

THE ROMAN CATHOLIC APOSTOLIC CHURCH ET AL., PLAINTIFFS, VS. THE MUNICIPALITIES OF TARLAC AND VICTORIA, PROVINCE OF TARLAC, ET AL., DEFENDANTS.

G.R. No. 3212. December 28, 1907

Ponente: WILLARD, J.

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WILLARD, J.:

This is an original action brought in this court by virtue of the provisions of Act No. 1376. The construction of certain sections of this act has been twice before us in *The Roman Catholic Church vs. The Municipality of Badoc et al.* (6 Phil. Rep., 345) and *The Roman Catholic Church vs. The Municipality of Badoc et al.* (7 Phil. Rep., 566).

The complaint as amended alleged that the Roman Catholic Church was the owner of, and till within a few years before the filing of the complaint had been in possession of, the following described lands:

"V.

"(a) In the said municipality of Tarlac: "1. The open square known as the plaza of the church of Tarlac, situated within the area which formerly constituted the pueblo of Tarlac.

"2. In the territory which formerly constituted the pueblo of La Paz and is now the barrio of La Paz in the municipality of Tarlac:

"The grounds of the old church of La Paz, known as the grounds of the old church and convent of La Paz; "The grounds of the old cemetery of La Paz, known as the old cemetery of La Paz;

"The new cemetery of La Paz, known as the new cemetery of La Paz.

"The above-mentioned lands are at present in the possession of and under the administration of the defendants, Gregorio Aglipay and the municipality of Tarlac.

"(a) In the said municipality of Victoria:

"1. The grounds of the church of Victoria, bounded by the four streets called procesionales and known as the plaza of the church of Victoria;

"2. The chapels and their corresponding grounds, situated in the barrios of Calibungan, San Andres, Balbaloto, and Bantog.

"The above-mentioned properties are at present in the possession of and under the administration of the defendants, Gregorio Aglipay, Antonio Mariano, Canuto Aglipay, Geronimo Velasco, municipal president of Victoria, and the municipality of Victoria."

The prayer of the amended complaint was that the Roman Catholic Church be declared to be the owner of the property described therein and that no one of the defendants had any right or interest therein. It also asked for the appointment of a receiver and a preliminary injunction prohibiting the use of the property, during the pendency of

the action, by the Independent Filipino Church.

The complaint was duly served on all of the defendants except Antonio Mariano, The only answer which was filed purported to be the answer of la parte demandada. In the case above cited, reported in Volume VI, Philippine Reports, page 345, we said that on its face this was an answer of all the defendants. Whether in this particular case it was intended as such is rendered doubtful by other circumstances which appear therein. However, as it was the only answer filed in the case, if it is to be considered as the answer only of Gregorio Aglipay, all the other defendants would be in default, and by the terms of section 4 of said act judgment could be entered against them without proof of any of the allegations of the complaint.

A commissioner was appointed to take evidence and such evidence was taken and reported to the court. Thereafter the plaintiffs and the Attorney-General, acting by direction of the Governor-General, as the representative of the defendant municipalities of Tarlac and Victoria, made an agreement as follows:

"That the plaintiff's complaint herein, so far as it alleges ownership and right of occupation of all public highways and plazas, and especially the plazas in the municipalities of Tarlac and Victoria, in the Province of Tarlac, shall be dismissed without prejudice and all claim on the part of the plaintiffs thereto shall be eliminated from said action."

In the brief filed by the plaintiffs, they say that the matter in dispute in the case is reduced to the lands described in paragraph V, (a) 2—that is to say, to the lot on which the church of the former pueblo of La Paz, now a barrio of the municipality of Tarlac, was situated, and the old cemetery and the new cemetery of the same barrio.

The only questions to be considered, therefore, relate to this property in the barrio of La Paz, in the municipality of Tarlac, and the only defendants interested therein are the defendants Gregorio Aglipay and the municipality of Tarlac.

The evidence presented by the plaintiffs in regard to this property showed that the church in the barrio of La Paz had been destroyed during the revolution, and that prior to its destruction it, and the two cemeteries, had been for more than twenty-five years under the control of, and administered by, the Roman Catholic priest of that pueblo. The defendants presented before the commissioner no evidence at all relating to this property.

In the answer above referred to it is alleged that the property described in the complaint is public property belonging to the Government of the Philippine Islands; that the possession enjoyed by the plaintiff church of the property was only for the purpose of administration, and that all its rights thereto ceased when the Spanish sovereignty ceased in these Islands. It also alleged that the Independent Filipino Church took possession of the property by virtue of the circular of the Insular Government of the 10th of January, 1903, for the purpose of administering it for the benefit of the inhabitants of the municipality.

It will thus be seen that upon this branch of the case the only question presented either by the answer or by the brief is the question as to whether the property in controversy is or is not owned by the Government of the Philippine Islands, and the brief is devoted principally to an argument of this question, a question which has been discussed and decided adversely to the claim of the defendants in the cases of *Barlin vs. Ramirez* (7 Phil. Rep., 41), *Roman Catholic Church vs. Santos* (7 Phil. Rep., 66), and the *City of Manila vs. The Roman Catholic Church* (8 Phil. Rep., 763).

It was there held that the King of Spain was not the owner of the property involved in those cases, and that the title thereto did not, therefore, pass by the treaty of Paris to the Government of the United States. It was further held that the municipalities were not the owners of such property and had no right or interest therein. Applying the principle of those cases to this case, the result is that the plaintiffs are entitled to judgment for possession as

prayed for in the complaint.

There is, moreover, another line of reasoning by which the same result is reached, without taking into consideration the peculiar nature of the property here in controversy, and without considering that it is property devoted to religious worship.

It was proven at the trial that the plaintiff church had been in possession of this property for more than twenty-five years. It was admitted in the answer and in the briefs that such possession had existed up to at least 1898. The defendants, in or after that year, took possession of the property. As we have seen, they did so without any right whatever. Under such circumstances, we have held that the plaintiff church can maintain an action to recover the possession of which it has thus been deprived, notwithstanding the fact that it did not commence such action within one year from the time when it lost possession. In other words, where the defendant is able to show no title or interest in himself, a plaintiff who has been in possession of the property for a great number of years may recover such possession of the defendant, although the plaintiff has no written evidence of ownership. This was held in the case of the Bishop of Cebu vs. Mangaron (6 Phil. Rep., 286). In that case it was said, at page 299:

"Article 1635 of the old Code of Civil Procedure not having been repealed by the Civil Code, if the accion publiciana existed prior to its enactment, it must necessarily exist after such enactment. We consequently conclude that the action brought by the plaintiff in this case to recover the possession of which he was unlawfully deprived by the defendant can be properly maintained under the provisions of the present Civil Code considered as a substantive law, without prejudice to any right which he may have to the ownership of the property, which ownership lie must necessarily establish in order to overcome the presumption of title which exists in favor of the lawful possessor, the plaintiff in this case, who had been in the quiet and peaceful possession of the land for twenty years, more or less, at the time he was wrongfully dispossessed by the defendant."

During the progress of this case the defendant, Gregorio Aglipay, made a motion to dismiss the same on the ground that Act No. 1376 was void because it was inconsistent with the provisions of the act of Congress of July 1, 1902, relating to the Philippine Islands.

We held in the case reported in Volume VI, Philippine Reports, page 345, above cited, that this objection could not be raised by motion, but must be considered when the case was decided upon its merits. The same question has been presented by the answer and argued in the brief.

The particular ground on which this claim is based is that the law denies to the Independent Filipino Church and the municipalities the equal protection of the laws, and is therefore in violation of the first paragraph of section 5 of the act of Congress above cited, which provides:

"That no law shall be enacted in said Islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws."

Act No. 1376 gives original jurisdiction to this court of controversies between the Roman Catholic Church and the Filipino Independent Church and the municipalities of the Islands relating to the ownership of church property therein. It provides that the Roman Catholic Church may commence an action in this court against the Independent Filipino Church and the municipalities in relation to the property above mentioned. It also provides that the municipalities may commence such action in this court against the Roman Catholic Church. But it is said that the law discriminates against the municipalities in that it does not allow them to commence such actions without the consent of the Attorney-General and that the municipalities are thereby denied the equal protection of the laws. We see nothing whatever in this point, nor in any other of the suggestions made in the motion and brief of the defendants. In the case of *The United States vs. The Union Pacific Railroad Co.* (98 U. S., 569) there was

under discussion an act of Congress which directed the Attorney-General to commence suit in equity in any circuit court of the United States against the Union Pacific Railroad Company and other defendants. That law gave to the plaintiff in that case rights which were not enjoyed by other plaintiffs suing in the same court and imposed obligations upon the defendants which were not imposed upon other persons sued as defendants therein. It was claimed that the act was void as being in violation of the fifth amendment to the Constitution, and it was also said that it violated "the fundamental right of citizens under a free government to equality before the law." In holding the law constitutional, the court said, at page 608:

"We are of opinion, therefore, that the act in question was intended not to change the substantial rights of the parties to the suit which it authorized, but to provide a specific method of procedure, which, by removing restrictions on the jurisdiction, process, and pleading in ordinary cases, would give a larger scope for the action of the court, and a more economical and efficient remedy than before existed, and that it is a valid and constitutional exercise of legislative power."

By section 9 of the act of Congress of July 1, 1902, above cited, it is provided as follows:

"That the Supreme Court and the Courts of First Instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided, and such additional jurisdiction as shall hereafter be prescribed by the Government of said Islands, * * *."

This provision did not take away from the Commission the power to pass the act in question.

It is therefore by the court adjudged and decreed that this action be dismissed without costs as to the defendants Canuto Aglipay, Ger6riimo Velasco, and the municipality of Victoria.

It is further adjudged and decreed that all of the property described in the complaint, as amended, be eliminated therefrom, except that relating to the land upon which the church of the barrio of La Paz, in the municipality of Tarlac, was situated, and the old cemetery of said barrio and the new cemetery of said barrio, and as to the property thus eliminated this court makes no determination in regard to the rights of the parties to this action in relation thereto.

It is further adjudged and decreed that the plaintiff, the Roman Catholic Apostolic Church, is entitled to the immediate possession of the following-described property situated in the municipality of Tarlac, Province of Tarlac, to wit: The grounds of the old church of La Paz, known as the grounds of the old church and convent of La Paz; the grounds of the old cemetery of La Paz, known as the old cemetery of La Paz, and the new cemetery of La Paz, known as the new cemetery of La Paz; and that neither the municipality of Tarlac nor the defendant, Gregorio Aglipay, obispo maximo of the Independent Filipino Church, has any right, title, or interest therein.

It is further adjudged and decreed that the property last hereinbefore mentioned be returned to the plaintiffs and that the said defendants be ousted from the possession thereof, and that such possession be awarded to the plaintiffs.

It is further adjudged and decreed that a writ of possession issue out of this court against the defendants, the municipality of Tarlac and Gregorio Aglipay, obispo mawimo of the Independent Filipino Church, in the manner and form prescribed by Act No. 190. No costs will be allowed to any party. So ordered.

Arellano, C. J., Torres, Mapa, and Tracey, JJ., concur.

CONCURRING

JOHNSON and CARSON, JJ.:

We agree with the dispositive part of the foregoing decision, which adjudges the right of possession in favor of the plaintiffs, adopting in this case the reasoning of the concurring opinion in the case of Barlin vs. Ramirez (7 Phil. Rep., 41).

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