

**THE ROMAN CATHOLIC APOSTOLIC CHURCH ET. AL., PLAINTIFFS,
VS. THE MUNICIPALITY OF CEBU ET. AL., DEFENDANTS.***G.R. No. 3354. October 08, 1908*

Ponente: WILLARD, J.

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This is an original action in this court, brought by virtue of the provisions of Act No. 1376. It is similar to the case of the Roman Catholic Apostolic Church vs. The Municipalities of Tarlac and Victoria (9 Phil. Rep., 450). A commissioner was appointed to take evidence and such evidence was taken and reported to the court. After the appointment of the commissioner, the plaintiffs and the Attorney-General, acting by direction of the Governor General, as representative of the defendant municipalities, made an agreement as follows:

"That the plaintiffs' 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 Compostela, now Liloan, (Ginatilan, Toledo, and Daan-Bantayan in the Province of Cebu, shall be dismissed, without prejudice, and all claim on the part of the plaintiffs thereto shall be eliminated from said action."

The only property which the plaintiffs claimed in the four municipalities mentioned by name in the foregoing stipulation was the square or plaza in each of them. Consequently the action must be dismissed as to those municipalities.

The only property which the plaintiffs claim in the municipality of Cebu is a building formerly used as a convent in connection with the Parian Church. The evidence of the plaintiffs themselves shows that this building has not been used as a convent since 1862 or 1863; that no services were held in the church next to the convent after 1868 or 1869, and that the church itself was taken down in 1878. From 1862 or 1863 to 1887, the building was used as a tribunal for the Chinese guild (gremio de chinos.) In 1887 a part of the building was, by order of the Roman Catholic Bishop of the Diocese of Cebu, converted into a hospital, and it was used as such until 1898, when it was taken possession of by the municipality of Cebu, which has since occupied it.

The facts above stated show that, by disposition of the church itself, the property has not been used as a convent for more than twenty years. Act No. 1376 gives this court original jurisdiction to hear and determine actions of this class relating to churches, convents, or cemeteries. This building is not a convent and has not been one for twenty years. It is now a hospital, and we have already held that we have no original jurisdiction to determine controversies of this class. In the case of the Roman Catholic Church against certain of the municipalities of the Province of Iloilo (10 Phil. Rep., 8), the plaintiffs, in an action brought under Act No. 1376, attempted to recover possession of a building known as the Hospital of Jaro, and it was there held that such action could not be maintained. (See also *The Roman Catholic Church vs. Certain Municipalities in Oriental Negros*, 9 Phil. Rep., 691.)

The action must, therefore, be dismissed as to the municipality of Cebu.

The only municipality remaining as a defendant is the municipality of Medellin. As to that municipality, the

complaint refers to the following property:

"1. The church building known as the church of Medellin and the church-lot.

"2. The chapels known as the chapels of Cautit and Tindog, and their corresponding lots, situated in the barrios of Cautit and Tindog.

"3. The plaza of a church, known as the plaza of the church of Paypay. The above-described property is at present in the possession and under the administration of the defendants, Gregorio Aglipay, Buenaventura Valladolid, Dionisio Orbeso, Santiago Pari, Nicolas Ibañez, and the municipality of Medellin."

While this municipality is not mentioned by name in the agreement hereinbefore quoted, made between the Attorney-General and the plaintiffs, yet, as that agreement expressly extends to all plazas, we think it must be construed to include the plaza of Medellin and that the complaint must be dismissed so far as that plaza is concerned.

As to the other property situated in this municipality, the evidence is the same as the evidence presented in other cases decided by this court, involving similar questions, and in accordance with the decision of the Supreme Court of the United States in the case of the Municipality of Ponce vs. The Roman Catholic Church of Porto Rico, decided June 1, 1908,[1] and followed by this court in the case of The Roman Catholic Church vs. The Municipality of Placer, No. 3490, decided September 23, 1908,[2] it must be held that the plaintiff church is the owner of the churches in the municipality of Medellin.

It is, therefore, by the court adjudged and decreed that this action be dismissed without costs as to the defendants Gregorio Corro and Buenaventura Valladolid and the municipalities of Cebu, Liloan, Ginatilan, Toledo, and Daan-Bantayan.

It is further adjudged and decreed that all of the property described in the complaint be eliminated therefrom except the following—

"(1) The church building, known as the church of Medellin, and the church lot;

"(2) The chapels known as the chapels of Cautit and Tindog, and their corresponding lots, situated in the barrios of Cautit and Tindog—"

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 the owner of, and is entitled to the possession of the following described property, situated in the municipality of Medellin, in the Province of Cebu, to wit—

"(1) The church building known as the church of Medellin and the church-lot;

"(2) The chapels known as the chapels of Cautit and Tindog, and their corresponding lots, situated in the barrios of Cautit and Tindog—"

and that neither the municipality of Medellin nor the defendants Gregorio Aglipay, Dionisio Orbeso, Santiago Pari, or Nicolas Ibañez have a 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, the municipality of Medellin, Aglipay, Orbeso, Pari, and Ibañez 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 last named in the manner and form prescribed by Act No. 190. No costs will be allowed to either party. So ordered.

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

[1] 28 Sup. Ct. Rep, 737; 6 Off. Gaz., 1213.

[2] Page 315, *supra*.

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