

THE ROMAN CATHOLIC BISHOP OP NUEVA SEGOVIA, AS REPRESENTATIVE OF THE ROMAN CATHOLIC APOSTOLIC CHURCH, PLAINTIFF AND APPELLANT, VS. THE PROVINCIAL BOARD OF ILOCOS NORTE ET AL.,...

G.R. No. 27588. December 31, 1927

Ponente: AVANCEÑA, C.J.

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AVANCEÑA, C.J.:

The plaintiff, the Roman Catholic Apostolic Church, represented herein by the Bishop of Nueva Segovia, possesses and is the owner of a parcel of land in the municipality of San Nicolas, Ilocos Norte, all four sides of which face on public streets. On the south side is a part of the church-yard, the convent and an adjacent lot used for a vegetable garden, containing an area of 1,624 square meters, in which there is a stable and a well for the use of the convent in the center is the remainder of the churchyard and the church. On the north side is an old cemetery with two of its walls still standing, and a portion where formerly stood a tower, the base of which may still be seen, containing a total area of 8,955 square meters.

As required by the defendants, on July 3, 1925 the plaintiff paid, under protest, the land tax on the lot adjoining the convent and the lot which formerly was the cemetery with the portion where the tower stood.

The plaintiff filed this action for the recovery of the sum paid by it to the defendants by way of land tax, alleging that the collection of this tax is illegal. The lower court absolved the defendants from the complaint in regard to the lot adjoining the convent and declared that the tax collected on the lot, which formerly was the cemetery and on the portion where the tower stood, was illegal. Both parties appealed from this judgment.

The exemption in favor of the convent in the payment of the land tax (sec. 344 [c] Administrative Code) refers to the home of the priest who presides over the church and who has to take care of himself in order to discharge his duties. It therefore must, in this sense, include not only the land actually occupied by the church, but also the adjacent ground destined to the ordinary incidental uses of man. Except in large cities where the density of the population and the development of commerce require the use of larger tracts of land for buildings, a vegetable garden belongs to a house and, in the case of a convent, its use is limited to the necessities of the priest, which comes under the exemption.

In regard to the lot which formerly was the cemetery, while it is no longer used as such, neither is it used for commercial purposes and, according to the evidence, is now being used as a lodging house by the people who participate Bishop of Nueva Segovia vs. Prov. Board of Ilocos Norte in religious festivities, which constitutes an incidental use in religious functions, which also comes within the exemption.

The judgment appealed from is reversed in all its parts and it is held that both lots are exempt from land tax and the defendants are ordered to refund to plaintiff whatever was paid as such tax, without any special pronouncement as to costs. So ordered.

Johnson, Street, Villamor, Ostrand, Johns, and Villa-Real, JJ., concur.

Malcolm, J., dissenting:

The Assessment Law exempts from taxation "Cemeteries or burial grounds * * * and all lands, buildings, and improvements used exclusively for religious * * * purposes; but this exemption shall not extend to property held for investment, or which produces income, even though the income be devoted to some one or more of the purposes above specified." (Administrative Code, sec. 344; Act No. 2749, sec. 1.) That is the applicable law. The facts may be taken as found by the judge of First Instance, who made his findings more certain by an ocular inspection of the property under consideration. The testimony and the inspection disclosed that the lot known as "huerta" was not devoted to religious purposes, and that the old cemetery had long since ceased to be used as such and had been planted to corn. Those are the facts. The test to be applied to the combined law and facts must be the actual use of the property. The property legally exempt from the payment of taxes must be devoted to some purpose specified in the law. A "huerta" not needed or used exclusively for religious purposes is not thus exempt. A cemetery or burial ground no longer a cemetery or a burial ground is not thus exempt. Accordingly, I prefer to vote for the affirmance of Judge Mariano's decision.

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