

P. JOSE EVANGELISTA, PLAINTIFF AND APPELLANT, VS. P. ROMAN VEE, DEFENDANT AND APPELLEE.*G.R. No. 2264. September 28, 1907*

Ponente: TRACEY, J.

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This action to recover possession of the parish church at Laoag, in Ilocos Norte, was brought before a justice of the peace and, having been decided by him in favor of the plaintiff, was retried in the Court of First Instance, which rendered a judgment in favor of the defendant.

In November, 1902, the plaintiff, who had for nearly two years been the priest in control of the parish, left for Manila, turning over his charge to the defendant, who had been acting as his coadjutor or assistant. It is clear that at this time the plaintiff had abandoned the Roman Catholic Church and was an avowed representative of the Independent Filipino Church. He himself testified that he made the change in October, 1902, when he signed a declaration of allegiance to the independent bishop of that district, by whom he was in writing appointed pastor on October 6, and about that time he publicly proclaimed his possession, under that appointment. By a local popular assembly in July, 1902, as well as by the municipal junta in August, 1902, he had been recognized as pastor, neither of these bodies, however, in the resolutions adopted by them, making reference to the independent church or to any religious division. Up to this time he had undoubtedly acted as a minister of the Roman Catholic Church, as appears from his communications with the temporary occupant of the Episcopal See of Nueva Segovia, the Most Reverend Fidel Larrinaga, to whom he wrote on January 8, 1901, accepting his provisional appointment to the administration of the curacy of Laoag, and an authorization to sign its official records. It appears from this letter, as well as from other testimony, that there being no permanent curate in the parish, it had for some time been cared for by three priests of the Roman communion and that in consequence of the illness of the eldest of these, Padre Ciríaco Blanco, the duties of the curacy had fallen upon the plaintiff, who was assisted by the defendant.

While the attitude of the defendant toward the new organization is left somewhat in doubt, his own contention is that he never recognized it nor adhered to it.' The argument of the plaintiff to the contrary rests upon a declaration dated October 15, 1900, signed by both the plaintiff and defendant together with several other priests of the province, pledging themselves to a course of conduct, in which there is nothing to indicate an adherence to one church or the other, unless the third clause, in which it is laid down that they should sustain the rights of the Philippine clergy over the Philippine Church. The time was one of great confusion, consequent upon war and insurrection, when the tenure of office by the clergy was beset with uncertainties. The signature of this document nearly two years in advance of the organization of the Independent Church in the province, which seems to have occurred in August, 1902, does not fairly prove the adherence of those signing it to the forthcoming organization, especially as it is plain that this very plaintiff continued during these two years to administer the rites of the elder church and to act under its appointment. There is contradictory oral testimony by witnesses concerning the part taken by the defendant at the time of the secession, not as to his overt acts, but as to his understanding of the

position of the seceding priests, and as to the extent of his cooperation with them. We find nothing in the evidence seriously conflicting with his claim that he made and intended to make no change, except the admitted fact that he accepted the charge of the church from the plaintiff, whose public profession of an independent faith and whose avowed exercise of its ministry must have been known to him.

On the 28th day of February, 1903, the defendant formally assumed office as curate and was, by the Roman Catholic bishop, formally appointed permanent curate or parish priest on March 30, 1903. During all this time the plaintiff seems to have been absent from the locality, professing to act not as curate of Laoag, but as bishop of the diocese of Manila. It is not shown that the vacancy in the curacy of the Independent Church, caused by his promotion and removal, ever has been filled.

The justice of the peace was of the opinion that the arrangement between these parties constituted a private contract under which the defendant having received possession of the property from the plaintiff was bound to return it to him on demand, being estopped from setting up an adverse title. In two cases in this court it has been held that a person taking possession of parish property in somewhat similar circumstances may not deny the title of his ecclesiastical superior from whom he received it. (*Barlin vs. Ramirez*, 7 Phil. Rep., 41; *Dougherty vs. Evangelista*, 7 Phil. Rep., 37.)

In the *Barlin* case it was said :

"As to the defendant, *Ramirez*, it appears that he took possession of the property as the servant or agent of the plaintiff. The only right which he had to the possession at the time he took it was the right which was given to him by the plaintiff, and he took possession under the agreement to return that possession whenever it should be demanded of him. Under such circumstances he will not be allowed, when the return of such possession is demanded of him by the plaintiff, to say that the plaintiff is not the owner of the property and is not entitled to have it delivered back to him. The principle of law that a tenant can not deny his landlord's title, which is found in section 333, paragraph 2, of the Code of Civil Procedure, and also in the Spanish law, is applicable to a case of this kind. An answer of the defendant, *Ramirez*, in which he alleged that he himself was the owner of the property at the time he received it from the plaintiff, or in which he alleged that the pueblo was the owner of the property at that time, would constitute no defense. There is no claim made by him that since the delivery of the possession of the property to him by the plaintiff he has acquired the title thereto by other means, nor does he in his own behalf make any claim whatever either to the property or to the possession thereof."

It is contended that either as a tenant to his landlord, a servant to his master, or an agent to his principal, the defendant is bound to the plaintiff for the restitution of the property. It is obvious that in applying to the relations of ecclesiastical officials these various terms we have done so by way of analogy only, not intending to place them in any one of these classes. Indeed, strictly speaking, they fall within no part of this classification. In the United States it has been held that the relation between a Roman Catholic bishop and a pastor of a church in his diocese is not that of master and servant (*Baxter vs. McDonnell*, 155 N. Y., 83, p. 99), not that of hirer and hired, nor of principal and agent (*Tuigg vs. Sheehan*, 101 Pa., 363). They are fellowservants of their church, for which the bishop acts merely as a superior agent and not as a principal. (*Rose vs. Vertin*, 46 Mich., 457.) Nor are they landlord and tenant. (*Chatard vs. O'Donovan*, 80 Ind., 20.) A like rule in respect of master and servant has been laid down as to bishops and clergy of the Methodist Episcopal Church. (*Bristor vs. Burr*, 120 N. Y., 427.) By way of further illustration we may add that their relation is somewhat akin to that of principal and assistant teacher of a school, one of subordination without agency or service, their powers not passing from the one to the other directly, but only indirectly through the person of their common principal or master.

If the defendant had been an independent third person, not already charged with duties in regard to the property, he would have come into possession of it as representative of the plaintiff only, and then the question would have

arisen whether under the law of the Barlin and Dougherty cases he was estopped to deny the title of his grantor or principal. The facts herein before recited are sufficient to show that such was not the true relation of these parties.

At the outset and up to the 15th of October, 1902, they both, together with the sick priest, were in care of the parish, the plaintiff, however, by ecclesiastical authorization, performing the office of pastor. They both owed allegiance and duty to the Roman Catholic Church, a juridical person, which long had been the owner of the property. It is admitted that, as against that owner, neither of them separately could have set up an adverse claim to any part of the property, nor could both of them have been allowed to make such a claim jointly. Can it be that what they could not do either jointly or separately, they could compass by interaction, so that one of them could free the other from his obligation to their common superior for the property committed to their care? It is not disputed that at the suit of the Roman Catholic Church, the plaintiff, were he in possession, must yield up the property, but it is urged that in the first instance the defendant, although in occupation as a delegate of that church, must surrender it to him, leaving him in turn to be deprived of possession in an action by the defendant's principal, the owner, thus involving the parties in two unnecessary lawsuits, a result that indicates the error in the argument. It is also said that the defendant, after recognizing his possession under the plaintiff, had no right to return to his former allegiance. The answer to this is that, in so far as it involves property rights and obligations, allegiance is not a thing to be shaken off at will, and the real owner being now in possession of the property and continuing to maintain the defendant there as its representative can not be temporarily ousted on the strength of any alleged act of disloyalty on his part. We do not think that the defendant ever lost his right, growing out of his duty, to defend his possession in behalf of his principal, the owner of the property.

As a second obstacle to a recovery by the plaintiff, the defendant takes the ground that, according to the canons of the Roman Catholic Church, it is not within the powers of a pastor to alienate church property or to attorn for it to an adverse claimant, or to relieve his assistant from his duty in respect to it, or to vary his rights and obligations, and that these acts are controlled by the rules of the church under which they were serving.

It is settled law in the United States that the canons and rules of a church will be enforced in adjusting property rights growing out of ecclesiastical relations. They enter into the contract and appointment of officers and members in the same manner as do the bylaws of a mercantile association or of a club, and, when not in contravention, of established law, they will be sustained by the courts. (*Watson vs. Jones*, 80 U. S., 679; *Baxter vs. McDonnell*, 155 N. Y., 83, p. 93; *Leahey vs. Williams*, 141 Mass., 345; *Roshi's Appeal*, 69 Pa., 462.)

In the new order of things in these Islands we perceive no reason why the same principle should not be applied here and to all religions alike. The constitution of the Roman Catholic Church, in so far as it is already recognized and defined under Spanish laws that have come down to us, can be taken cognizance of by the courts up to the time of the American dominion, but as to the changes effected since that time, it also is a proper subject of proof. It is not clear, however, that in the instance we have before us there is sufficient proof to serve as the basis of a judgment, on this ground.

A third defense arises out of the plaintiff's own status. Such possession as he may have held or claimed after leaving the Roman Catholic Church, he did not seek to justify in his individual character, but rather by virtue of his appointment as pastor of the Independent Church, an office which, by his removal and acceptance of another dignity, he may fairly be assumed to have vacated. If so, any right of his to demand possession from the defendant would "seem to have passed to his successor or to lie dormant. At least it is not clear that as Independent bishop of the diocese of Manila he is entitled to the possession of a church at Laoag, which is shown to be within the province of another Independent bishop. The rules of the Independent Church on the subject of appointment, tenure, and vacancies are not before us, and for this reason we prefer not to rest our judgment on this point, but to dispose of the case on the ground first considered.

The judgment of the Court of First Instance is affirmed with costs.

Arellano, C. J., Torres and Johnson, JJ.; concur.

DISSENTING

WILLARD, J.,

After the plaintiff had been appointed by the bishop of the Independent Filipino Church the parish priest of Laoag, he took formal possession of the church building by virtue of such appointment on the 23d day of October, 1902. The defendant himself testified that this taking of possession was celebrated with all the ecclesiastical rites appropriate to such an act. By accepting such appointment and taking possession of the building as aforesaid, the plaintiff definitely separated himself by a formal act from the Roman Catholic Church. After that date he ceased to hold possession of the property as the representative of that church, but held possession thereof for the Independent Filipino Church. The Roman Catholic Church then lost the actual possession of the building, and thereafter the person in possession thereof was the Independent Filipino Church. This change of faith by the plaintiff could not, of course, deprive the Roman Catholic Church of its right to recover such possession, but the fact that it had then definitely lost it for the time being is clear. If it had commenced an action against the plaintiff, this court would have applied the rule laid down in the cases of *Barlin vs. Ramirez* (7 Phil. Rep., 41) and *Dougherty vs. Evangelista* (7 Phil. Rep., 37), and would have held that the plaintiff, having received the possession of the property from the authorities of the Roman Catholic Church, could not set up as a defense the claim of the Independent Filipino Church. By virtue of the rule laid down in those decisions he would have been bound to return the property to the person from whom he received it. No such action has, however, been commenced. The Roman Catholic Church has brought no action against the plaintiff to vindicate its rights to the possession.

The Independent Filipino Church was in the actual possession of the building on November 12, 1902. It was holding such possession by the plaintiff, the person whom it had appointed for that purpose. On that day the plaintiff delivered such possession to a third person to hold the same during the temporary absence of the plaintiff in Manila. On his return from Manila he brought this action under the provisions of section 80 of the Code of Civil Procedure and within one year from November 12 to recover the possession so delivered by him to such third person. The only question is, whether or not in such an action the defendant will be allowed to prove that at the time he received the possession of the property from the plaintiff, the latter had no rights of possession.

To say nothing of the general principles of law applicable to such a case, it would seem that the question had been definitely decided in the cases of *Barlin vs. Ramirez* and *Dougherty vs. Evangelista* above cited. In the first of these cases this court said :

"As to the defendant, Ramirez, it appears that he took possession of the property as the servant or agent of the plaintiff. The only right which he had to the possession at the time he took it was the right which was given to him by the plaintiff, and he took possession under the agreement to return that possession whenever it should be demanded of him. Under such circumstances he will not be allowed, when the return of such possession is demanded of him by the plaintiff, to say that the plaintiff is not the owner of the property and is not entitled to have it delivered back to him. The principle of law, that a tenant can not deny his landlord's title, which is found in section 333, paragraph 2, of the Code of Civil Procedure, and also in the Spanish law, is applicable to a case of this kind."

In the case of *Dougherty vs. Evangelista* this court said:

"We consider that it is not open to the defendant, when the day of payment has come, to challenge the right which he did not question at the time of borrowing. From the Roman Catholic bishop of Nueva Segovia he took the money, and to the Roman Catholic bishop of Nueva Segovia he must repay it, whatever may have been the title under which the latter held the funds of the *cofradía*."

The distinction made by the court between these cases and the present one seems to rest upon these grounds:

(1) It is said that on November 12, when the defendant received the possession of the church from the plaintiff, he, the defendant, was not a member of the Independent Filipino Church, but a priest of the Roman Catholic Church. The religious belief of the defendant, however, has no bearing on the question. His duty to return this property rests, not upon the fact that he was a member of the same church to which the plaintiff belonged, but upon the fact, that he received it from the plaintiff. It is a matter of no importance whether the person receiving the property was a priest or a layman. Its receipt from the plaintiff imposed upon the defendant the duty of returning it to the person from whom he received it, whether he, the defendant, was a priest of one church or another. The fact that he was afterwards, in 1903, appointed parish priest by the authorities of the Roman Catholic Church gave him no more right to deny the plaintiff's title than he had before.

(2) It is further said that at the time the defendant received the property from the plaintiff he, the defendant, was already charged with duties in regard thereto; that he never lost his right to defend his possession in behalf of his principal, the owner of the property.

If by this it is intended to say that after October 23, when the plaintiff took formal possession of the building as the representative of the Independent Filipino Church, the defendant had any control over the same as the representative of the Roman Catholic Church, or was charged with any duties relating thereto by that church, then the evidence in the case does not support such statement. Whatever the relations of the defendant to the building may have been before October 23, it is certain that after that date he had no control over it, nor any right to interfere therewith, except such as he may have derived from the plaintiff, the representative of the Independent Filipino Church. There was only one parish priest and he was the plaintiff. He was the only person in possession. The defendant testifies that after the plaintiff departed on November 12 the parish books were for some time still signed with the plaintiff's name. If the defendant served in the church as a priest, he did it by sufferance and permission of the plaintiff, and not by authority of the Roman Catholic Church. As the plaintiff says in his testimony, it is impossible to conceive of two priests working harmoniously in one church, one as the representative of the Filipino Independent Church and the other as the representative of the Roman Catholic Church.

It is said that the Roman Catholic Church is the owner of the building and that, if the plaintiff recovers in this case, the Roman Catholic Church can at once commence an action to eject him, and that a decision in favor of the plaintiff would involve the parties in two unnecessary lawsuits. This suggestion would be equally applicable to any case where the owner of the property had violently and forcibly taken the possession thereof from his tenant, who seeks to be restored to the possession under the provisions of section 80 above cited.

(3) It is further said that the doctrines of the canon law and not those of the civil law are to be applied to the settlement of this question.

Without dwelling upon the fact that the contrary was held in the case of *Barlin vs. Ramirez*, and that when property rights are brought before the civil courts for discussion they must be settled by the civil laws which govern such courts, it is sufficient to say in answer to this contention that an examination of the authorities cited by the court in support of this theory will probably show that such rules of the church were applied in suits between parties who belonged to the same religious organization. In such litigation, as in litigation between

members of chambers of commerce, boards of trade, and fraternal societies, it is customary to apply the rules which the parties themselves have adopted to govern their relations with each other.

But these cases have nothing to do with the case at bar. This is not a controversy between persons belonging to the same organization. It is a controversy between the plaintiff, who belongs to and represents the Independent Filipino Church, and the defendant, who belongs to and represents the Roman Catholic Church. In substance it is a controversy between the two churches, which are rival ecclesiastical organizations. In such a controversy, the rights of the plaintiff can not be determined by the rules which govern the relations of the defendant and his ecclesiastical superiors in the Roman Catholic Church. It might as well be said that the rights of the defendant could be determined by the rules of the Independent Filipino Church which govern the relations between the plaintiff and his superiors.

It would be a strange doctrine to announce that a tenant Avho was sued by his landlord to recover possession of a dwelling house rented by the latter to the former might successfully defend the action by alleging that he belonged to a religious society, to which the plaintiff was an entire stranger, by the rules of which any property, the possession of which he acquired by lease, he must turn over to the church to which he belonged and was forbidden by such rules to return it to the person from whom he received it. However binding such rules might be in litigation between the society and the defendant, they could in no way prejudice the rights of the plaintiff, a stranger to such society. To apply such a doctrine would be to say that the rule of the civil law, that a tenant can not deny his landlord's title, has no application to a tenant who belongs to a society whose rules permit and require him to do so.

(4) It is also suggested that whatever rights the plaintiff might have had as a parish priest of Laoag, he has lost, because he has ceased to be such priest and is now a bishop of the Independent Filipino Church. No such question as this seems to have been raised by the pleadings in the court below. It is not mentioned in the briefs in this court. It seems probable that a failure of the defendant to claim in his answer that the proper representative of the Independent Church had not brought the action would constitute a waiver of such a claim, if in any event it would be a defense to such an action as this, brought under section 80. (Code of Civil Procedure.)

Paraphrasing the quotation above made from the case of Dougherty vs. Evangelista, and applying it to this case, we would have the following: We consider that it is not open to the defendant, when the day of return has come, to challenge the right which he did not question at the time of receipt. From the parish priest of the Independent Church of Laoag he received the building, and to the parish priest of the Independent Church of Laoag he must return it, whatever may have been the title under which the latter held the property.

In my opinion the judgment should be reversed:

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