

CAPELLANIA DEL CONVENTO DE TAMBOBONG, PETITIONER AND APPELLEE, VS. HIPOLITO CRUZ ET AL., RESPONDENTS AND APPELLANTS.

G.R. No. 3427. November 06, 1907

Ponente: TRACEY, J.

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TRACEY, J.:

On the petition of Lino Cajili, parish priest of the Roman Catholic Apostolic Church, and administrator of the capellania of the convent of Tambobong, the Court of Land Registration registered, in the name of the capellania, a tract of land containing 69 hectares 16 ares and 7 centares, excluding one parcel belonging to Rufino Romero. There were in all more than four hundred respondents and of these six were dropped in the course of the proceedings.

On this appeal the respondents assign four errors, two of which are in principle disposed of by the decision of this court in case No. 3543, brought by the same petitioner for the registration of other lands, decided October 1, 1907[1] (5 Off. Gaz., 787). A title granted by the Spanish general direction of the civil administration in favor of Fray Patricio Martin as administrator of this capellania on September 30, 1891, was there considered, as well as the effect of the record of his deed in the office of the registrar and also the nature of the tenancy and occupation of the lands there in question. It is unnecessary to repeat here what was said in that case, which may be applied with full force to the similar facts and circumstances of this one.

These appellants attack the legal existence and personality of the petitioner on the ground that its present constitution does not correspond with the conditions laid down by its founder, Agustin Sigua, in an ancient deed of foundation of the capellama dated February 14, 1697. It is true that a literal present conformity with all the requirements of this old deed can not be shown; for instance, as chaplain, the founder named the prior of the convent of San Bartolome, of the order of St. Augustin, and his successors, while the petitioner does not answer to this description, either as an Augustinian or as prior, in the primary acceptation of that title; moreover, it would be impossible to apply to the saying of the masses, provided for in the deed, the rents of all the lands belonging to the capellama, were they all collected, nor are there now forthcoming Augustinian friars to say them; it also appears that, in fact, certain of the chaplains, for a period of years, allowed the rents, or a great part of them, to remain uncollected. It might be necessary to go into an examination of these and other like details in the history and the administration of the capellama did its existence depend upon this instrument. Such, however, is not the theory of the petitioner, who rests his claim upon the long existence and recognition of the capellania through more than two centuries, as well as upon the more recent Government grant of registration. It was for the purpose of showing such recognition of the capellania, and not as denning its nature and powers, that the deed of foundation was offered and received in evidence. It does appear that other documents affecting the constitution and administration were destroyed by fire during the troubles of 1898, and their production is now impossible.

The petitioner has not attempted and we do not think that he is required to trace all the changes wrought in the

course of more than two centuries in the constitution and administration of this ancient institution. Without this document of foundation the existence and personality of the capellania would hardly have been questioned in this case, as they remained unquestioned in the other, and they are strengthened, rather than weakened, by this proof of their antiquity.

Upon general principles it is by no means clear that in a proceeding of this nature opponents may attack the personality of a petitioner apparently exercising the rights and possessing the individuality of a corporation and being one *de facto* if not *de jure*. In the courts of America they would not be allowed to do so. (Clark on Corporations, par. 26.)

In the Spanish compilation published in 1892 by the general direction of registration (central registration office), at page 154, there occurs a resolution dated March 8, 1888, in a case involving the inscription of the lands of a capellnia, in which it was said:

"Considering that although the terms of the foundation are unknown, yet its existence and the exercise of its active and uninterrupted patronage can not be questioned." The general direction, reversing the order appealed from, recognized the inscription of the land in favor of the capellania and denied the registration of the adverse title. Among the persons enumerated in section 19 of Act No. 49G as entitled to petition for the registration of titles there is no one corresponding exactly in description wilfch this petitioner. The fourth subdivision of that article provides that "corporations may make application by any officer duly authorized by vote of the directors." It is justly urged that Father Lino Cajili is not able to show any vote of the directors of his corporation authorizing him to make this petition.

We should be loath to narrow the general and beneficent effect of the Land Registration Act by an interpretation so narrow as to shut out from its benefits most if not all of the corporations existing in these Islands at the time of the transfer of sovereignty, as well as other interests, governmental and otherwise, corporate in form but not possessing boards of directors which would enable them to comply with the demands of this section. Section 21 provides that "the application shall be in writing, signed and sworn to by the applicant, or by some person duly authorized in his behalf," Under this provision it was competent for the authorized agent of this capellamm to sign and swear to the application, without the formal vote of a board of directors which had, in fact, no existence. The terms of section 19 can not be considered mandatory to the extent of excluding persons manifestly within the benefit of the act, which from its whole scope and reading is evidently intended to reach all actual owners of land nat expressly barred. It is probable that the draftsmen of the act had not in mind the fact that the greater number of corporations in existence in the Islands at the time when it was penned had no boards of directors, as ordinarily known in American law. This interpretation is justified by section 123, which reads:

"This act shall be constructed liberally so far as may be necessary for the purpose of effecting its general intent." A difficulty arises out of the quantity of land registered, more than 4 hectares in excess of the number stated in the petition, notwithstanding the exclusion of certain parcels in the course of the proceedings, and approximately 11 hectares more than were stated in the Government registration of 1891. The court below has found that this difference is one of estimate, rather than of quantity, which is determined by the actual boundaries, which are specified and have been identified and are shown on the official survey. Three esteros serve to locate with some certainty the greater part of the boundary line, and after a study of the maps and descriptions before us we agree with the Court of Land Registration that the tract of land described is substantially the same, notwithstanding the varying hectareage assigned to it. In construing descriptions of real estate visible monuments prevail over quantities as well as over measurements. (See *Pamintuan et al. vs. The Insular Government et al*[1], 5 Off Gaz., 578.) The judgment of the lower court is affirmed, with costs against the appellants, with the exception of Rufino Romero. So ordered.

Arellano, C. J., Torres, Johnson, and Willard, JJ., concur.

[1] 8 Phil. Rep., 683.

[1] 8 Phil. Rep., 512.

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