

THE ROMAN CATHOLIC BISHOP OF JARO, APPLICANT AND APPELLEE, VS. THE DIRECTOR OF LANDS, IN BEHALF OF THE GOVERNMENT OF THE PHILIPPINE ISLANDS, OPPONENT AND APPELLANT.

G. R. No. 31286. March 10, 1930

Ponente: VILLAMOR, J.

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VILLAMOR, J.:

body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }The Roman Catholic Bishop of Jaro filed an application for the registration of four parcels of land situated in the municipality of Sibalom, known as parcels 1, 2 and 3 of sheet 1 of plan Ps-14408, and parcel 4 of sheet 2 of the same plan, approved by the Director of Lands on April 14, 1924.

The Director of Lands opposed the registration of parcel 3 on the ground that it belonged to the Government of the Philippine Islands, and prayed that the application be denied as to this lot.

After the publications prescribed by law, and having heard the parties upon the application, the court below rendered a judgment ordering the adjudication and registration of said lots 1, 2, 4 and 3, as bounded and described in the decision, in favor of the Roman Catholic Bishop of Jaro. The Attorney-General in behalf of the Director of Lands duly appealed, alleging that the trial court erred: (a) In holding that the applicant is the owner of the portion of lot No. 3, described in the decision; (b) in not holding that the applicant failed to establish his possession and occupation of the land with sufficient evidence, so as to be entitled to the benefits of section 45, paragraph (b), Act No. 2874; (c) in not finding that said portion of lot No. 3 forms part of the public square of the municipality of Sibalom, and therefore belongs to public domain and devoted to public use; and (d) in denying the motion for a new trial filed by the Director of Lands.

In this appeal, only lot No. 3 is in question.

We have gone over the evidence of record and are fully convinced that the lot in question, as bounded in the judgment, appealed from, has been in possession of the applicant, as owner, for a time sufficiently long for purposes of prescription. According to Exhibit 2, the lot in question was included in the litigation sustained by the Roman Catholic Apostolic Church and the Right Reverend Bishop of the Diocese of Jaro against the municipalities in the Province of Antique, Island of Panay, and others. That case (G. R. No. 3074) was decided by this court in 1908.[1] Among other things the court said:

"It is further adjudged and decreed that the Roman Catholic Apostolic Church is entitled to the possession of the following described property situated in the municipality of Sibalom:

"The Church of Sibalom, the convent, contiguous to the same and the land occupied by these two buildings.

"Also the cemetery of Sibalom."

It is argued by the opposition that the words "and the land occupied by these two buildings," mean the land inclosed within the walls of said buildings, the convent and the church. The contention is untenable. In the case of *Director of Lands vs. Aboc* (G. R. No. 25696) ,[2] an interpretation was made of the words "land occupied by the church and convent," used in the final decision rendered by this same court in 1909 as follows:

"For these considerations, and setting aside the judgment appealed from, we are of the opinion and so hold, that all the land not occupied by the church of the town of Victoria and its convent, constitutes public square of that municipality, devoted to public use. In consequence whereof, the defendant is absolved from the complaint filed by counsel for the Catholic Church without special pronouncement as to costs of both instances."

The court said: "With respect to the two lots Nos. 2959 and 2960 which, together with lots Nos. 2958 and 2957, herein undisputed, make but one parcel bounded by the four streets, we understand that, in the, light of a correct interpretation of the former judgment referred to, said lots are part of the land 'occupied by the church of the town of Victoria and its convent.'"

And it was held that the words "land occupied by the church of Victoria and its convent" mean not only the two buildings, but also the land adjacent and contiguous to said buildings, that is, the parcel which by itself constitutes one whole piece of land bounded on its four sides by streets, and within which said buildings, the church and the convent, are situated.

And the court adds: "Such interpretation is in harmony with our jurisprudence. In the case of the *Seminary of San Carlos vs. Municipality of Cebu* (19 Phil., 32), the court in the course of its decision said (pp. 38 and 39): 'Under the general rules regulating the construction of words and phrases in cases of this character, the word "church," as used in the description, refers to the land upon which the church stands, and not to the church building itself?' Mr. Justice Johnson, one of the justices who signed the decision which we have been interpreting, promulgated by this court on March 11, 1909, concurs in this interpretation and signs the present decision."

Following the same rule in the construction of the words "and the land occupied by these two buildings" in case G« R. No. 3074, we believe that said words refer not only to the land materially occupied by the church and convent, but also to the perimeter of the land adjacent thereto, as bounded and described in the decision appealed from.

One of the allegations of the appellant is that the applicant has produced no muniments of title, such as a royal government grant, or a possessory information, contending moreover, that the applicant has not proved continuous possession of the land necessary to acquire the same by prescription. During the Spanish regime towns were founded in accordance with the provisions of the *Leyes de Indias*. For this reason in the case of *Municipality of Catbalogan vs. Director of Lands* (17 Phil., 216), this court said:

"The executive authorities and other officials who then represented the Spanish Government in these Islands were obliged to adjust their procedure, in the fulfillment of their duties with regard to the establishment and laying out of new towns, to the Laws of the Indies, which determined the course that they were to pursue for such purposes, as may be seen by the following:

"Law 6, title 5, book 4, of the Recompilation of the Laws of the Indies, provides, among other things: "

That within the boundaries which may be assigned to it, there must be at least thirty residents, and each one of them must have a house,' etc.

"Law 7 of the same title and book contains this provision:

" 'Whoever wishes to undertake to establish a new town in the manner provided for, of not more than thirty nor

less than ten residents, shall be granted the time and territory necessary for the purpose and under the same conditions.'

"It may be affirmed that years afterwards all the modern pueblos of the Archipelago were formed by taking as a basis for their establishment the barrios already populated by a" large number of residents who, under the agreement to build the church of the new pueblo, the court-house, and afterwards the schoolhouse, obtained from the General Government the administrative separation of their barrio from the pueblo on which it depended and in whose territory it was previously comprised. In such cases procedure analogous to that prescribed by the Laws of the Indies was observed."

And the Leyes de Indias cited, provide the following: "In inland places, the church is not to be built on the square, but at some distance from it, where it will be separate from every other building not ministering to its comfort and ornamentation; and in order that it may from all points be seen and the better venerated, let it be somewhat raised from the ground, with steps leading up to it; and, between the main square and the church shall be constructed the government administration buildings (Casas Reales, Cabildo o Concejo, Advana y Atarazana) at such distance as not to shut the church from view, nor to interfere with it, and in case of necessity to be able to render assistance, and if the town be on the coast, let the church be so placed as to meet the eye of one coming from the sea, and be so constructed as to serve for the defense of the port, with residential lots close to it and booths on the square for burghers, imposing a moderate tax upon the merchandise; and let it be thus also in smaller localities in the matter of parish churches and monasteries, wherever convenient (Law VIII, title VII, Book IV, Recopitacion de Leyes de los Reynos de las Indias.)"

In view of these legal provisions, we do not find it strange that the applicant was unable to exhibit a written title, but these same provisions give the basis and extent of the applicant's possession in behalf of the Roman Catholic Apostolic Church, which is sufficient to secure the registration of the land in question in the registry of property.

We hold that the judgment appealed from is in conformity with the law, and the same should be and is hereby affirmed, without special pronouncement as to costs. So ordered.

Johnson, Malcolm, Ostrand, Johns, Romualdez and Villa- Real, JJ., concur.

[1]10 Phil, 744, 745 (notes).

[2] 8 Promulgated October 28, 1926, not reported.

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