served on them on October 9, 1974 signed by Laureano N. Belo and Celestino N. Cruz (Exh. H). For failure and refusal of the defendants to vacate in spite of Exh. H, this case

was filed on October 28, 1974," (Rollo, pp. 19-20)

Private respondents (defendants therein) vigorously maintained that they occupied the lot in question because of the permission and tolerance of the Church of Christ (N.T.) represented by Domingo H. Cruz, et al. and not by the Church of Christ, Congregation of Dadiangas represented by Laureano Belo. They alleged that under the circumstances, the Church of Christ (N.T.) should have been included as a party defendant by the petitioner (plaintiff therein) especially because of the Resolution No. 220, Series of 1975 of the Board of Liquidators which subdivided the lot in question into halves between the two religious groups.

The City Court rendered judgment in favor of the petitioner ordering the respondents to remove their house and vacate the premises and to pay the plaintiff the sum of P500.00 as attorney's fees and to pay the costs of the suit (Petitioners' Brief, p. 4).

On appeal to the Court of First Instance of South Cotabato (Branch I), the above decision was reversed and the complaint as well as the counterclaim was dismissed. The dispositive portion of said decision, reads:

'ACCORDINGLY, the judgment appealed from is hereby REVERSED and one is entered dismissing the complaint as well as the counter-complaint without pronouncement as to costs.

"SO ORDERED." (Decision, Rollo, p. 23).

Hence, this petition, with the following assigned errors:

I

THE LOWER COURT ERRED IN REVERSING THE JUDGMENT OF THE CITY COURT OF GENERAL SANTOS (BRANCH III) SIMPLY BECAUSE THE CHURCH OF CHRIST (NEW TESTAMENT) REPRESENTED BY DOMINGO H. CRUZ FROM WHOM THE VALLESPINS (HEREIN RESPONDENTS) ALLEGEDLY ASKED PERMISSION TO STAY ON THE LOT WAS NOT INCLUDED AS PARTY DEFENDANT IN THE CITY COURT.

II

THE LOWER COURT ERRED IN REVERSING THE JUDGMENT OF THE CITY COURT BECAUSE THE COURT OF FIRST INSTANCE OF SOUTH COTABATO (BRANCH ONE) BY DOING SO IN EFFECT GRANTED A RELIEF IN FAVOR OF CHURCH OF CHRIST (NEW TESTAMENT) WHICH WAS NOT A PARTY TO THE CASE, WHICH DID NOT INTERVENE EVEN THOUGH THEY WERE ALL PRESENT AND HAVE TESTIFIED FOR THE VALLESPINS.

III

THE LOWER COURT ERRED IN REFUSING TO DISMISS THE APPEAL OF THE VALLESPINS FROM THE DECISION OF THE CITY COURT ALTHOUGH THE APPELLANTS IN THE COURT OF FIRST INSTANCE DID NOT POSSESS ANY LEGAL PERSONALITY TO APPEAL AS THEY HAVE ALWAYS ADMITTED THAT THEY ARE NOT THE OWNERS OF THE HOUSE AND AS A MATTER OF FACT VACATED THE HOUSE AND LOT EVEN BEFORE THEY APPEALED TO THE CFI.

IV

THE LOWER COURT ERRED IN REFUSING TO ISSUE AN ORDER FOR THE REMOVAL OF THE HOUSE OF THE VALLESPINS FROM THE CHURCH LOT AS ORDERED BY THE CITY COURT OF GENERAL SANTOS CITY UNTIL AND UNLESS RESOLUTION NO. 220 OF THE BOARD OF LIQUIDATORS IS MODIFIED OR SET ASIDE.

The main issue is whether or not the complaint for ejectment should be dismissed for failure to implead the Church of Christ (N.T.) as an indispensable party.

There is no dispute that the land is a public land applied for in a Sales Application in 1957 for the church of Christ (then still unregistered with the SEC), by Laureano Belo, a traveling minister. In 1963, Domingo H. Cruz, pastor and preacher of the Church of Christ (N.T.) held services thereon. It was that time when herein private respondents were allowed and permitted by church leaders to transfer an old house from another lot to the lot in question and later in 1964, the old house was demolished and the house now in litigation was erected, on the condition, that the same should be considered as pastoral house of the congregation of the Church of Christ. It was agreed that their stay would be temporary and that they would vacate the premises when requested or demanded by the leaders, elders or members. The contract was not in writing.

Trouble apparently began when the group of Domingo H. Cruz was "disfellowshipped" (expelled) for allegedly holding religious beliefs contrary to the belief of the Church of Christ (Congregation of Dadiangas, Inc.).

As earlier stated, the Belo group filed a complaint for unlawful detainer against private respondents but it was dismissed for lack of interest.

On February 7, 1969, the Church of Christ (N.T.) was incorporated and registered with the Securities and Exchange Commission, while the Congregation of Dadiangas, Inc. was also registered in the same Commission, but much later on September 10, 1973.

It is thus apparent that it was the Church of Christ before it was split in two factions that negotiated with private respondents the terms and conditions of the unwritten agreement. The disputed property is now being claimed by both factions.

Private respondents have already vacated the house under litigation but the Church of Christ (Dadiangas Congregation) would want it demolished, while the Church of Christ (N.T.) would want it preserved as the house is a parsonage owned by it.

The principal conflict gravitates on who has the better right over the litigated property, especially so where private respondents assert that their right to occupy and possess subject property is derived from the permission and tolerance of the Church of Christ (N.T.) and not from the Church of Christ (Dadiangas Congregation).

Admittedly, the land is a public land which is subject to the control, administration and disposition of the Director of Lands under the supervision of the Secretary of Agriculture and Natural Resources.

The records show that by virtue of Resolution No. 220, series of 1975, of the Board of Liquidators, the property under litigation was divided into halves; one-half was allocated to the Church of Christ (N.T.), with the other half, to the Church of Christ (Dadiangas Congregation), a fact not denied by the Dadiangas group which manifested to the court below, that it is filing a motion for reconsideration thereof; that the Church of Christ (N.T.) claims that the house in question is located on its portion but under aforesaid resolution, it appears that the portions allocated to both churches are still unsegregated, for which reason they are authorized to hire a surveyor to subdivide the lot at their expense (Rollo, p. 21); that pending aforesaid subdivision, it is obvious that said churches are co-owners of the property in question; that as a co-owner, the Church of Christ (Dadiangas Congregation) is a proper party to file the civil case for ejectment under Article 487 of the Civil Code (Leopoldo v. Cleto, et al., 29 SCRA 474 [1969]; that the Church of Christ (Dadiangas Congregation) admits that it was agreed in their unwritten contract that the questioned house shall be considered a pastoral house of the congregation and that private respondents would vacate the premises when requested (Petitioner's Brief, pp. 7-8); and that private respondents have vacated the building under litigation even before appeal to respondent court, but refused to remove said house, disclaiming ownership of aforesaid property.

Under the circumstances, the complaint for ejectment has become moot for purposes of restoration of the questioned property to the plaintiff church when it was vacated by private respondents. The only issue which remains is the owner-ship of the building ordered to be removed by the trial court. The resolution of the ownership is not within the jurisdiction of the trial court.

Thus, while the respondent court correctly ruled that the Church of Christ (N.T.) is an indispensable party under Section 2 of Rule 3 of the Rules of Court, and should have been included as party defendant, to resolve the issue of ownership which is intertwined with the issue of possession (B.P. Blg. 129, 33, par. 2); respondent court erred, in dismissing the complaint for failure to include said church and in squarely placing the burden of procuring the presence of all indispensable parties on the plaintiff (Decision; Civil Case No. 1568; Rollo, p. 20) (Be it noted however that in a case purely of ejectment, one co-owner would suffice.)

It should be borne in mind that subject land, as public land has not been finally disposed of by the government, there being no showing that the motion for reconsideration of Resolution No. 220 of the Board of Liquidators has been finally resolved.

The respondent Court should have upheld the City Court, but without ruling on the ownership of the land.

PREMISES CONSIDERED, the decision of the Court of First Instance of South Cotabato in Civil Case No. 1568, is REVERSED and SET ASIDE and the decision of the City Court of General Santos City (Branch III) is REINSTATED, except that the ruling on ownership of the lot is eliminated without prejudice to the filing of the proper action in the proper forum.

SO ORDERED.

Melencio-Herrera, (Chairman), Padilla, and Sarmiento, JJ., concur.

[*] Presided over by public-respondent Judge Pedro Samson C. Animas.

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