

## **THE DIRECTOR OF LANDS, APPLICANT AND APPELLEE, VS. THE ROMAN CATHOLIC BISHOP OF ZAMBOANGA, OPPOSITOR AND APPELLANT, THE MUNICIPALITY OF MISAMIS, OPPOSITOR AND APPELLEE.**

*G.R. No. 40851. July 31, 1935*

Ponente: IMPERIAL, J.

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### **IMPERIAL, J.:**

In cadastral case No. 2 of Occidental Misamis, G. L. R. 0. Record No. 1210, the Roman Catholic Bishop of Zamboanga sought the registration in the name of the Roman Catholic Apostolic Church of four (4) parcels of land, known as lots Nos. 1, 2, 3 and 4, and the improvements thereon, situated in the center of the town of the municipality of Misamis. The Director of Lands claimed said properties alleging them to be of the public domain, having been reserved for parks by virtue of the Governor-General's Proclamation No. 360, dated February 7, 1931. The municipality of Misamis likewise claimed lots Nos. 1, 2 and 3, and a southwestern portion of lot No. 4, having an area of 5,539 square meters alleging them to be public plazas.

After the necessary hearing wherein the parties presented their respective evidence, the court rendered judgment ordering the registration of lot No. 4 with the improvements thereon in favor of the Roman Catholic Bishop of Zamboanga and the registration of lots Nos. 1, 2 and 3 in favor of the municipality of Misamis, thereby overruling the claim of the Director of Lands. Only the Roman Catholic Bishop of Zamboanga appealed.

The four lots are really only one parcel and are bounded on the four sides thereof by Norte America, Ledesma, Washington and Comercial streets. These four streets existed from time immemorial, although with different names. Said four lots were already in the possession of the Roman Catholic Apostolic Church some years prior to the year 1789, and the church, belfry and convent which served as dwelling for the parish priests were built on lot No. 4. Heretofore its possession has been quiet, open, public, continuous and under claim of ownership. The land identified as lot No. 1 always formed part of lot No. 4. The so-called lot No. 2 was occupied by nobody except the church through its parish priests, until the local authorities converted it into an extension of Mabini Street which terminated at Norte America Street. As to lot No. 3, it has always been in the possession of the church but it was occupied by two schools for children of both sexes during the Spanish regime. The girl's school was destroyed upon the arrival of the Americans and the other school for boys was destroyed and it ceased to exist about the year 1915. On one side of this land the municipal authorities succeeded in erecting a monument of Rizal, which still stands.

The possession by the Roman Catholic Apostolic Church of the lands in dispute for a period of about a century and a half, under the conditions above stated, can mean nothing more than that said lands were designated by the State itself to be devoted to the building of the church, belfry and convent for the purpose of implanting the Roman Catholic Apostolic Religion and maintaining the cult thereof.

In the case of *Barlin vs. Ramirez and Municipality of Lagonoy* (7 Phil., 41 et seq.), this court said:

" (2) The municipality of Lagonoy, in its answer, claims as such, to be the owner of the property. As we have said before, the evidence shows that it never was in the physical possession of the property. But waiving this point and assuming that the possession of Ramirez, which he alleges in his answer is the possession of the municipality, gives the municipality the rights of a possessor, the question still arises, Who has the better right to the present possession of the property? The plaintiff, in 1902, had been in the lawful possession thereof for more than thirty years and during all that time its possession had never been questioned or disturbed. That possession has been taken away from it and it has the right now to recover the possession from the persons who have so deprived it of such possession, unless the latter can show that they have a better right thereto. This was the proposition which was discussed and settled in the case of the Bishop of Cebu vs. Mangaron, No. 1748 (6 Phil., 286, decided June 1, 1906). That decision holds that as against one who has been in possession for the length of time the plaintiff has been in possession, and who has been deprived of his possession, and who cannot produce any written evidence of title, the mere fact that the defendant is in possession does not entitle the defendant to retain that possession. In order that he may continue in possession, he must show a better right thereto.

"The evidence in this case does not show that the municipality has, as such, any right whatever in the property in question. It has produced no evidence of ownership. Its claim of ownership is rested in its brief in this court upon the following propositions: That the property in question belonged prior to the Treaty of Paris to the Spanish Government; that by the Treaty of Paris the ownership thereof passed to the Government of the United States; that by section 12 of the Act of Congress of July 1, 1902, such property was transferred to the Government of the Philippine Islands, and that by the circular of that Government, dated November 11, 1902, the ownership and the right to the possession of this property passed to the municipality of Lagonoy. If, for the purposes of the argument, we should admit that the other propositions are true, there is HO evidence whatever to support the last proposition, namely that the Government of the Philippine Islands has transferred the ownership of this church to the municipality of Lagonoy. We have found no circular of the date above referred to. The one of February 10, 1903, which is probably the one intended, contains nothing that indicates any such transfer. As to the municipality of Lagonoy, therefore, it is very clear that it has neither title, ownership, nor right to possession.

"(3) We have said that it would have no such title or ownership even admitting that the Spanish Government was the owner of the property and that it passed by the Treaty of Paris to the American Government. But this assumption is not true. As a matter of law, the Spanish Government at the time the treaty of peace was signed, was not the owner of this property, nor of any other property like it, situated in the Philippine Islands.

"It does not admit of doubt that from the earliest times the parish churches in the Philippine Islands were built by the Spanish Government. Law 2, title 2, book 1, of the Compilation of the Laws of the Indies is, in part, as follows:

" 'Having erected all the churches, cathedrals, and parish houses of the Spaniards and natives of our Indian possessions from their discovery at the cost and expense of our royal treasury, and applied for their service and maintenance the part of the tithes belonging to us by apostolic concession according to the division we have made.'"

The syllabus of the case of the Roman Catholic Apostolic Church vs. Municipality of Placer (11 Phil., 315), reads:

"ROMAN CATHOLIC CHURCH PROPERTY; OWNERSHIP.— On the authority of the Municipality of Ponce vs. Roman Catholic Apostolic Church in Porto Rico, decided by the United States Supreme Court June 1, 1908; Held, That under the Spanish law heretofore existing in these Islands and the provisions of the treaty of Paris, the Roman Catholic Apostolic Church is the owner of a church building, convent, and cemetery, and that the municipality wherein the same are situated has no right of ownership therein by reason of funds or land contributed for the foundation or erection thereof."

In the case of the Roman Catholic Apostolic Church vs. Municipalities of Caloocan, Morong and Malabon, of the Province of Rizal (12 Phil., 639 et seq.) of this court in analyzing the laws governing the temporal properties of the church in these Islands again stated:

"The evidence discloses, beyond per adventure of doubt, that the plaintiff had been in the quiet and peaceable possession of the different parcels of property, with reference to which evidence was presented, for a period immemorial, until some time between the years 1896-1899, when they were molested in their possession and deprived of the same by some of the defendants. This court has repeatedly decided that where a person has been in the long possession of real property and has been deprived of the possession thereof, he may recover it as against one in possession, unless the latter can show a better right thereto. (Bishop of Cebu vs. Mangaron, 6 Phil., 286; Barlin vs. Ramirez, 7 Phil., 41; Roman Catholic Apostolic Church vs. Santos, 7 Phil., 66; City of Manila vs. Roman Catholic Apostolic Church, 8 Phil., 763; Roman Catholic Apostolic Church vs. Municipality of Tarlac, 9 Phil., 450; Roman Catholic Apostolic Church vs. Certain Municipalities, etc., 10 Phil., 1; Roman Catholic Apostolic Church vs. Municipality of Badoc, 10 Phil., 659; Roman Catholic Apostolic Church vs. Municipality of Cuyapo, 9 Phil., 457; Roman Catholic Apostolic Church vs. Certain Municipalities, etc., 9 Phil., 691.)

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"In the case of the Roman Catholic Apostolic Church vs. Municipality of Placer (11 Phil., 315), the facts therein being very analogous to the facts in the present case, this court followed the said decision of the Supreme Court of the United States, holding that, under the Spanish law heretofore existing in these Islands, and the provisions of the Treaty of Paris, the Roman Catholic Apostolic Church is the owner of the church buildings, convents, and cemeteries and the municipalities wherein the same are situated have no right of ownership therein by reason of funds or lands contributed for the foundation or erection thereof.

"Our attention has not been called to any express grant or grants of land by the Crown of Spain for the purposes of the church upon which particular churches were erected, and it is believed that, during the early history of the sovereignty of Spain in the Indies, no such grants can be found, but no fact is better established in both secular and ecclesiastical history than the fact that the Crown of Spain and the Pope always cooperated from the very earliest history of the possession of the Indies in the extension of the great benefits offered by the Roman Catholic Apostolic Church to the Indio, as well as to the peoples of Europe. If any difference whatever existed in the efforts thus made in the great interest which the church took in the different peoples, it was in favor of the Indio. Scarcely had the Indies been discovered until the Pope and the Crown of Spain began to manifest a deep interest in the religious, and educational welfare of the people of the Indies. (Buia de Alejandro VI of the 4th of May, 1493; also the Bvla of the 16th of December, 1501; Ordenanza 5 (a) por el Consejo de Las Indias, 1575; law 10, title 1, book 1 of the Laws of the Indias, of the 1st of June, 1574; law 14, title 2, book 1 of the Laws of the Indias, and many others, the collection of which may be found in vol. 7 of Legist ción Ultramarina, p. 476.)

"From the reading of these various bulas and royal decrees and ordenanzas, it will be seen that the government and the church were constantly working together for the advancement of the religious and educational welfare of the Indios. The government lent its most enthusiastic support to the efforts that were made by the church in this regard, even to the extent of paying out of the public exchequer, funds, together with funds contributed by the encomenderos and the people of the pueblos, for the purpose of erecting the magnificent Catholic churches existing everywhere throughout the Spanish island possessions. While the Crown of Spain always reserved a certain control over the operations of the Catholic Church, yet no one can doubt that, when these lands were donated or designated and the church edifices were erected thereon, it was the intention of the Crown that such lands and such edifices should be devoted absolutely to the use of the church. It is a well-known fact that, when a church edifice of the Roman Catholic Apostolic Church was once accepted and dedicated for religious purposes, it thereafter could never be used for any other purpose. The Catholic Church certainly had a right to believe at least that, during the three hundred years or more that it occupied its churches in the Philippine

Islands, without protest or objection on the part of the Crown of Spain, the Crown had intended at least that they should become the absolute owners of such properties. And no protest has been called to our attention during a time immemorial and no protest or objection by the different pueblos to the right of ownership which the church has exercised for from two to three hundred years over the properties upon which the edifices of the Roman Catholic Apostolic Church were erected. Not only is it believed that the Crown of Spain intended that the Roman Catholic Apostolic Church should exercise absolute dominion over such properties, but under the treaty of Paris the Government of the United States obligated itself to protect all such interests. The Roman Catholic Apostolic Church occupied the different properties in question in this case for a time so long that no one in the pueblos could remember when such properties were not occupied and used for the benefit of said church, until about the years 1896-1899. The occupancy of property for from two to three hundred years without protest of any kind whatever from the donors would seem at least to be sufficient time, in the absence of positive proof to the contrary, that such donation was made for the purpose of transferring to the donee all rights and interests in such property.

"Therefore, adhering to and following the decision of the Supreme Court of the United States in the case of the Municipality of Ponce vs. Roman Catholic Apostolic Church in Porto Rico (28 Sup. Ct. Rep., 737; 6 Off. Gaz., 1213) and the decision of this court in the case of the Roman Catholic Apostolic Church vs. Municipality of Placer, supra, we do hereby find that the plaintiff herein is entitled to the right of possession and ownership of the following properties:

"La visita de Dampalit;  
"La visita de Ningan;  
"La visita de Catmon;  
"La visita de Tinajeros;  
"La visita de Maysilo;  
"La visita de Matahong;  
"La visita de Muson;  
"La visita de Julong-Dujat,

each situated in barrios of the same names, in the pueblo of Malabon, Province of Rizal; and also to the right of possession and ownership of the oementerio of the pueblo of Morong and the cementerio of Cardona in the pueblo of Morong."

The circumstance that public schools for children of both sexes were erected on lot No. 3 during the Spanish regime is not conclusive evidence that the land was segregated from the great portion thereof designated for the Roman Catholic Apostolic Church and its cults particularly if we take into account the fact that primary instruction was then under the direct supervision of the parish priests who received subsidy from the government.

In the case of the Municipality of Nueva Caceres vs. Director of Lands and Roman Catholic Bishop of Nueva Caceres (24 Phil., 485 et seq.), it was stated:

"Therefore, it will be seen from a reading of the above royal decrees and regulations governing: the primary instruction of the boys, that boys' schools were under the direction and control of both the church and the state. It was only natural that the schools of the church should be governed by the general laws regulating primary instruction inasmuch as all the schools were under its supervision; and as by throwing open the school to the public, boys generally would be instructed in the faith, it was to the advantage of the church to make its schools as public as possible.

"So, the fact that the Government intervened in the administration of the school in no way tends to show or prove that the church had ceded the building or the lot in question to either the local or central government of Spain in the Philippines. On the contrary, it would have been highly unreasonable that such should have been the case, for the church is very jealous of its property and especially of its educational institutions for the

instruction of the young, and especially of a lot and building which faced its cathedral in Nueva Caceres and adjoined the same lot on which its seminary for the instruction of aspirants to the priesthood was built. In fact, there is no doubt that until the revolution and separation of church and state, brought about by the advent of American sovereignty, the church was in possession of the school in question, considering it as its own exclusive property."

Neither does the existence of a monument of Rizal on said land prove the ownership of the municipality of Misamis, nor can the recent occupation thereof be invoked as a title thereto. It should be interpreted as a tolerated possession in accordance with articles 444 and 447 of the Civil Code which in no way can be made the basis for the adjudication of a title.

The circumstance that these lands have been reserved for park purposes by Proclamation No. 360, dated February 7, 1931, is of no importance. Inasmuch as they were not public lands, lands of the public domain or lands particularly belonging to the Government, but properties of private ownership, they could not be lawfully segregated in order to be converted into public parks.

As stated in the beginning, the court found that lots Nos. 1, 2 and 3 are public plazas, as claimed by the municipality of Misamis, and decreed the registration thereof in the name of the said municipality. This decree is untenable. If they are public plazas they are not susceptible of registration in the name of any branch of the State. (Nicolas vs. Jose, 6 Phil., 589; Harty vs. Municipality of Victoria, 13 Phil., 152; 226 U. S., 12; 57 Law. ed., 103.)

For the foregoing considerations, and without the necessity of passing upon the various assignments of error of the appellant separately, the appealed judgment is reversed and it is ordered that the registration of lots Nos. 1, 2, 3 and 4 with the improvements thereon, except the Rizal monument, be decreed in favor of the Roman Catholic Bishop of Zamboanga, without costs. So ordered.

Malcolm, Villa-Real, Butte, and Goddard, JJ., concur.

Judgment reversed.

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