

SEVERO ROMERO, ET AL., PLAINTIFFS-APPELLANTS, VS ISABELO DE LOS REYES, JR. DEFENDANT-APPELLEE.*G. R. No. L-13816. May 31, 1965*

Ponente: PAREDES, J.

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This is an appeal interposed by Severo Romero and 44 others, against the decision of the CFI of Ilocos Norte, dismissing their complaint.

The Iglesia Filipina Independiente, IFI for short, popularly known as the Aglipayan Church, was founded in 1902 by the late Gregorio Aglipay. From its creation, Gregorio Aglipay headed the Church as Obispo Maximo, until his death on September 1, 1940. The church's membership grew from humble beginnings to, about three (3) millions, when the present action was instituted.

The IFI adopted its own doctrines, faith, usages, rituals, practices and discipline, embodied in its two official books, the *Oficio Divino* (Exh. A), published and promulgated in 1907, and the *Doctrina y Reglas Constitucionales* (Exh. B), adapted and promulgated in 1903. As the official repository, the *Oficio Divino* is the binding authority in all conflicts regarding the practices, faith, doctrines and usages of the IFI.

In January, 1946, the IFI became divided into two factions, one headed by Bishop Santiago A. Fonacier and the other by Bishop Isabelo de los Reyes, Jr., defendant-appellee herein, each claiming to be the legitimate Obispo Maximo. This division came to a head when defendant-appellee herein, instituted accounting case No. 72183 on February 9, 1946, with the CFI of Manila, against Santiago Fonacier, to resolve mainly the question as to who was the legitimate Obispo Maximo of the IFI. Fonacier, in bolstering his claim to the position of Obispo Maximo, filed in case No. 72183, a supplemental Answer alleging that sometime in August, 1947, Isabelo de los Reyes, Jr., committed abjuration or apostasy, by repudiating and abandoning the fundamental doctrines, faith, rituals, discipline and practices of the IFI, as contained in the *Doctrina y Reglas Constitucionales* and *Oficio Divino*, without the consent and against the will of the Church. Said Supplemental Answer enumerated the alleged acts of abjuration perpetrated by De los Reyes.

Civil Case No. 72183 reached the Court of Appeals (CA-G.R. No. 6371-R) and also this Court (G.R. No. L-5917, decided Jan. 28, 1955), wherein We held that Isabelo de los Reyes, Jr., was the legitimate Obispo Maximo of the IFI. On the issue of abjuration, subject matter of the supplemental Answer, this Court rendered the following disquisitions:

x x x x x x

"x x x . These questions were raised for the first time on January 10, 1968, when petitioner filed a supplementary answer alleging that in August, 1947, the respondent 'formally joined the Protestant Episcopal Church of America.' The alleged doctrinal changes and abjuration took place therefore after this case was filed in court, and after the division of the church into two groups had occurred, and consequently, they could not have been the cause of the division. Under these circumstances, it would seem clear that allegation regarding

the alleged changes in doctrinal matter or in mailers of faith incorporated in the constitutions of the church are entirely irrelevant in the present case x x x."

On the same topic, the Court of Appeals made a similar observation.

On August 24, 1957, after the issue of who was the Supreme Head of the IFI was resolved by this Court, the case at bar was instituted by herein plaintiffs-appellants (as a class suit), for the recovery of the possession of the properties of the IFI. In the complaint, appellants alleged that they (plaintiffs) and other members of the IFI throughout the Philippines, are the faithful adherents of the IFI, as originally conceived and founded by the late Gregorio Aglipay, who, by themselves and/or predecessors-in-interest, have contributed property to the IFI. These properties are registered as trust properties with the Bureau of Treasury, in accordance with the provisions of Commonwealth Act No. 434 (Exh. F). Plaintiffs-appellants herein posited their cause of action on the adjuration of Bishop de los Reyes, Jr., an issue, they claim, not definitely resolved by the Court of Appeals and this Court in Case G.R. No. L-5917.

In substance, the complaint alleges that on or about August 5, 1947, defendant-appellee, together with a so-called Supreme Council of Bishops and a General Assembly of the IFI, adopted, without, the will and consent of the plaintiffs, a 'Declaration of Faith' and Articles of Religion 'which are completely different, radically and fundamentally opposed and antagonistic to the characteristic and basic doctrines and rituals of the said IFI, as set forth and contained in the Doctrina y Reglas Constitucionales and Oficio Divino; that the so-called Declaration of Faith and Articles of Religion are not merely a restatement of the official doctrines, practices and discipline of the IFI, but also projects a radical departure therefrom, and a complete repudiation thereof, to which the herein plaintiffs are unwilling to believe or subscribe to; that defendant De los Reyes, in departing from, and repudiating the doctrines, faith, rituals, discipline and usages of the IFI, and adopting diametrically opposed and an entirely different faith, doctrines, rituals and the like, has divested himself of authority, membership, position, connection with or interest in the IFI, and has likewise forfeited all rights to continue administering to and using its properties and the name IFI; that in spite of demands upon defendant to desist from acts inimical to the rights and interests of the IFI, defendant refused and continues to refuse to desist from such acts; that plaintiffs being loyal adherents, are entitled to the exclusive use of the name of the IFI and to the ownership and use of its properties. The complaint ended with the following prayer:

1. Prohibiting defendant from using the name and properties of the Iglesia Filipina Independiente;
2. Ordering defendant to render to plaintiffs an accounting of his administration of the properties of the Iglesia Filipina Independiente from August 5, 1947, the day he repudiated the faith, doctrine, ritual, discipline and usages of the Iglesia Filipina Independiente as embodied in the Doctrina y Reglas Constitucionales and Oficio Divino, and embraced other faiths, doctrines, rituals, discipline, and usages antagonistic and opposed to the former, to the present date;
3. Declaring that defendant has ceased to have any authority, Membership, position, connection or interest in the Iglesia Filipina Independiente;
4. Ordering defendant to deliver all properties, papers, effects other assets of the Iglesia Filipina Independiente to the plaintiffs and/or persons belonging to the Iglesia Filipina Independiente and who will continue to profess and practice the doctrine, faith, rituals, discipline and usages as embodied in the Doctrina y Reglas Constitucionales and Oficio Divino of the said Church, with costs against the defendant.

Plaintiffs further pray for such other reliefs and remedies as may be deemed just and equitable in the premises."

On September 20, 1957, defendants filed a written opposition to the petition for a writ of preliminary injunction,

anchored on the grounds that the plaintiffs were not representative enough to maintain a class suit; that plaintiffs were not entitled to the reliefs prayed for in the complaint, because the matter had already been settled by the Supreme Court in case G. R. No. L-5917, entitled Santiago Fonacier vs. Court of Appeals and Isabelo de los Reyes, Jr., promulgated on Jan. 28, 1955, and the action is already barred by res judicata; and that the return of the possession of the properties to plaintiffs, will cause irreparable injury to the three million members of the church. Defendant prayed for the denial of the injunction with the reservation to file his answer within the reglementary period. On October 11, 1957, plaintiffs-appellants presented a motion to Declare Defendant in Default on the ground that he failed to file his Answer within the extended period. An opposition was filed by the defendant-appellee, alleging, that the extended period had not yet expired. On October 28, 1957, the trial Court issued an order, declaring defendant in default and ordered the plaintiffs to present their evidence on November 15, 1957. The motion to set aside this order as well as the motion for reconsideration of the latter, were both denied in open court. Defendant-appellee has not appealed from the said Orders. As a matter of fact, the trial, which consisted in the reception of plaintiffs' evidence, proceeded without defendant filing any responsive pleading in the form of a Motion to Dismiss or Answer.

During the hearing for the issuance of the writ of preliminary injunction, Bishop Fonacier declared for the plaintiffs and Bishop De los Reyes testified in his own behalf. The trial court found that the two groups, essentially differ in their beliefs in many respects; and after considering the allegation of the complaint and the evidence submitted, held that the present case—

. . . has something to do with the faith, ritual, practice, discipline and usages of the IFI as embodied in the Doctrina y Reglas Constitucionales and the Officio Divino which the herein defendant had allegedly abandoned and repudiated.

Because of this abandonment and repudiation of the herein defendant, can this Court order the herein defendant to return to the herein plaintiffs the properties they have given to the church presently led by the defendant, Supreme Bishop Isabelo de los Reyes, Jr.? This question had already been settled in the case of Santiago A. Fonacier, petitioner, vs. Court of Appeals and Isabelo de los Reyes, Jr., respondents, No. L-5917, prom. January 28, 1955, Off. Gaz., Vol. 51, No. 3, p. 1332.

and consequently, on January 17, 1958, dismissed the complaint, without pronouncement as to costs.

In their appeal, directly taken to this Court, because the issues raised herein are purely legal in nature, appellants urged a reversal of the judgment of the lower court, on the following grounds:

1. The lower court erred in taking cognizance, motu proprio, of the defense of res judicata, it not having been pleaded by defendant-appellee either in a Motion to Dismiss or in an Answer;
2. The lower court erred in holding that the question of whether or not it could order the defendant-appellee to return to the plaintiffs-appellants the properties of the Iglesia Filipina Independiente has already been settled in the case of Santiago Fonacier vs. Court of Appeals and Isabelo de los Reyes, G.R. No. L-5917, promulgated January 28, 1955.

It is true that the defense of res judicata is ordinarily pleaded as an affirmative defense, such a plea, however, be raised in other ways. In the case at bar, the defense of a prior judgment in the accounting case G.R. No. 5917 was brought out by defendant in the course of his direct examination, at the hearing of appellants' petition for the issuance of a writ of preliminary injunction, the judgment on which, the trial court might take judicial notice. (Sec. 5 Rule 123; III Moran's Rules of Court, 1952 Ed., p. 32.) Defendant De los Reyes testified "x x x Bishop Fonacier, during the case of replevin in the courts, raised those issues that we have abandoned the faith, that we have become episcopalians, that we have changed the faith, the rites, ceremonies have changed. But

having an overwhelming majority of the church, and this being a democratic Church, we were perfectly entitled to administer the Church and that I was validly declared the Head of the Church and that not one valid vote of the Court of Appeals and the Supreme Court was against me."

Moreover, we would be indulging in sheer technicalities, to say that a court cannot take up the question of res judicata or any defense for that matter, *motu proprio*, when it is convinced that, because of a lawyer's omission or negligence, an irregularity, illegality or injustice is committed. By closing its eyes and/or crossing its arms, when the evidence produced by the very plaintiffs-appellants themselves during the hearing of the preliminary injunction in the present case, showed that the same subject matter and issues were involved in a former case, would be a disservice to the administration of justice. Technicalities which will not aid in the just determination of litigations, should be laid aside.

In order that a judgment can operate as a bar to another, the following attendant circumstances should concur:

(a)

It must be a final judgment or order;

(b)

The court rendering the same must have jurisdiction over the subject matter and of parties;

(c)

It must be a judgment or order on the merits; and

(d)

There must be between the two cases identity of subject-matter and identity of cause of action (*San Diego v. Cardona*, 70 Phil., 281, 283).

While the presence of the first three (3) requisites are deemed conceded, there is, however, a conflict as to the fourth.

The finding of the trial court that in the case at bar, all the essential requisites for the application of a binding judgment, are present, is correct. (*Aquino vs. Director of Lands*, 39 Phil., 850.)

There is identity of parties between the accounting case (G.R. No. L-6917) and the instant case. It is true that the plaintiffs in the present case are 45 alleged residents of Laoag, Ilocos Norte and not Bishop Fonacier; but a cursory perusal of the records, reveals that the instant case is evidently a continuation of the rivalry between Bishop Fonacier and Bishop De los Reyes, herein defendant. Admittedly, the plaintiffs are followers of Bishop Fonacier; they merely lent their names as ostensible plaintiffs in the complaint which they did not sign; their whole case rested on the testimony of Bishop Fonacier, who produced and identified the same books and documents produced and presented by him in the case L-5917; they served as a front to Bishop Fonacier; most of them knew nothing about the complaint, as in fact, Eulalia Domingo and Domingo Pajaro had denied they were parties to this action and disclaimed any interest therein. It should be recalled that Bishop Fonacier in G.R. No. L-5917 filed the case for himself and his church, as against respondent Reyes and his group. In the summing up of his brief in G.R. No. L-5917, Bishop Fonacier referred to himself as the "petitioner and his church" (p. 160, Petitioner's Brief, G.R. No. L-5917.) This is identical to the recapitulation of his brief, in the Court of Appeals, which states "xxx that the appellant and his church, on the other hand, have always adhered to and maintained intact the faith, doctrine, practices and the constitution of the Iglesia Filipina Independiente; xxx." (p. 98, Appellants' Brief, CA-G.R. No. 6371-R.) In G.R. No. L-5917, Bishop Fonacier proved for judgment "(c)

declaring that petitioner and his group are entitled to all the properties, rights and privileges of the Iglesia Filipina Independiente (pp. 178-168 Pet. Brief, G.R. No. L-5917). As appellant in the Court of Appeals, Bishop Fonacier and his group made the very same prayer (p. 106, Appellants' Brief, CA-G.R. No. 6371-R). All of which go to show that what said Bishop has stated in case G.R. No. L-5917, that he was merely defending himself in an individual capacity, protecting only his own personal interest, does not exactly reflect the truth. And considering the fact that the 45 plaintiffs-appellants herein "are suing collectively as members of the Iglesia Filipina Independiente, protecting not only their collective interests, but also the interest of the church itself," the conclusion is inevitable that they are a portion of the identical group which participated in case G.R. No. L-5917. Moreover, it appearing that Bishop Fonacier was not only defending case G.R. No. L-5917, in his name but of his church and/or group and that the 45 plaintiffs-appellants herein are also suing in their own names and the Church itself, it stands to reason that they were and are in privity with each other in law or estate; and the judgment in G.R. No. L-5917, so long as it remains unreversed, should be conclusive upon the plaintiffs-appellants (*Oberiano vs. Sobremesana*, L-4622, May 30, 1952).

It is contended by appellants that in G.R. No. L-5917, the subject-matter was the right to the office of Obispo Maximo of the IFI, while the subject-matter in the instant case, is the properties of the IFI. This is not correct. The complaint in the instant case, after praying for a preliminary injunction, restraining the defendant from using the name and properties of the IFI, also asked that judgment be rendered "(4) Ordering the defendant to deliver all properties, papers, effects and other assets of the IFI to the plaintiffs and/or person belonging to the IFI and who will continue to profess and practice the doctrines, faith, ritual, discipline and usages as embodied in the *Doctrina y Reglas Constitucionales* and *Oficio Divino* of the said Church, with costs against the defendant." The prayer of the complaint in G.R. No. L-5917, is to order (a) "al demandado Santiago A. Fonacier para que inmediatamente haga entrega el demandante Gerardo M. Bayaca como Obispo Maximo de la Iglesia aqui demandante, de todos los titulos, libros documentos, ornamentos, efectos y fondos, pertenecientes a la Iglesia, aqui demandante (b) para que rinda cuenta detallada de la disposicion que ha hecho de los fondos de la Iglesia aqui demandante que los tenia en fideicomiso durante al periodo desde al año 1943 hasta el 22 de enero de 1946 en que el demandado fue relevado del cargo de Obispo Maximo." In his affidavit of September 3, 1951, filed in CA-G. R. No. 6371-R (accounting case), Bishop Fonacier alleged that although the case involved the determination as to who is the legal Supreme Head of the IFI, with the right to possess, control and administer the church and its properties of the control, possession, and administration of all the said properties of the IFI were necessarily involved therein. The properties of the Church, according to said affidavit, consist principally of more than 300 churches of strong materials and the lots on which they are created, some of which are in the possession of the plaintiffs-appellees, while others are in the possession of the defendant-appellant.

Appellants contend that no similarity is perceivable, between the questions involved in the accounting case (G.R. No. L-5917) and the case at bar, arguing that although Bishop De los Reyes' abjuration had indeed been raised in the accounting case, it was nevertheless by-passed by the courts which held that it was irrelevant and immaterial. Admittedly, the Supreme Court, in affirming the decision of the Court of Appeals in the accounting case, made pronouncements that the question of Bishop De los Reyes,' alleged abjuration or apostasy was irrelevant and immaterial, to the issues involved in said case (*supra*). The cold fact, however, remains, that the trial court and the appellate-courts did pass upon and consider the said question, as in fact, evidence had been adduced to that effect by both parties. The Court of Appeals and the Supreme Court found that "there is no factual basis for the alleged abjuration or separation from the IFI of the appellees Bishop De los Reyes and Gerardo M. Bayaca."

In the accounting case (G.R. No. L-5917), Bishop Fonacier's amended supplementary answer averred that in the month of August, 1947, Bishop Isabelo de los Reyes, Jr. formally joined the Protestant Episcopal Church of America and has ceased to be a member of the IFI and has no legal capacity to sue as Obispo Maximo of said IFI.

In the Court of Appeals (CA-G.R. No. 6371-R), Bishop Fonacier in his first assignment of error alleged that the trial court erred in not holding that the appellees Isabelo de los Reyes, Jr. and Gerardo M. Bayaca, having abandoned the faith, fundamental doctrines and practices as well as the constitution of the IFI, and having adhered to those others, automatically ceased to belong to said Church and, consequently, did not acquire personality to maintain the present action. When Bishop Fonacier filed a petition for certiorari in this Court, to review the judgment of the Court of Appeals, he alleged, once more, that the latter erred:

X X X X X

"X. In holding that the new declaration of faith and the abandonment of the constitution of the Church were legally and validly adopted by the duly constituted Consejo Supreme and Asamblea Magna composed of legitimate members of the IFI headed by respondent Isabelo de los Reyes, Jr., and duly empowered by the Reglas Constitucionales (Ehxs. K and L) to take such action.

"XI. In holding that the consecration of De los Reyes, Jr., Bayaca, and Aguilar as Bishops by the American Protestant Episcopal Church was merely for the purpose of conferring upon them apostolic succession and there is no factual basis for their alleged abjuration or separation from the IFI.

"XII. In not holding that the respondent Isabelo de los Reyes, Jr., and Gerardo M. Bayaca, having abandoned the faith, fundamental doctrines and practices as well as the constitution of the Iglesia Filipina Independiente, and having adhered to those of others have automatically ceased to belong to said church, and consequently, have no personality to maintain the present action."

It thus clearly appears, that appellees' alleged abjuration and abandonment of the faith of the IFI had been already passed upon and determined in the accounting case; thereby giving way to the application of the doctrine of res judicata; considering that the essential requisites for its application to the case at bar, are present, namely (1) identity of parties; (2) identity of things; and (3) identity of questions involved. (Aquino vs. Director of Lands, 39 Phil., 850.)

"The foundation principle upon which the doctrine of res judicata rests is that parties ought not to be permitted to litigate the same issue more than once; that when a right or fact has been judicially tried and determined by a court of competent jurisdiction, or an opportunity for such trial has been given, the judgment of the court, so long as it remains unreversed, should be conclusive upon the parties and those in privity with them in law or estate. It is considered that a judgment presents evidence of the facts of so high a nature that nothing which could be proved by evidence aliunde would be sufficient to overcome it; and therefore it would be useless for a party against whom it can be properly applied to adduce such evidence, and accordingly he is estopped or precluded by law from doing so. Such is the character of an estoppel by matter of record, as in case of an issue on a question of fact, judicially tried and decided." (Oberiano vs. Sobremesana, L-4622, May 30, 1952.)

The plaintiffs-appellants bewail that it would be a dangerous precedent to leave them without remedy in court. There is no reason for such misgiving. Before the property rights of the parties can be passed upon, the question of apostasy or abjuration must first be determined by the majority of the members of the Church itself, because such question is inherently an ecclesiastical matter. When the present complaint was filed, this Court had already decided, in case No. L-5917, that no abjuration or apostasy was committed by Bishop De los Reyes. As the Court of Appeals has succinctly declared:

"It goes without saying that the properties of the IFI are held by a religious congregation; that said church conies under the second class described in the above-quoted decision; and that the numerical majority is on the side of the faction of the appellees, because 7 out of the 13 bishops of the church went to them and according to the statement of the Director of National Library, issued on May 22, 1947, appellee's faction was composed of 19 bishops and 252 priests whereas appellant's faction had only 10 bishops and 40 priests; and on January 22, 1948, its bishops and priests were 293 as against 64 of appellant's group (Exhibit 25).

"The amendments of the constitution, restatement of articles of religion and abandonment of faith or abjuration alleged by appellant, having to do with faith, practice, doctrine, form of worship, ecclesiastical law, custom and rule of a church and having reference to the power of excluding from the church those alleged unworthy of membership, are unquestionably ecclesiastical matters which are outside the province of the civil courts (45 Am. Jur., 748-752, 755).

"Appellant contends, however, that any such changes should be adopted by the church (Memorandum, supra). Without resolving whether the amendments in question (Exhibits 54 and 55) constitute repudiation of faith or involve wide departure from the fundamental and characteristic beliefs or policy of the IFI, we believe, and so hold, that the same were legally and validly adopted by the duly constituted Consejo Supremo and Asamblea Magna composed of legitimate members of the IFI, headed by Mon. Isabelo de los Reyes, Jr. and duly empowered by the Reglas Constitucionales, as amended (Exhibits K and L), to take such actions. Appellant's insistence that Bishops Aguilar, Remollino, De los Reyes, Jr., Bayaca, Kijano and Tablante, who took part in the adoption of said amendments, having been ousted by appellant's faction, were not authorized to act for the IFI, is untenable. We have already discussed and held somewhere in this opinion that the alleged ouster of the aforementioned bishops was null and void and, the election of Bishop De los Reyes, Jr. as Obispo Maximo was valid and we did recognize him as the sole and legitimate head of the IFI."

x x x x x

Whether the situation and conditions in the IFI and the feeling of the majority of the said Church regarding the matters treated herein, have changed or altered since the filing of the complaint at bar, We are not in a position to state just now, the same not being in issue.

In view of the above ruling, upholding the existence of res judicata, it would seem unnecessary to consider the other issues raised.

WHEREFORE, the judgment appealed from is hereby affirmed, with costs taxed on the appellants.

Bengzon, C. J., Bautista Angelo, Reyes, J. B. L., Barrera, Makalintal and Bengzon, J. P., JJ., concur.

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