

**SAN JUAN DE DIOS HOSPITAL, PLAINTIFF AND APPELLEE, VS.
METROPOLITAN WATER DISTRICT, DEFENDANT AND APPELLANT.***G.R. No. 31508. December 27, 1929*

Ponente: MALCOLM, J.

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The question here to be determined is whether the San Juan de Dios Hospital is entitled to free water service from the Metropolitan Water District for the nurses home of the hospital, situated at No. 219, Calle Real, Intramuros, Manila. The trial judge allowed a refund to the hospital of P106.57 which it had paid under protest to the Metropolitan Water District, and from this judgment the Attorney-General appealed.

For a considerable period of time before the American occupation of the Philippines, there existed a water system for the City of Manila known from the name of its founder as the Carriedo Water System. In the will of Francisco Carriedo, which provided for the grant, it was specified that water should be given free to the San Juan de Dios Convent. Pursuant to this provision, during the successive developments of the water system, the San Juan de Dios Hospital has been allowed free water. The nurses home which was recently denied such service by the Board of Directors of the Water District is located in a building separate and apart from the main hospital, at a distance of between thirteen and sixteen meters.

We do not quite grasp the purport of the first assignment of error which challenges the right of the hospital to receive gratuitous water service. The identity existing between the San Juan de Dios Convent and the San Juan de Dios Hospital is tacitly admitted in the answer presented by the Government, and in a ruling of the Attorney-General of December 8, 1926. The Metropolitan Water District has become the successor of the Carriedo Water System and the trustee of the Carriedo legacy. The hospital has been permitted to receive free water for so many years without objection, that it may fairly be said to have an acquired right to the same. (Act No. 2832, sec. 8; Vasquez Vilas vs. City of Manila [1911], 220 U. S., 345; 42 Phil., 953; Sagrada Orden de Predicadores de la Provincia del Santisimo Rosario de Filipinas vs. Metropolitan Water District [1923], 44 Phil., 292.)

The remaining three errors which are assigned touch upon the real issue in the case, which is as to the legal propriety of the nurses home of the San Juan de Dios Hospital receiving free water from the Water District.

A hospital is generally considered to be a charitable institution. It is good public policy to encourage works of charity. What Carriedo did in his will was to make a beneficent grant not to a hospital thought of as a building, but to a hospital thought of as an institution. The free water was for the good of the hospital in this larger sense. Should the hospital be enlarged or rebuilt, the water concession would continue just the same. But a hospital cannot function without personnel. And such personnel must have a place to live, which is the reason why a home devoted exclusively to the needs of the nurses was founded. Free water for a nurses home as an adjunct to a hospital is as beneficial to the charitable purposes of the hospital as is free water for the hospital proper.

The decision of the trial judge, supported by a well reasoned brief for the appellee, responds to the philanthropic

purposes of Carriedo, and his intention should not be thwarted or restricted by technical judicial interpretation. The question is answered in the affirmative.

Judgment is affirmed, without costs.

Avanceña, C. J., Street, Villamor, Romualdez, and Villa-Real, JJ., concur.

Ostrand and Johns, JJ., dissent.

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