

**THE SUPERINTENDENT OF THE LA LOMA CATHOLIC CEMETERY,
PETITIONER; VS. THE COURT OF INDUSTRIAL RELATIONS, AND THE
LA LOMA CATHOLIC CEMETERY FREE WORKERS. (FFW),
RESPONDENTS.**

G.R. No. 13365. July 31, 1963

Ponente: CONCEPCION, J.

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CONCEPCION, J.:

This is an appeal by certiorari under Rule 44 of the Rules of Court from a resolution of the Court of Industrial Relations dated December 11, 1957, affirming an order of June 28, 1957.

It appears, in the language of said order of June 28, 1957, that:

"On November 21, 1956, the La Loma Catholic Cemetery Free Workers (FPW), hereinafter referred to as petitioner union, filed with this Court a petition praying that it be certified as the sole and exclusive bargaining representative for all the employees and laborers in the La Loma Catholic Cemetery, hereinafter referred to as the management, under Republic Act No. 875. Acting upon the said petition, the Court issued an order dated November 23, 1956, requiring the management to file and serve its answer to the petition within five (5) days after receipt of a copy thereof. The superintendent of the management, through counsel, instead of filing its answer, filed a motion dated December 18, 1956, praying this Court to dismiss the petition for lack of jurisdiction on the grounds (a) that Republic Act No. 875 does not apply to the La Loma Catholic Cemetery, being a religious temporality; (b) that the La Loma Catholic Cemetery is a non-profit enterprise, and not an industry or occupation, and its employees and/or laborers not being industrial employees and/or laborers. This Court, in an order dated January 21, 1957, deferred its determination on the said motion to dismiss pursuant to Section 3, Rule 8 of the Rules of Court, and required the management to file its answer to the petition.

"On January 30, 1957, management filed its answer alleging among others, as special defense, that the La Loma Catholic Cemetery is not an industrial, commercial, business or profit-making enterprise, but a religious temporality of the Roman Catholic Church which carries purely religious activities, like the burial of the dead; and that the La Loma Catholic Cemetery is not subject to the obligations of an employer under Republic Act No. 875, and prayed that the petition be dismissed."

After appropriate proceedings, Hon. Jose S. Bautista, Presiding Judge of the Court of Industrial Relations, issued the aforementioned order of June 28, 1957, holding that Republic Act No. 875 applies to the La Loma Catholic Cemetery, that the same is an employer within the purview of Section 2 (c) of said Act and that said cemetery is operated "for profit or for the acquisition of wealth", and denying the motion to dismiss and certifying the La Loma Catholic Cemetery Free Workers (FFW) as the sole and exclusive representative for collective bargaining purposes of all the employees and workers of the La Loma Catholic Cemetery, with the exception of the superintendent and the assistant superintendent thereof, A reconsideration of said order having been denied by the Court sitting en banc, in a resolution dated December 11, 1957, the superintendent of the cemetery interposed the present appeal by certiorari.

The main facts are set forth in the aforementioned order of June 28, 1957, in the following language:

"The evidence presented by the La Loma Catholic Cemetery Free Workers (FFW) tends to show that it is a legitimate labor organization with Registration Certificate No. 1869-IP (Exhibit 'A') having 21 members (Exhibit C) employed by the La Loma Catholic Cemetery; that the 21 members of petitioner are employees (as members of the office personnel) and workers (as grave diggers and ground workers) in the La Loma Catholic Cemetery out of the total number of 25 employees and workers thereof; that as claimed by petitioner the La Loma Catholic Cemetery should be the appropriate bargaining unit; that no other union exists therein except petitioner; that no certification election was ever held during the last twelve months next preceding this present petition; and that petitioner has been preponderantly designated by the majority of the employees and workers thereof as their sole and exclusive bargaining representative in said unit. Under such circumstances, Mr. Loreto Sakdalan who testified in court for petitioner and who claimed that he is a member and president of petitioner union, sent a letter dated August 10, 1956 (Exhibit 'B') with the proposals to Mr. Vicente Hernandez, the superintendent of the management (La Loma Catholic Cemetery), informing him, among others, of the existence of the Union, the Free Worker Organizing Committee (FFW), Local 7 (t.s.n. pp. 9 & 10, hearing of April 1, 1957). But those proposals appeared not to have been accepted by the management.

"On the other hand, the evidence of the management tends to show that the La Loma Catholic Cemetery is not incorporated, but a part, instrumentality or possession of the corporation sole, the Roman Catholic Archbishop of Manila; that the corporation sole is engaged in the sale and rentals of lots within the La Loma Catholic Cemetery for the burial of the dead. The management also collected proceeds from the rentals of niches for every five years and the registration of dead bodies. These proceeds went to the funds of corporation sole, the Roman Catholic Archbishop of Manila. The salaries and wages of the employees and laborer and the expenses for the maintenance and improvements of the cemetery came from these funds. For religious activities or obligations the management, through the Chaplain, required the ground and office personnel during Sundays and religious holidays to hear mass said by the Chaplain; that when the cemetery was opened it was blessed and sanctified; that the management also bury dead indigents free of charge; and that the properties (cemetery lots) are exempt from the payment of taxes. It also appears from the testimony of the superintendent, Mr. Vicente Hernandez, that there are around twenty (20) members of petitioner whom he supervises, although there is one (1) non-union member, so that all in all there are only twenty-one (21) workers under his supervision. There are also two (2) ordinary employees and an assistant superintendent who are not members of the petitioner union; that there is no other union existing in the management except petitioner. The management opposed the present petition because it would not want to deal with people outside but directly with its employees and workers; and that it would not want to recognize the union organized by the petitioner's members in this case (t.s.n., p. 30, hearing of June 7, 1957). But the management directly granted benefits to its employees and workers on September 16, 1956 (Exhibits 'I' and 'I-A'). The workers are assigned to dig graves and cover them, do the cleaning of the herbs and leaves. Even on Sundays and holidays the diggers work.

"Considering all the evidences, both oral and documentary, presented by both parties, there is no doubt that petitioner union has the majority members employed in the establishment (La Loma Catholic Cemetery), taking into account that petitioner has 21 members out of the total number of 24 employees and workers working in the establishment, excluding one (1) superintendent; and one (1) assistant superintendent; there was no dispute that an employer-employee relationship between the management and the members of petitioner union; no other union exists in the establishment except petitioner, and that petitioner has been designated for the purpose of collective bargaining by the majority of the employees and laborers in the establishment; and that petitioner is a legitimate labor organization with Registration Certificate No. 1869-IP (Exhibit 'A')".

The issue in this case is whether or not the La Loma Cemetery is operated for profit and is subject to the provisions of Republic Act No. 875.

Appellant relies upon our decision in *Boy Scouts of the Philippines vs. Araos*, 102 Phil., 1080 (January 30, 1958) in

support of his contention that Republic Act No. 875 is inapplicable to the La Loma Catholic Cemetery and, hence, the Court of Industrial Relations had no jurisdiction to grant the relief prayed for by the La Loma Catholic Cemetery Free Workers (FFW), said cemetery being allegedly a non-profit religious temporality of the Roman Catholic Archbishop of Manila. Inasmuch, however, as this theory is predicated upon the premise that the cemetery is not operated for profit, contrary to the finding made in the order of June 28, 1957, the case hinges on the validity of said finding. The same reads:

* * * according to the facts disclosed in this case, * * * the La Loma Catholic Cemetery has its investment, the cemetery lots, opening or producing of graves which is characterized by religious blessings and sanctification, collecting proceeds from the sales of lots, collecting rentals from the niches and charging fees from the registration of dead bodies—all for profit or for the acquisition of wealth."

Upon review of the record we find therein no substantial evidence, in support of the foregoing conclusion. To begin with the fact that income is derived from the sale of lots and lease of niches for burial purposes does not necessarily make the La Loma Catholic Cemetery a profit-making organization. Thus, in *Jesus Sacred Heart College vs. Collector of Internal Revenue*, 95 Phil., 16 (May 20, 1954), we held:

"At the outset, we note that Appellant (Collector of Internal Revenue) has not even tried to demonstrate either 'that the fees charged are very considerable' or that 'the amount of fees charged indicates that it is commercial.' Neither has he shown the presence of the purpose to make a profit over and above the costs of instruction.' At any rate, this standard cannot be applied in the interpretation of the legal provision under consideration, for the following reasons, namely:

1. Section 27 (e) of the National Internal Revenue Code, as amended by Rep. Act. No. 82 (Section 5), exempts from taxation the 'net income of corporations' organized and operated exclusively for * * * educational purposes * * * no part of the net income of which inures to the benefit of any private stockholder or individual.' and it is conceded that plaintiff corporation belongs to this class. To hold that an educational institution is subject to income tax whenever it so administered as to reasonably assure that it will not incur in deficit, is to nullify and defeat the aforementioned exemption. Indeed, the effect, in general, of the interpretation advocated by appellant would be to deny the exemption whenever there is a net income, contrary to the tenor of said section 27 (e) which positively exempts from taxation those corporations or associations which, otherwise, would be subject thereto, because of the existence of said net income.

Needless to say, every responsible organization must be so run as to, at least, insure its existence, by operating within the limits of its own resources, especially its regular income. In other words, it should always strive, whenever possible, to have a surplus. Upon the other hand, appellant's pretense would limit the benefits of the exemption, under said section 27(e), to institutions which do not hope, or propose, to have such surplus. Under this view, the exemption would apply only to schools which are on the verge of bankruptcy; for—unlike the United States, where a substantial number of institutions of learning are dependent upon voluntary contributions and still enjoy economic stability, such as Harvard, the trust fund of which has been steadily increasing with the years—there are, and there have always been very few educational enterprises in the Philippines which are supported by donations, and those organizations usually have a very precarious existence. The final result of appellant's contention, if adopted, would be to discourage the establishment of colleges in the Philippines, which is precisely the opposite of the objective consistently sought by our laws."

Similarly in *American Bible Society vs. City of Manila*, 101 Phil, 386 (April 30, 1957), we declared that the circumstance that the American Bible Society sold and distributed bibles and other religious pamphlets at price somewhat exceeding the actual cost thereof, does not warrant the conclusion that said organization "was engaged in the business or occupation of selling said "merchandise, for profit." To the same effect is *Collector of Internal*

Revenue vs. Club Filipino Inc. de Cebu, L-12791 (May 31, 1962).

Secondly, there is no evidence that, after deducting the expenses incurred for the operation and maintenance of the cemetery the same has derived any monetary profits therefrom.

Thirdly, petitioner herein alleged inter alia, in his answer in the lower court, that the La Loma Catholic Cemetery" is a religious temporality maintained and administered by the corporation sole, the Roman Catholic Archbishop of Manila;" and, that as such religious temporality, it is maintained principally and essentially to carry out a purely religious objective—the burial of the dead in blessed and sanctified grounds, according to the rights, customs and requirements of the Catholic religion;" that it "is not an industrial, commercial, business or profit making enterprise, and whatever income is derived from the operation of the cemetery does not inure to the benefit of private individuals, but is dedicated to the maintenance and improvement of the cemetery"; and that, "because of its religious character," it "is exempt from the payment of realty taxes," pursuant to Section 22(3), Article VI of our Constitution. Respondent union has neither controverted these allegations nor introduced evidence to rebut petitioner's evidence in support thereof. Indeed, petitioner testified, without contradiction, that the dead are buried in the aforementioned cemetery according to the rites of the Roman Catholic Church; that a Catholic chaplain is permanently assigned to said cemetery; that there is therein a Catholic chapel, where the dead are blessed before burial; that religious obligations are imposed upon the laborers and workers in the cemetery, such as the duty to hear mass on Sundays and other holidays of obligations; and that no fees are charged for the burial of those who were indigent in life.

Being a purely religious temporality and a non-profit enterprise, the La Loma Catholic Cemetery falls squarely within the purview of *Boys Scouts of the Philippines vs. Araos* (supra), in which it was held that employees and laborers in non-profit organizations are not covered by the provisions of the Industrial Peace Act and that the Court of Industrial Relations has no jurisdiction to entertain petitions of labor unions or organizations for certification as the exclusive bargaining representatives of said employees and laborers. Although the writer of this opinion has dissented from the majority view in the case of the *Boy Scouts of the Philippines*, the doctrine therein laid down must be adhered to in the case at bar and in subsequent cases, as long as it is not reversed or modified by this Court. Instead of doing this, the latter has reiterated said doctrine in *University of San Agustin vs. Court of Industrial Relations*, 103 Phil., 926; *La Consolacion College vs. CIR*, 107 Phil. 636; *University of the Philippines vs. CIR*, 107 Phil., 848; *GSIS Employees Association, et al. vs. Hon. Alvendia*, 108 Phil., 505; *Roman Catholic Archbishop vs. Social Security System*, 110 Phil., 616; *Dept. of Public Services Labor Union vs. CIR*, 110 Phil., 927; and *Santos vs. CIR*, L-17196 (December 28, 1961).

WHEREFORE, the resolution and the order appealed from are reversed and this case is hereby dismissed, without costs. It is so ordered.

Bengzon, C. J. Bautista Angelo, Labrador, Reyes, J.B.L., Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur

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