

**THE ROMAN CATHOLIC APOSTOLIC CHURCH, PLAINTIFF, VS.
SEVERAL MUNICIPALITIES OF THE PROVINCE OF OCCIDENTAL
NEGROS AND THE REPRESENTATIVES OF THE INDEPENDENT
FILIPINO CHURCH, GREGO...**

G.R. No. 3075. April 14, 1909

Ponente: ARELLANO, C.J.

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ARELLANO, C.J.:

From a consideration of the original proceedings filed in this court for the recovery of the possession of certain buildings used by the Roman Catholic Apostolic Church, and the answers thereto and evidence presented, it appears:

That the defendants, by their answers, rely upon two classes of defense, one of law, and the other of fact. The former is contained in the following allegations:

- (1) That Act No. 1376, governing these proceedings, is unconstitutional;
- (2) That the plaintiff church does not possess juridical personality;
- (3) That the property claimed by the plaintiff is not her own, but formerly belonged to the Spanish Government and is now owned by the Government of the United States of America in these Islands; and
- (4) That said property is part of the public domain and was transferred by the former to the present sovereignty, to wit, that of the United States; that said property falls within, the provisions of section 12 of the Act of July 1, 1902; and that finally said property was so classed by paragraph 2 of article 25 of the regulations for the application of the Mortgage Law, which provides that parish property can not be inscribed in the registry of property.

All these questions have already been finally determined in similar decisions formerly rendered by this Supreme Court.

The first question-as to the constitutionality of Act No. 1376-was decided in the case of The Roman Catholic Apostolic Church vs. The Municipalities of Tarlac and Victoria (9 Phil. Rep., 450).

The second, as to the personality of the Roman Catholic Apostolic Church, in Barlin vs. Ramirez (7 Phil. Rep., 41).

The third was also determined in the case of Barlin vs. Ramirez, in The Roman Catholic Apostolic Church vs. Santos (7 Phil. Rep., 66), and in the city of Manila vs. The Roman Catholic Apostolic Church (8 Phil. Rep., 763); and

The fourth question was decided in these same cases, and also in the Roman Catholic Apostolic Church vs. The Municipality of Badoc (10 Phil. Rep., 659). The legal principles set out in the above-cited cases may, therefore, be

regarded as reproduced herein.

The facts relied upon by the defense are dealt with in relation to each municipality, and having regard to the contentions of the plaintiff, this court will proceed to consider the evidence presented in this action.

Municipality of Valladolid.-There is claimed the church building of Valladolid and the churchyard, the convent of Valladolid and its yard, and the cemetery of Valladolid.

The first witness brought by the plaintiff is one "Lorenzo Paloma, 62 years old, a resident of Valladolid, and Bishop of the Filipino Independent Church," who testified that, from October, 1898, until March, 1903, he was in possession of the church building, convent, and the cemetery of Valladolid in his capacity of curate appointed by the Roman Catholic Apostolic Church and under the same conditions as those imposed upon his predecessor in office; that since March, 1903, he, as curate appointed by the Filipino Independent Church, has been in the material possession of the church building, while the municipality has held that of the convent and the cemetery, and that the convent is used as the residence of the curate.

With reference to the history of the administration of the above-described property, the witness testified that he was in Valladolid in the years 1867 and 1871, on the occasion of the diocesan visits paid to the parish by two bishops who were in charge of the diocese which included the town of Valladolid within its jurisdiction, the said witness acting as secretary to the diocesan bishop during the visit paid in 1871; that during all this period up to the time of the revolution no person or entity, other than the diocesan bishop and the parish priest, had administered and possessed the church building, convent and cemetery; that he, in his capacity of secretary of the visiting bishop had examined the accounts rendered by the parish priests to the bishop in regard to the church and cemetery of Valladolid; that he knew that the diocesan bishop compelled the inhabitants of a town to build a house for the parish priest before he would appoint such priest; that in 1895 he was made coadjutor to the curate of Valladolid, who was a member of the Order of Recoletos of the Roman Catholic Apostolic Church, and that the witness was also a priest of said community and as such priest of the Roman Catholic Apostolic Church he administered the holy sacraments to the inhabitants of Valladolid; that toward the end of the year 1898, the municipality notified him that a military commissioner (delegado de guerra) had appointed him curate of Valladolid, and that the church building¹ and convento were turned over to him; that from that time he had taken possession of the said church and convento, which later were seized by the revolutionary government. (P. 160.)

Another witness, Felipe Benedicto, corroborated the possession and administration of the Roman Catholic Apostolic Church of the property claimed by her, to wit, the church building, the convento sites upon which they were built, together with the cemetery of the municipality of Valladolid, and stated that at the present time the municipality is in possession of the convento and its yard, and the church building and churchyard are possessed by Father Paloma, in his capacity of Aglipayan curate. Counsel for the defendant admitted that, from the year 1884 until November 5, 1898, the cemetery of Valladolid, wherein only the bodies of faithful Roman Catholics were buried, was in the possession and under the administration and control of the Roman Catholic Apostolic Church, but that at the present time the convento and cemetery are in the possession of the municipality, and the church building in that of Father Paloma, the Aglipayan curate. The defendants produced various witnesses who averred that, with the exception of two or three families, all the inhabitants of the town are affiliated with the Philippine Independent Church. This allegation is wholly immaterial to this question.

Whereas the detention and seizure by Lorenzo Paloma and the municipality of Valladolid, of the property belonging to the plaintiff and the subject of these proceedings has been fully established by proof;

We adjudge and decree that the plaintiff church is entitled to the possession of the property referred to in this part of the complaint, to wit: the church building and the convento of Valladolid, together with the sites upon which

they are erected, and the cemetery of Valladolid; and we order and direct that said plaintiff be placed in possession immediately and that the present occupants be ejected therefrom.

In order to carry out the restitution ordered above, pursuant to the provisions of Act No. 190, the Code of Civil Procedure, let a writ of possession be issued against the defendants Lorenzo Paloma and the municipality of Valladolid, without special ruling as to costs.

Municipality of Cadiz.-There are claimed (a) the convento and the lot whereon it is erected; (b) the cemetery of Cadiz; and, in the barrio of Sicaba, within the jurisdiction of the said municipality of Cadiz, the land formerly occupied by the demolished church building of said barrio. The complaint in regard to these properties has made Gregorio Aglipay, Narciso Hijalda, and the municipality of Cadiz parties defendant.

According to the testimony of the priest Juan Hofileña, curate of Saravia, of Baltasar Llorace and Esteban Batayalo, and of Feliciano Gomez, a priest, the said properties were possessed and administered by priests of the Roman Catholic Apostolic Church.

The plaintiff, however, by a writing dated January 27, 1908, has laid claim to the convento and the land whereon it stands, and the cemetery of Cadiz.

Whereas the seizure by the Independent Filipino Church and the municipality of Cadiz, and the possession and administration by the plaintiff have been fully proven:

We adjudge and decree that the plaintiff is entitled to the immediate possession of the above-described property, and that neither the municipality of Cadiz nor the Independent Filipino Church, or their representatives Gregorio Aglipay, Narciso Hijalda, and Juan Hofilena, have any right or interest in said property.

Let a writ of possession be issued by this court against said persons in the manner and form provided by Act No. 190. No special ruling is made as to costs against either party.

Municipality of Ilog.-The plaintiff claims: (a) the church building of Hog, the adjacent convento, and the parcels of land on which they are erected; (b) the church bells and all the articles and ornaments used for the service of the Roman Catholic Apostolic faith; and (c) the cemetery of said town of Hog.

From the testimony given by vice-president Bruno de Leon, member of the Aglipayan committee, and by Lucas Nadal and Bartolome Tolon, it appears proven that all the properties claimed in the complaint and situated in the municipality of Ilog belong to the Roman Catholic Apostolic Church and that at present the church building is detained by the committee of the Independent Filipino Church, and the convent and cemetery by the municipality. (Pp. 78, 217, 245.)

We, therefore, find and decree that the plaintiff Roman Catholic Apostolic Church is entitled to the possession of said properties, and we order and decree that they be restored to the possession of the plaintiff and that the defendants be ejected therefrom.

Let a writ of possession be issued by this court against the defendants detaining said properties, in accordance with the provisions of Act No. 190, without special ruling as to costs.

Barrio of Gusi.-It is also proven that the church building or hermitage with its bells, belonging to the Roman Catholic Apostolic Church, is being detained by the committee of the Independent Filipino Church.

We adjudge and decree that the plaintiff is entitled to the possession of that property, and we order and decree that it be restored to the possession of the plaintiff, and the defendants or whoever are holding the same be ejected therefrom, and that the plaintiff be placed in possession, without special ruling as to costs.

Let a writ of possession be issued by this court against the defendants Gregorio Aglipay, Bishop of the Independent Filipino Church, and the committee of said Church in the municipality of Ilog.

Old town of Cabancalan.-It is likewise proven that the church building, the ruins of the convento and the parcels of land on which said buildings are erected, as well as the cemetery of Cabancalan, are the property of the Roman Catholic Apostolic Church, and are detained by the members of the Aglipayan Church or by the committee of said Church.

We adjudge and decree that the plaintiff is entitled to be immediately placed in possession of said properties, and we order and decree that the same be restored to the plaintiff and that the defendants or those in possession of the same be ejected therefrom, and that the plaintiff be put in possession, without special ruling as to costs.

Let a writ of possession be issued by this court against the defendants Gregorio Aglipay, Bishop of the Independent Filipino Church, or the committee of said church in the old town of Cabancalan.

Barrio of Dancalan, and barrio of Guiljungan.-It is in like manner established that the church building, its grounds and the grounds of the convento, the bells and the articles and ornaments of the church are now in the possession of the committee of the Independent Filipino Church, and the cemetery is in the possession of the municipality; and that the chapel of Guiljungan and the ground on which it is erected, cited in the writing filed by the plaintiff on January 27, 1908, are now in the possession of the Aglipayan priest.

We hold that the plaintiff is entitled to the possession of said properties, and we order and decree that the same be restored to the possession of the plaintiff, and that the defendants or the person detaining them be ejected therefrom, and the plaintiff be put in possession, without special ruling as to costs.

Let a writ of possession be issued by this court against the defendants Gregorio Aglipay, bishop of the Independent Filipino Church, or the committee of said church.

Municipality of Silay.-The cemetery of the town is claimed by the plaintiff.

It was proven by the testimony of two witnesses, and even by that of the municipal president that the cemetery was administered by the parish priest of the Catholic Church for more than twenty years prior to its seizure by the municipality.

We hold and declare that the plaintiff is entitled to continue in the possession thereof, and we order and decree that the possession thereof shall be immediately restored to said plaintiff, without special ruling as to costs.

Let a proper writ of possession be issued by this court against the municipality of Silay.

Municipality of Victorias.-There are claimed: (a) The convento and the lot on which it is erected; (b) the land on which the ruins of the old church stand; and (c) the cemetery.

Whereas it has also been proven that said properties belonged to the plaintiff and were administered by the parish priests appointed thereby until their seizure by the municipality of Victorias:

We adjudge and decree that the plaintiff is entitled to the possession thereof, and we order and decree that said plaintiff be immediately restored therein, and that the municipality of Victorias be ejected therefrom.

Let a writ be issued by this court to that effect; no special ruling is made as to costs.

Municipality of Saravia, and barrio of Tansa.-The plaintiff claims the cemeteries of Saravia and Tansa.

It was proven that they belonged to the plaintiff and that she possessed them through her parish priests until they were seized by the municipality of Saravia.

We hold and decree that the plaintiff is entitled to the possession thereof and we order and decree that they be restored to the plaintiff and that the municipality be ejected therefrom.

Let the proper writ be issued to this end, without special ruling as to costs. Municipality of Manapla.-There are claimed: (a) The convento adjoining the church building of Manapla, and the land on which it is erected; and (b) the cemetery of Manapla.

Whereas it has been proven that the plaintiff was in the possession of said properties through her parish priests until their seizure by the municipality, and that the land occupied by the cemetery was the property of the church;

We hold and decree that the plaintiff is entitled to the possession thereof, and we hereby order and decree that said plaintiff be placed in possession of the same, and that the municipality be ejected therefrom.

Let the proper writ issue from this court to that effect, without special ruling as to costs.

Municipality of Pontevedra; barrio of La Castellana within the jurisdiction of Pontevedra.-There are claimed: (a) The church building of Pontevedra, the convento adjacent thereto, and the land occupied by said buildings; (b) the cemetery of Pontevedra; (c) the demolished church of La Castellana and the land on which it was erected; (d) the demolished convento of La Castellana, according to the writing presented by the plaintiff, formerly known as the convento of La Castellana.

It has been fully proven that all the above-described properties were in the possession of the plaintiff, and this is corroborated even by the testimony of the witnesses for the defense. This legal status is not in the least affected by Exhibit No. 1 of the defense, to wit, that said properties are set out in an inventory of property belonging to the Spanish Government, nor by the fact that the inhabitants of Pontevedra and La Castellana continue to belong to the Catholic faith or may have joined the Aglipayan cult, or that the number of the latter is greater than that of the former, because the rights of said inhabitants are not at issue in this case.

We, therefore, hold and decree that the plaintiff is entitled to the possession of the properties mentioned above and by virtue thereof we order and decree that they be immediately restored to the plaintiff and that the defendants be ejected therefrom.

Let a writ of possession be issued to the plaintiff against Gregorio Aglipay, or any member of the Independent Filipino Church, and the municipality of Pontevedra, who detain the same, without special ruling as to costs.

Municipality of La Carlota; pueblo of San Enrique.-The original complaint as well as the writing filed on January 27, 1908, only make demand for the return of the property situated in the latter town; nevertheless, the evidence submitted by both sides also relates to the property situated in the former.

This court, taking into consideration the text of the complaint, which has not been amended, will only consider the evidence submitted upon the subject of the property located in the pueblo of San Enrique. The following is claimed: (a) The church building of San Enrique, the convento adjacent thereto, and the land occupied by both buildings; and (b) the cemetery of San Enrique. Cipriano Perez, a witness for the plaintiff, said that he has known the said property since 1870, that it was in the possession and under the administration of parish priests appointed by the Roman Catholic Apostolic Church; that the church building was furnished with all the articles and ornaments necessary for worship, and that the former municipality of San Enrique, and now that of La Carlota, seized said property in 1898.

Four witnesses took the stand for the defense, and their testimony supports rather than overcomes the right of the plaintiff. Said witnesses testified that the church building, convento, and the belfry were built by order of the governor of the province during the Spanish sovereignty; that the bells, chasubles and other requisites were

donated to the Church; that although the land occupied by the cemetery was donated by a private person, in the judgment of one of the witnesses, it now belongs to the State; that all the properties above-described figure in a statement signed during the former sovereignty by the Catholic parish priest (Exhibit No. 2)} and that lastly all the inhabitants belong to the Aglipayan cult.

We hold and declare that the plaintiff is entitled to the possession of the above-described property, and we order and decree that said property be immediately restored thereto and that the persons detaining them be ejected therefrom.

Let a writ of possession issue against the municipality of La Carlota and the proper persons, without special ruling as to costs.

Municipality of Jinigaran.-According to its last writing filed with this court, the plaintiff claims: (a) The convento of Jinigaran and the lot on which it is built; (b) the cemetery of Jinigaran.

The witnesses for the defendants have stated that the lands occupied by the convento, the cemetery, and the garden of the convento formerly belonged to one Emerenciana Moncal, who was said to be the grandmother of Juan Vasquez. The latter, a witness for the plaintiff, testified that the Church, through the parish priests appointed by her, had the possession, use and enjoyment of the property in controversy.

We hold and declare that the plaintiff is entitled to said property and we order and decree that the same be immediately restored thereto and that the persons detaining them be ejected.

Let the writ of possession issue against the municipality of Jinigaran and the proper persons. No special ruling is made as to costs.

Municipality of Jimamaylan.-The following is claimed by the plaintiff: (a) The church building of Jimamaylan, the adjacent convento, the new church building in construction, and the land on which said buildings are located; (b) the cemetery of Jimamaylan.

It has been proven that the plaintiff was in possession of the property in controversy up to the time of the seizure of the church building and the cemetery of the committee of the Independent Filipino Church by reason of the Aglipayan schism, and of the church building in construction and the convento by the municipality.

The rights of the plaintiff are supported by the statements of the witnesses for the defendants, who said that the lands on which the buildings were erected belonged to the State; that the same were built by order of the governor of the province, and that the money therefor was obtained from the sanctorum and poll-tax funds.

We adjudge and declare that the plaintiff is entitled to the said properties and we order and decree that the same be immediately restored thereto, and that the persons detaining them be ejected therefrom.

Let the proper writ issue against said detainers, without special ruling as to costs.

Pueblo of Suay, now annexed to the municipality of Jimamaylan.-The plaintiff claims: (a) The ruins of the church building of Suay and the land on which it was erected; (b) the cemetery of Suay.

The possession by the plaintiff has in like manner been fully established.

We make a similar finding, decree and order against the municipality of Jimamaylan which took possession of the land, demolished church building, and cemetery.

Let a writ of possession issue against said municipality.

Municipality of Isabela.-There are claimed: (a) The convento adjacent to the church building, and the land on

which the church and the convento of the town are erected.

Barrio of Magallon, annexed to said municipality.-There are claimed: (a) The land on which the demolished church building of Magallon and the adjoining convento were erected; (b) the cemetery of Magallon.

The right of the plaintiff, who had the possession and enjoyment of said properties, is well supported by the evidence.

We adjudge and declare that the plaintiff is entitled thereto, and by virtue thereof, we order and decree that possession of the same be immediately restored thereto, and that the persons detaining them be ejected therefrom.

Let a proper writ of possession be issued to that effect. No special ruling is made as to costs.

Municipality of Escalante.-There are claimed: (a) The belfry and the bells of the church of Escalante and the lot on which it is erected; (b) the cemetery of Escalante.

Barrio of Honob-Honob.-There are claimed: (a) The chapel of Honob-Honob and the lot on which it stands; (b) the cemetery of Honob-Honob.

According to the testimony of Miguel Gamao, a witness for the plaintiff, it appears that the belfry of Escalante and the land on which it is erected are in the possession of the Catholic parish priest, but the land on which the chapel is built and the cemetery of Honob-Honob are held by the municipality of Escalante.

The defendants' witnesses claim to be entitled to the said property on the grounds that the bells were donated by inhabitants of the town, their names being engraved on the largest bell, but they stated that said bells were given for the use of the church. As to the cemetery, which, as stated by one of them was consecrated by reason thereof it is clear that the municipality is not entitled to possess it.

We adjudge and declare that the plaintiff is entitled to the possession of the property claimed, and we order and decree that said possession be immediately restored thereto, and that the person detaining them be ejected therefrom.

Let a proper writ of possession issue therefor, without special ruling as to costs.

Municipality of Cauayan.-The plaintiff claims: (a) The church building of Cauayan, the ruined convent adjoining thereto, and the land on which they are erected; (b) the old cemetery of Cauayan, and the new cemetery of the same town.

Barrio of Isui, municipality of Cauayan.-The plaintiff claims the chapel and the lot on which it stands, located in said barrio.

The possession by the plaintiff is supported by the evidence and even by the testimony of the witnesses of the adverse party. Said witnesses while stating that the parcels of land on which the buildings were erected were the property of private individuals, have nevertheless affirmed that said parcels were donated to the plaintiff and that the work of construction was carried out with funds derived from the poll tax; in view of the purpose for which they were intended they can not be held to belong to the municipality.

We adjudge and declare that the plaintiff is entitled to the possession thereof, and we order and decree that they be immediately restored thereto, and that the municipality or any person detaining the same be ejected therefrom.

Let a writ of possession be issued therefor. No special ruling is made as to costs.

Guijulan, a pueblo now annexed to the municipality of Cauayan.-There are claimed: (a) The demolished church building of Guijulan, the adjacent convento, and the land on which said buildings are erected; (b) the cemetery of

Guijulgan,

In a manner similar to the former it has also been established that the plaintiff had been in the possession of said property through the medium of its priests. It is contended by the defendants, however, that all the inhabitants of Cauayan and its barrios are now enrolled in the Independent Filipino Church.

But it should be noted, with reference to the property situated in the municipality of Hog, that the complaint lays claim to the chapel of Guilhugan and the land on which it is erected. Thus, according to the complaint, the pueblo of Guilhugan, now a part of the municipality of Cauayan, is separate and distinct from the barrio of Guilhugan of the municipality of Hog. Yet, Lucas Nadal, testifying for the plaintiff, has stated the following:

"Q. Do you know if during the Spanish Government there was in the pueblo of Hog, a barrio called Guilongan?-A. Yes, sir.

"Q. Are you acquainted with this barrio of Guilongan or Guilhungan within the jurisdiction of Hog and of the municipality of Cauayan?-A. Yes, sir; I am acquainted with it.

"Q. Since when?-A. Since my arrival in 1873.

"Q. From the time you arrived in 1873 until the revolution, did you know that the barrio of Guilhongan had a chapel and a lot on which said chapel was erected, and that this chapel had a bell and other articles necessary for the services of the Roman Catholic Apostolic Church?-A. Yes, sir, I do.

"Q. From 1873 until the revolution, who had the administration and control of the chapel and lot on which it was erected, the bells of the chapel, and other articles and ornaments used for Roman Catholic Apostolic services?-A. The parish priest of Cauayan.

"Q. To which parochial jurisdiction did said chapel of Guilhogan belong?-A. To Cauayan.

"Q. Before the revolution referred to by you, to which religion did the parish priest of Cauayan belong?-A. He was a Spanish friar of the Roman Church.

"Q. What was his name?-A. I do not remember.

"Q. Did another parish priest succeed him?-A. No; on account of the breaking out of the revolution.

"Q. When, the priest of Cauayan paid his visits to Guilongan, where did he celebrate mass, where did he administer the sacraments?-A. At the church.

"Q. And where did the families of Guilhongan hear mass?-A. They went to the church to hear mass.

"Q. When you speak of the church, do you mean the chapel referred to by us or was there another church building?-A. I mean the hermitage; there was no other chapel or hermitage there but that of which we are speaking.

"Q. At the present time, who is in possession of the land on which the chapel is erected, of the bells and articles used for the Roman Catholic Apostolic services?-A. The curate of Cauayan, of the Independent Filipino Church. He lives in Cauayan and the hermitage is a dependency of that parish.

"Q. Are you acquainted with the municipality of Cauayan?-A. No."

On the other hand, the municipal president of Cauayan, also a witness for the plaintiff, testified as follows:

"Q. Are you acquainted with the church building of Guijulgan, the convento adjoining thereto, and the land on which both buildings are erected?-A. I was acquainted with the church building, but I can not make a similar statement as to the convento and the land.

"Q. Since when have you been acquainted with that church building?-A. Since twelve years ago.

"Q. Since you became acquainted with that church building until the revolution, who had the administration thereof?-A. The then parish priest, Friar Pablo Vicente.

"Q. For what purposes was the church building used up to the outbreak of the revolution?-A. For the Roman Catholic worship.

"Q. Since you became acquainted with that church building up to the outbreak of the revolution, were there any bells and other articles used for the Roman Catholic services there?-A. I do not know.

"Q. Who is in possession of the church building now?-A. I do not know either, because the church building no longer exists.

"Q. Are you acquainted with the cemetery of Guilhulgan?-A. Yes, sir.

"Q. How long since?-A. Twelve years.

"Q. Since you became acquainted with that cemetery up-to the outbreak of the revolution, who had the administration thereof?-A. It is thought that Father Pablo Vicente had the administration thereof.

"Q. Who were the persons that were interred in said cemetery before the outbreak of the revolution?-A. Those inhabitants of the town who died in the Roman Catholic religion.

"Q. Exclusively ?-A. Yes, sir.

"Q. Who is now in possession of that cemetery?-A. The municipality."

Whether it be the same or two different things it is an established and uncontradicted fact that the possession of the plaintiff is well proven.

We make the same finding, order and decree against the municipality of Cauayan or that of Hog, or whoever it is that detains the property in controversy, without special ruling as to costs.

Municipality of Bago.-There are claimed: (a) The church building of Bago, the convento adjacent thereto, and the land on which they are erected; (b) the new church building in construction and the lot thereof; (c) the cemetery of Bago.

According to the evidence, the church building is furnished with bells and other articles and ornaments used for the religious services, and appearing in Exhibit A presented by a witness for the plaintiff. Said exhibit is an itemized inventory of the articles he had in his charge and belonging to said church building, and which, by order of Father Paloma, an Aglipayan bishop, were turned over by the witness to the chairman of the Aglipayan committee.

The witnesses for the defendants themselves do not question that right of the plaintiff church; but they contend, however, that this property does not now belong to the plaintiff, because they were constructed out of the poll-tax fund collected by the Spanish Government and by gifts made by the parishioners, and, furthermore, because only a small minority of the inhabitants still belongs to the Catholic faith, more than 25,000 inhabitants having embraced the Aglipayan religion.

It is proven that Cecilio Espiritu, an Aglipayan curate, is now in possession of the convent and the two church buildings while the municipality controls that of the cemetery.

We adjudge and declare that the plaintiff is entitled to the possession of said property, and we order and decree that they be immediately restored thereto, and that the persons detaining them be ejected therefrom.

Let the proper writ of possession be issued against the persons mentioned above and against any other detaining said property, real and personal. No special ruling is made as to costs.

Municipality of Bacolod.-The complaint prayed for the possession of the following: (a) The clock of the belfry of the church of Bacolod; (6) the cemetery of the town of Bacolod; (c) the plaza of the church of Bacolod, as described in said writing; (d) a parcel of land known as the old cemetery of Bacolod. But by the writing of January 27, 1908, there are claimed only the properties described above, which as to this municipality, are those, designated by the letters (b) and (d) in the complaint, or the present and the old cemeteries.

Three witnesses have testified that the parish priest of Bacolod was in the possession and control of and for a long time administered both cemeteries, and no proof has been submitted as to the right which the municipality or any private persons possess to occupy them, aside from the fact of their material possession gained by them through the outbreak of the revolution.

We, therefore, hold and declare that the plaintiff is entitled to the possession of the parcels of land known as the cemeteries, as described by the witness Friar Mauricio Ferrero in his testimony, and we order and decree that they be immediately restored to the plaintiff, and that the persons detaining the same be ejected therefrom.

Let a writ of possession be issued therefor, without any special ruling as to costs.

Municipality of Sumag, now annexed to the municipality of Bacolod.-The plaintiff claims: (a) The convent of Sumag and the lot on which said convent and church building are located; (b) the parcel of land known as the old cemetery of Sumag; (c) the new cemetery of Sumag. The last petition of the plaintiff only makes reference to the properties indicated by the letters (a) and (c).

Four witnesses have testified as to the use to which said properties were devoted and as to their origin. The witness Eleuterio Malayan said that his father presented the church with the land on which the church building and the convent are located while he, the witness, donated the parcel of land for the cemetery.

We adjudge and declare that the Church is entitled to the possession of said properties, and we order and decree that they be immediately restored to her, and that the person detaining them be ejected therefrom.

Let the proper writ be issued against the municipality of Bacolod, without special ruling as to costs. So ordered.

Torres, Mapa, and Willard, JJ., concur. Carson, J., concurs in the result.

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