

**THE ROMAN CATHOLIC APOSTOLIC CHURCH ET AL., PLAINTIFFS,
VS. THE MUNICIPALITY OF PLACER, DEFENDANT.***G.R. No. 3490. September 23, 1908*

Ponente: TRACEY, J.

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In December, 1903, the Roman Catholic curate of Placer and Taganaan brought an action in his own name in the court of a justice of the peace of Surigao to recover possession of the church, convent, and cemetery which are the object of the present suit. From a judgment against him by the justice of the peace, he appealed to the Court of First Instance, where he succeeded, but upon the appeal of the defendant, that judgment was again reversed in this court, for the reason that the judge of First Instance had allowed an amendment to the complaint which set out a cause of action of which the justice had no jurisdiction in the first instance. (*Alonso vs. Municipality of Placer*, 5 Phil. Rep., 71.)

The present action was brought originally in this court under Act No. 1376, and the evidence given in the earlier action is, by stipulation, submitted as proof herein. Upon examination it shows no circumstances distinguishing this case from other similar litigations disposed of in this court, and upon the authority of *Barlin vs. Ramirez* (7 Phil. Rep., 41), the plaintiff is entitled to a judgment for the possession of the property described in the complaint.

The complaint, however, demands not only the possession, but a declaration as to the ownership of the property.

While it may be said that, from the reasoning in the prevailing opinions heretofore rendered in church cases of this character that have been before us, the ownership of the property by the Roman Catholic Church may be deduced as a logical consequence, yet this court has up to this time withheld an authoritative pronouncement upon that subject. The recent decision by the Supreme Court of the United States of a similar controversy, which is binding upon us as a precedent, appears to entitle the plaintiff upon the demand in the complaint to a final adjudication of its property rights in the subject-matter of the action. (*The Municipality of Ponce vs. The Roman Catholic Apostolic Church in Porto Rico*, decided June 1, 1908.[1])

That was an action brought by the church to recover two buildings erected under the Spanish sovereignty and used for divine worship, to which the municipality made a claim of ownership on the grounds that, according to Spanish law, the Roman Catholic Apostolic Church was not the owner of such property, having only the use thereof for ordinary ecclesiastical and religious purposes, and that the true owner thereof was the municipality or the state, by reason of the contributions by them or by the people of the land and of the funds with which the buildings were constructed or repaired. It was also contended that the plaintiff was not a juridical person and that the special act under which the action was brought was invalid.

Thus it will be seen that this case brought up the same questions presented to us in many of the church controversies heretofore disposed of.

The following extracts from the opinion of the court, delivered by Mr. Chief Justice Fuller, are applicable to the

present action:

"Clearly under these sections of the organic act the legislative assembly had express authority to legislate regarding the jurisdiction and procedure of its courts.

* * * * *

"The appellant contends 'that the Roman Catholic Church of Porto Rico has not the legal capacity to sue, for the reason that it is not a judicial person, nor' a legal entity, and is without legal incorporation. * * * If it is a corporation or association, we submit to the court that it is necessary for the Roman Catholic Church to specifically allege its incorporation, where incorporated, and by virtue of what authority or law it was incorporated, and, if a foreign corporation, show that it has filed its articles of incorporation or association in the proper office of the government, in accordance with the laws of Porto Rico.'

* * * * *

"The court will take judicial notice of the Spanish law as far as it affects our insular possessions. It is pro tanto no longer foreign law.

"The Civil Code in force in Cuba, Porto Rico, and the Philippines at the time of the treaty of Paris contains these provisions:

" 'ART. 35. The following are judicial persons: The corporations, associations, and institutions of public interest recognized by law. Their personality begins from the very instant in which, in accordance with law, they are validly established.

" 'ART. 38. Judicial persons may acquire and possess property of all kinds as well as contract obligations and institute civil or criminal actions in accordance with the laws and rules of their establishment.

" 'The church shall be governed in this particular by what has been agreed upon by both powers, and educational and charitable institutions by the provisions of special laws.'

"The phrase 'agreed upon by both powers' refers to the Concordats' or treaties between the Holy See and the Spanish Crown, which recognize the right of the church to possess and acquire property.

"The law thus recognized at the time of the cession the juristic personality and legal status of the church.

* * * * *

"Article 8 of the treaty of Paris is to this effect:

" And it is hereby declared that the relinquishment or cession, as the case may be, to which the preceding paragraph refers, can not in any respect impair the property or rights which by law belongs to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies, or any other associations having legal capacity to acquire and possess property in the aforesaid territories, renounced or ceded, or of private individuals of whatever nationality such individuals may be.'

"This clause is manifestly intended to guard the property of the church against interference with, or spoliation by, the new master, either directly or through his local governmental agents. There can be no question that the ecclesiastical body referred to, so far as Porto Rico was concerned, could only be the Roman Catholic Church in that island, for no other ecclesiastical body there existed.

"The Mortgage Law, in force in Porto Rico both before the cession and at present, provided for the registration generally of 'title deeds of real property or property rights owned or administered by the state or by civil or ecclesiastical corporations, subject to the provisions of law or regulations.' (Art. 2, par. 6.)

"But this was qualified by the general regulations for the execution of the Mortgage Law (see translation of general regulations for the execution of the Mortgage Law for Cuba, Porto Rico, and the Philippines, War Department, 1899) which provided:

" 'ART. 25. Exceptions to the record required by article 2 of the law are—

" 'First. Property which belongs exclusively to the eminent domain of the state, and which is for the use of all, such as the shores of the sea, islands, etc., walls of cities, and parks, ports and roadsteads, and any other analogous property during the time they are in common and general use;

" 'Second. Public temples, dedicated to the Catholic faith,'

"Of course the temples in question were not subject to the registration law, and were recognized as a peculiar class of property, wholly different from that belonging to private individuals.

"Counsel for appellee well argues that the Roman Catholic Church has been recognized as possessing a legal personality and the capacity to take and acquire property since the time of the Emperor Constantine. And he quotes from the code of Justinian the law of Constantine of 321 to that effect.

* * * * *

"The Spanish law as to the juristic capacity of the church at the time of the cession merely followed the principles of the Roman law, which have had such universal acceptance, both in the law of continental Europe and in the common law of England.

"Roman Catholicism has been the official religion of Spain since the time of the Visigoths. As far as the church in Spanish-America was concerned, the King of Spain was supreme patron. (See Alcubilla, vol. 8, p. 662.)

* * * * *

"Under the bulls of Julius II and Alexander XI there were conceded to the Spanish Crown all the tithes of the Indies, under the condition of endowing the church and providing the priests with proper support. The church in Spanish-America, through his royal patronage, came into possession of considerable properties. The right of the church to own, maintain, and hold such properties was unquestioned, and the church continued in undisputed possession thereof.

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"At the time of the American occupation the Catholic Church was the only church in the island.

* * * * *

"This was the status at the moment of the annexation, and by reason of the treaty, as well as under the rules of international law prevailing among civilized nations, this property is inviolable.

"The corporate existence of the Roman Catholic Church, as well as the position occupied by the papacy, have always been recognized by the Government of the United States.

* * * * *

"The proposition, therefore, that the church had no corporate or jural personality seems to be completely answered by an examination of the law and history of the Roman Empire, of Spain, and of Porto Rico down to the time of the cession, and by the recognition accorded to it as an ecclesiastical body by the treaty of Paris and by the law of nations.

* * * * *

"The properties of the church in Cuba and the Philip pines at the time of the ratification of the treaty were far more considerable than those in Porto Rico. And the controversies or questions arising as to those properties have been quite generally adjusted in both Cuba and the Philippines partly with and partly without recourse to the courts.

* * * * *

"Even greater difficulties were settled in the Philippines, and the American Government never suggested that the church was without juristic capacity to possess or protect property rights. The suggestion that it did not possess a license from the local authorities 'to do business' was never put forward.

"Whether these ecclesiastical properties originally came from the state or any subdivision thereof, they were donated to, at once became and have ever since remained the property and in the peaceful possession of the Roman Catholic Church.

"In the Philippines, the Supreme Court of the Islands has recently treated these questions in an interesting and satisfactory opinion. (Barlin vs. Ramirez, 7 Phil. Rep., 41.) The suggestion, made there as here, that the church was not a legal person entitled to maintain its property rights in the courts, the Supreme Court answered by saying that it did not require serious consideration when 'made with reference to an institution which antedates by almost a thousand years any other personality in Europe.'

"It is urged that the complaint does not state facts sufficient to constitute any cause of action, and that it admits that the property in question was constructed out of funds of the municipality of Ponce, Porto Rico. This contention has been sufficiently answered. Counsel for appellee rightly says that—

" 'Whether the property originally came from the crown or the local government is immaterial, since it had been for centuries recognized as the property of the church. Because the Spanish Crown or one of its municipal agencies chose to donate churches some years or centuries ago, it scarcely follows that it can now be claimed that the gift is revocable, and that the municipality may now expropriate the church and convert the property to any purpose it may desire.'

* * * * *

"All the public funds employed in church buildings and other property were appropriated for that purpose without any reservation or restriction whatever, being approved according to law by the representatives of the nation in the Cortes, or by those of the towns in the common councils. Therefore the application of funds thus appropriated and voted by the legitimate mandataries of the nation or of the municipalities constituted, from the standpoint of law and justice, a perfect, irrevocable gift.

"We accept the conclusions of appellee's counsel as thus summarized:

" 'First. The legislative assembly of Porto Rico had the power to confer jurisdiction on the supreme court of the island of this special class of controversies. Such legislation was not contrary to the constitution and was in conformity with the power conferred by Congress upon the legislative assembly to regulate the jurisdiction of the courts.

" 'Second. The Roman Catholic Church has been recognized as possessing legal personality by the treaty of Paris and its property rights solemnly safeguarded. In so doing, the treaty has merely followed the recognized rule of international law which would have protected the property of the church in Porto Rico subsequent to the cession. This juristic personality and the church's ownership of property had been recognized in the most formal way by the concordats between Spain and the papacy and by the Spanish laws from the beginning of settlements in the Indies. Such recognition has also been accorded the church by all systems of European law from the fourth century of the Christian era.

" 'Third. The fact that the municipality may have furnished some of the funds for building or repairing the

churches can not affect the title of the Roman Catholic Church, to whom such funds were thus irrevocably donated and by whom these temples were erected and dedicated to religious uses."

Therefore, let judgment be entered declaring that the church, convent, and cemetery of Placer, described in the complaint in this action, are the property of the plaintiff, which is entitled to the possession thereof, and that the defendant has no right of ownership therein.

No costs will be allowed to either party in this court. So ordered.

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

CARSON, J. :

I reserve my vote.

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

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