

**MONS. ALFREDO VERZOSA, ROMAN CATHOLIC APOSTOLIC BISHOP
OF LIPA, CONSTITUTED AS A UNIPERSONAL RELIGIOUS
CORPORATION, PLAINTIFF AND APPELLANT, VS. ZOSIMO
FERNANDEZ ET AL., DEFENDA...**

G. R. No. 25254. November 22, 1926

Ponente: STREET, J.

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STREET, J.:

This action was instituted in the Court of First Instance of Laguna by Monseñor Alfredo Verzosa, as Roman Catholic Apostolic Bishop for the diocese of Lipa, constituted as a unipersonal religious corporation, for the purpose of compelling the defendants, Zosimo Fernandez, Salvador Unson, Tomas Cabreza, Ramon Fabella, Pedro F. Caballes, and Pedro Lavadia, to account for a fund held by them as trustees pertaining to the Brotherhood (Archicofradia) of the Most Holy Sacrament of the town of Pagsanjan, and for other purposes. The complaint as originally filed on June 22, 1925, was amended on October 16, 1925, for the purpose of adding to the allegations of the complaint certain facts relative to a litigation heretofore conducted by the Roman Catholic Apostolic Archbishop of Manila against the predecessors of the same defendants. The defendants demurred both to the original and amended complaints. As stated in the demurrer to the amended complaint, the grounds of exception to the complaint are three: First, that the plaintiff has no right to maintain the action; secondly, that the facts alleged in the complaint do not constitute a cause of action; and, thirdly, that the court lacks jurisdiction to entertain the suit. Upon hearing the cause the trial court sustained the demurrer and, upon election of the plaintiff not to amend further, the court dismissed the action, with costs against the plaintiff. From this judgment the plaintiff appealed.

On February 20, 1807, a number of individuals constituting or representing the guild of sangley mestizos of the pueblo of Pagsanjan, in the Province of Laguna, united themselves into a religious association or brotherhood for the purpose of raising and supplying, from year to year, the means necessary to meet the expenses of the annual fiestas in honor of the Most Holy Sacrament and of their patroness the Virgen Lady of Guadalupe, as well as for the further purpose of procuring the celebration of an annual requiem mass for the repose of the souls of the deceased members. The step met the approval of their superior, the Archbishop of Manila, who was at the time upon a pastoral visit in Pagsanjan, and the brotherhood was formally organized under the name of La Archicofradia del Santisimo Sacramento. Under the law as it then existed royal approval was essential to the legality of an association of this character; and it was not until July 23, 1819, that a royal cedula was issued by the king of Spain, placing the brotherhood upon a lawful basis and defining the manner in which it should be organized and conducted. Meanwhile, however, under the approval of the Archbishop, the association had begun exercising its functions and had maintained a de facto existence from the time of its first organization.

On August 10, 1807, or within less than six months from the inception of the project, the members of the guild who were cooperating in the creation of the brotherhood held a meeting in which they raised a fund of P1,128.86, for the purpose of promoting the purposes expressed in the minutes of the meeting and of which more specific

mention will presently be made. The administration of this fund was confided to the love, zeal and prudence of the directorate of the brotherhood (cuyo manejo y administration hemos depositado en amor, celo y prudencia del Hermano mayor y demds hermanos de mesa de la Archicofradia del Santisimo Sacramento). By this arrangement "the Elder Brother and other Brothers of the Executive Board"—an expression for which we may perhaps substitute the briefer collective term "Directorate"—became trustee for the administration of the fund. From this it will be seen that, instead of being the particular property of the brotherhood, the fund was intended to be merely held and administered by the Directorate in trust for the purposes specified by the founders. With respect to the administration of the fund it was, among other things, provided that the money should be lent from year to year upon interest at the rate of, 5 per centum per annum, preferably to the founders or their descendants other than the actual administrators of the fund. A number of other provisions, not necessary to be here specified, were made with a view to the conservation of the fund and the accumulation of the interest with the capital until the amount of the fund should reach at least P6,000. That the provision with respect to the careful lending and conservation of the money has been followed with fidelity seems to be indicated in the fact that the amount of the trust fund now in the hands of the defendants is alleged to be approximately P29,921, as of the date of March, 1922.

With respect to the uses to which the income might be applied, it was declared that, in consideration of the management of the fund by the Directorate of the brotherhood, the founders ceded to the brotherhood, in its own particular right, so much of the income as might be necessary to supplement other available funds for the celebration of the fiestas to the maintenance of which the brotherhood had obligated itself, as well as the amount necessary to pay the salary of the school teacher of the guild and the further amount needed for the celebration of two masses for any member of the Directorate who might die. Then follows a provision to the effect that, when the fund reaches the amount of P6,000, there should be applied from the income an amount necessary to pay a teacher of grammar for the instruction of the children of mestizos who desired to follow the literary career. Among other provisions we note the requirement that members of the Directorate shall respond personally for any part of the fund lost by their remissness or malice, and to this end it is declared that they shall account to the Gobernadorcillo, for the time being, of the place.

Proceeding now to examine the provisions contained in the royal cedula of July 23, 1819, relative to the constitution of the Board of Directors of the brotherhood (called Junta in the royal cedula), the election of its members, and the supervision over the acts of the body, we find that the Board has, for Rector, the parish priest ex officio, or in case of the absence or illness of this dignitary, his senior coadjutor. The other members of the Board are elective, being seven in number, namely, the Elder Brother, the Steward, the Treasurer, the Secretary, and three Deputies exercising the function of vicars in divine worship.

The provisions governing the election of the seven elective members of the incoming Board are a little complicated, since said members are chosen by an electoral college of twelve, consisting of the seven elective members of the existing Board, assisted by five electors, who must themselves be first chosen in the manner prescribed in the cedula. The election for members of the Board is to be held on December 12 of each year; and the meetings held for this purpose are presided over by the Alcalde Mayor of the province, as representative of royal authority, or in case of his absence or illness, by the official succeeding to the command of the province, with the assistance of the Rector. The duty of canvassing the votes cast for the members of the Board is confided to the Chairman (Alcalde Mayor) and the Rector. In case of a tie the Rector is given the deciding vote. It is enjoined upon the Rector to attend all meetings of the Board, and he is given authority to propose matters for discussion relative to the welfare of the Brotherhood and its funds, but in an advisory capacity only, without vote. To the Rector is also confided one of the three several keys to the safe, or safes, in which the money and valuables of the Brotherhood are kept.

In article 20 of Chapter 5 of the royal cedula attention is given to the sources from which will be derived the means necessary to meet the obligations of the Brotherhood, and reference is here made to the duty of the guild of mestizos, as founders, to supply whatever may be lacking for the pious purposes of the Brotherhood. In article 21 of the same chapter it is declared that as soon as the funds of the Brotherhood reach the amount of P5,000, the guild of mestizos shall be free from the aforesaid obligation; and it is directed that the money shall be put out at interest under substantially the same conditions as had been prescribed in the resolution of August 10, 1807, establishing the fund already mentioned. In article 22 of the same chapter the pious uses are defined to which the income shall be applied when the fund reaches the amount of P5,000, and an additional pious use when it reaches P10,000. Upon this follows a provision to the effect that, in this state of the fund, a primary teacher shall be employed for the guild of mestizos with an appropriate salary at the discretion of the board, and, upon a further considerable increase of said fund, a foundation for a teacher in Latin grammar shall be endowed with a salary determined by the same Board.

Upon comparing the original resolution of August 10, 1807, establishing the fund, with articles 21 and 22 of the royal cedula of July 23, 1819, and bearing in mind the fact that the association was wholly devoid of legality until royal approval was obtained and the further fact that, in approving the cedula, the king was entirely free to fix such conditions as he then saw fit, it is a necessary conclusion that the original conditions of the trust must be considered as having been incorporated in the royal cedula; and the trust, as we now have it, is effectually defined and determined by said cedula. It results, therefore, in our opinion, that since July 23, 1819, when the royal cedula took effect, the administration of the trust fund has pertained to the Board of Directors of the Brotherhood as one of its inherent functions; and it is no longer appropriate to conceive of the trust as a mere institution administered by the Brotherhood for the founders of the fund and their successors. In this connection we do not overlook the provision in the closing paragraph of the royal cedula declaring that the property and funds of the Brotherhood must not be understood as having been "spiritualized" at any time. But the idea expressed in that provision is fulfilled by the continued application of the fund to the lawful pious and civil uses for which it was intended.

We now quit our survey of the principles governing the trust in question and turn for a moment to the allegations of the complaint. In this connection we find it stated in the complaint that the plaintiff, Bishop of Lipa, is the administrator of the temporalities of the Catholic Church in the diocese of Lipa and that he exercises the right of supervision and inspection over all the brotherhoods established therein, of which the Brotherhood in question is one; and it is further alleged that the individual defendants constitute a majority of its Board of Directors and that they have employed, and are employing, its properties and funds in contravention of the spirit and purposes of the trust.

It takes but a moment's reflection upon the allegations of the complaint and especially the statement that the defendants are employing the properties of the Brotherhood in contravention of the spirit and purposes of the trust, to enable one to realize that the complaint is not demurable. In the exercise of their equitable powers our courts have undoubted jurisdiction to compel a trustee properly to perform his trust and, if necessary, to remove him from office. We note that it is prayed in the complaint that the defendants be required to render account to the plaintiff; but it is to the court that the defendants should be required to account.

In view of the allegations of the complaint, there can be no sort of doubt as to the right of the plaintiff, as Bishop of the diocese of Lipa, to maintain this action. As ecclesiastical superior of the parish priest (who is ex officio Rector of the Brotherhood), the Bishop necessarily has an interest in the enforcement of the trust, even apart from the duty imposed upon his predecessor, the Archbishop of Manila, in the closing paragraph of the royal cedula, to enforce exact and punctual performance of the trust.

As stated in the opening paragraph of this opinion, the demurrer to the amended complaint is of a general

character, being directed to the questions of the jurisdiction of the court, the right of the plaintiff to maintain the action, and the sufficiency of the facts stated to constitute a ground of action. None of the points presented in the demurrer are well founded.

Several points of some interest are discussed in the learned opinion of the trial court, and several of his conclusions have been here subjected to criticism in the brief of the appellant; but in view of the fact that these matters have not been put in issue by special demurrers and of the further fact that the complaint is certainly sufficient in respect to the right of the plaintiff to compel the proper performance of the trust, we deem it advisable merely to reverse the judgment and overrule, as we hereby do over-rule, the demurrer, with the result that the defendants will be required to answer.

It is accordingly so ordered, without special pronouncement as to costs.

Avanceña, C. J., Johnson, Villamor, Ostrand, Johns, Romualdez, and Villa-Real, JJ., concur.

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