

T. H. PARDO DE TAVEBA BT AL., TRUSTEES OF THE COLLEGE OF SAN JOSE, PLAINTIFFS, VS. THE HOLY ROMAN CATHOLIC APOSTOLIC CHURCH ET AL., DEFENDANTS.

G.R. No. 469. March 13, 1908

Ponente: JOHNSON, J.

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JOHNSON, J.:

On the 5th day of January, 1901, the United States Philippine Commission promulgated Act No. 69, which among other things provided for the creation of a board of trustees to take possession of and manage the property and estates of the College of San Jose, of the city of Manila, to maintain and conduct in the buildings of said college a School of Medicine and Pharmacy for the benefit of the qualified members of the public of the Philippine Islands, with power to determine the number of professorial chairs to be established, the number of instructors and demonstrators needed, to appoint professors constituting the faculty, to appoint the necessary instructors and demonstrators and other necessary officers and employees, to fix the curriculum, to fix reasonable tuition and other fees to be collected from the students, etc. Said law also appointed the members of said board of trustees.

Section 4 of said law provided that said board of trustees, within thirty days after the passage of said act, should file a petition in the Supreme Court of the Philippine Islands, setting forth the appointment of the board under said act, its powers and duties thereunder, its claim of right to the possession of the properties and estates of the said College of San Jose, the fact that under a claim of right the property is held by the rector of the University of Santo Tomas, representing the ultimate control of the Roman Catholic Church, setting forth succinctly the history of the college and a statement of the facts upon which the right of the United States to provide for the administration of the college is asserted, and praying that the court shall enter a decree ousting the rector of the representative of the Roman Catholic Church from possession of the properties and estates of said college, and placing the petitioners (said board of trustees) in possession thereof, so as to enable them to discharge the duties imposed upon them by said act.

Said act provided that said petition should make parties defendant not only the rector of the University of Santo Tomas but also the archbishop of Manila or the arch-bishop of New Orleans, apostolic delegate, who, in the absence of the archbishop of Manila from the Philippine Islands, is the episcopal administrator of the archiepiscopal province and of the bishopric of Manila, and shall require said archbishop, as the representative of the Roman Catholic Church, to set up its claim of ownership and right to control the properties and estates of the College of San Jose.

On the 3d day of February, 1902, the Attorney-General of the Philippine Islands, representing the Philippine Islands, and Felipe G. Calderon, attorney for the said board of trustees, filed an amended petition' in said Supreme Court, in which the said board of trustees were plaintiffs and the Holy Roman Catholic Apostolic Church, represented by the most reverend archbishop of Manila and the most reverend archbishop of New Orleans, apostolic delegate, and Raymundo Velazquez, rector of the University of Santo Tomas, were defendants.

Among other things said petition contained the following allegation:

"That the property of said College of San Jose is now in the possession of a person who is rector of the University of Santo Tomas, a member of the Dominican Order, who claims to be in possession thereof by virtue of the ownership and right of control of said property and assets by the Holy Roman Catholic Church and who denies the power of the United States and the trustees of said college, plaintiffs herein, either to assume control of said property or to make any provision for the administration of the same."

The said petition concluded with the following prayer:

"Wherefore plaintiffs pray that this court enter a decree ousting the rector of the University of Santo Tomas and any other minister or representative of the Roman Catholic Church from possession of the properties and assets of said College of San Jose and placing the petitioners in possession thereof so as to enable them to discharge the duties imposed upon them by the provisions of said Act No. 69 of the said United States Philippine Commission, and for such other and further relief as the court may deem just."

On the said 3d day of February, 1902, the defendants, by their attorneys, Hartigan, Marple & Solignac, filed their answer in the Supreme Court, which, among other things, contained the following allegation:

"That the immediate possession, management, and control of the said college, on the part of the defendant, the rector of Santo Tomas, now enjoyed by him in accord with the higher authorities of the said church, is a special and particular property right, within the meaning of the Constitution of the United States, of which he can not be deprived or dispossessed by or through any act of the United States Philippine Commission; that such ultimate control and possession was conferred upon the defendant, prior to American occupation of the Philippines, by the King of Spain as the agent and representative of the said church and the assent and acquiescence of the authorities thereof, and was after the said American occupation and long prior to the passage of said act recognized and continued in the said defendant by the authorities of the said church and especially by the archbishop of the archdiocese of Manila, in whose diocese and jurisdiction the said college and the defendant then were and now are."

In the briefs filed in said cause by the attorneys for the defendants, the following contention in favor of the right of the said rector of the College of Santo Tomas is found:

"The plaintiffs' statement of the issues ignores that part of the answer of the defendants which alleges the present possession of the college by the rector of the University of Santo Tomas as a property right within the meaning of the Constitution of the United States and which he can not be deprived of by said Act No. 69 of the United States Philippine Commission.

"By the answer of the defendant, then, the separate and distinct claims of ownership and right of administration are presented. Ownership established, of course administration follows as a necessary incident, while if it were possible for the defendants to fail in establishing an absolute fee title to the property in question, their right of administration will be none the less apparent."

Nothing further of importance was done with reference to said cause until on or about the 8th day of June, 1907, when an agreement between William H. Taft, Secretary of War, representing the Government of the Philippine Islands, and Jeremiah J. Harty, archbishop of Manila, representing the Roman Catholic Church, was entered into for the purpose of amicably disposing of certain properties claimed by the Government of the Philippine Islands and the Roman Catholic Church, including the property involved in this present action. This agreement, after specifying the properties with reference to which the said controversies had arisen, contained the following:

"Now, therefore, for the purpose of ending all these controversies, the following informal agreement is entered into, to be subject to the approval of the Philippine Commission, and to be carried into effect by the entry of 'consent decrees in the proper courts, in such form as to confirm the titles in the persons, by this agreement to

take the respective properties, and by such legislation of the Philippine Commission as may be necessary to further confirm and put into execution said agreement, and also, subject to the approval of the Secretary of War, and of Archbishop Harty, through his agent, Festus J. Wade, of the statutes of the bank as they shall be revised, such revision to contain a restriction on the amount of money to be loaned by the bank on real-estate security.

"In consideration of the foregoing, and in the manner prescribed herein, the archbishop of the diocese of Manila, for the Roman Catholic Church in the Philippine Islands, is to take possession, and hold in absolute title, free from all claims or demands of the Philippine Government, the land and property, real, personal, and mixed, set forth and described under sections 1, 2, 3, 4, and 5 hereof, namely, Hospicio de San Jose, San Juan de Dios, Colegio de San Jose, Hospital de San Jose in Cavite, and the Colegio de Santa Isabel.

"It being understood, however, that the College of San Jose is to be surrendered and given into the possession and ownership of the archbishop of Manila for the specific purpose of its foundation."

In accordance with the said agreement, which was made subject to the approval of the Philippine Commission, the said Philippine Commission, on the 23d day of September, 1907, promulgated the following act (No. 1724), sections 1 and 2 of which are as follows:

"SECTION 1. The said informal agreement so entered into on behalf of the Government of the Philippine Islands by William H. Taft, Secretary of War, with Jeremiah J. Harty, archbishop of Manila, on behalf of the Roman Catholic Church, and representing and controlling a majority of the capital stock of the Banco Espaniol-Filipino is hereby confirmed, ratified, and approved in all its parts.

"SEC. 2. The Attorney-General is hereby authorized and directed to enter into a stipulation with the defendants in the action now pending in the Supreme Court of the Philippine Islands, entitled T. H. Pardo de Tavera, Louis M. Maus, Leon M. Guerrero, Manuel Gomez Martinez, and Frank S. Bourns, trustees of the College of San Jose, plaintiffs, versus The Holy Roman Catholic Church, represented by the most reverend archbishop of Manila, the most reverend archbishop of New Orleans, apostolic dele-gate, and Raymundo Velazquez, rector of the University of Santo Tomas, defendants,' stipulating and agreeing that the Supreme Court of the Philippine Islands shall enter judgment in the said action decreeing to the Roman Catholic Church of the Philippine Islands, as represented by the archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, said college to be administered for the specific purposes of its foundation."

By said section 2, above quoted, the Attorney-General was authorized and directed to enter into a stipulation with the defendants in said cause No. 469, entitled "T. H. Pardo de Tavera et al. vs. The Holy Roman Catholic Church, represented by the most reverend archbishop of Manila, the most reverend archbishop of New Orleans, apostolic delegate, and Raymundo Velazquez, rector of the University of Santo Tomas, defendants," stipulating and agreeing that the Supreme Court of the Philippine Islands shall enter judgment in said action, decreeing to the Roman Catholic Church of the Philippine Islands, as represented by the archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the. Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose.

On the 29th day of January, 1908, the Attorney-General of the Philippine Islands, filed in this court the following motion:

"[G. R. No. 469. In the Supreme Court of the Philippine Islands, T. H. Pardo de Tavera, Louis M. Maus, Leon M: Guerrero, Manuel Gomez Martinez, and Frank S. Bourns, trustees of the College of San Jose, plaintiffs, vs. The Holy Roman Catholic Apostolic Church, represented by the most reverend archbishop of Manila, the most reverend archbishop of New Orleans, apostolic delegate, and Raymundo Velazquez, rector of the University of

Santo Tomas, defendants.]

"Now comes the Attorney-General before the honorable Supreme Court, and says:

"1. That between Jeremiah J. Harty, archbishop of Manila, representing the Roman Catholic Church in the Philippine Islands, and the Secretary of War of the United States, representing the Government of the Philippine Islands, an agreement was entered into, intended to form the basis of a compromise of a number of controversies arising between the Roman Catholic Church and the Government of the Philippine Islands, and to end all such controversies among them the one now pending before the Supreme Court relative to the College of San Jose and the properties belonging to said college.

"2. That in the agreement above referred to it was stipulated that the archbishop of the diocese of Manila, for the Roman Catholic Church in the Philippine Islands, is to take possession, and hold in absolute title, free from all claims or demands of the Philippine Government, the College of San Jose, including the buildings, estates, and hospital plant of the Colegio de San Jose and under the control of the same. It being understood, however, that the College of San Jose is to be surrendered and given into the possession and ownership of the archbishop of Manila for the specific purpose of its foundation; and it being also stipulated that said agreement is to be subject to the approval of the Philippine Commission and to be carried into effect by the entry of consent decrees, in the proper courts, in such form as to confirm the titles in the persons by said agreement to take the respective properties, and by such legislation of the Philippine Commission as may be necessary to further confirm and put into execution said agreement.

"3. That by virtue of the provisions of section 1 of Act No. 1724, the Philippine Commission confirmed, ratified, and approved said agreement in all its parts, and that by section 2 of that act 'the Attorney-General is authorized and directed to enter into a stipulation with the defendants in the action now pending before the Supreme Court of the Philippine Islands entitled "T. H. Pardo de Tavera, Louis M. Maus, Leon M. Guerrero, Manuel Gomez Martinez, and Frank S. Bourns, trustees of the College of San Jose, plaintiffs, vs. The Holy Roman Catholic Apostolic Church, represented by the most reverend archbishop of Manila, the most reverend archbishop of New Orleans, apostolic delegate, and Raymundo Velazquez, rector of the University of Santo Tomas, defendants," stipulating and agreeing that the Supreme Court of the Philippine Islands shall enter judgment in the said action decreeing to the Roman Catholic Church of the Philippine Islands, as represented by the archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, said college to be administered for the specific purposes of its foundation.'

"Pursuant to the provisions of said section 2, the undersigned, representing the Government of the Philippine Islands, hereby agrees and stipulates, and requests the Supreme Court that decision be entered in the above-entitled action, decreeing to the Roman Catholic Church in the Philippine Islands, as represented by the archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, and that such college is to be administered by the Roman Catholic Apostolic Church for the specific purposes of its foundation.

"Manila, January 29, 1908.

"GREGORIO ARANETA, Attorney-General."

On the 8th day of February, 1908, Alfredo Chicote appeared in said cause as attorney for the said defendant Raymundo Velazquez.

Said motion was heard upon the 17th day of February, 1908. Upon the hearing of the said motion the said defendant Raymundo Velazquez appeared by his attorney, Alfredo Chicote, and opposed the granting of said

motion, basing his opposition upon the following grounds:

First. That he was a party defendant to said action No. 469.

Second. That he had, as rector of the University of Santo Tomas, a direct interest in the property, etc., of the College of San Jose.

Third. That he had not been represented in the said agreement made by and between William EL Taft, Secretary of War, representing the Government of the Philippine Islands, and the said Jeremiah J. Harty, archbishop of Manila, representing the Roman Catholic Church in the Philippine Islands.

Fourth. That he did not and could not give his consent to the conditions imposed upon the disposition made of the property involved in said cause No. 469, under the terms of the said agreement made by and between the said William H. Taft and Jeremiah J. Harty, archbishop of Manila.

Fifth. That this court had no authority to enter a decree in said cause, under and by virtue of said agreement, except upon the stipulation of all the parties to said cause No. 469.

This court is only authorized to enter a "consent decree" disposing of the property involved in said action No. 469 in accordance with said agreement when all of the parties have thus stipulated, the Government of the Philippine Islands on one side and the defendants on the other. No such stipulation has been filed. Therefore this court is without authority to grant a decree disposing of said property in accordance with said agreement. The motion, therefore, of the Attorney-General is denied. So ordered.

Arellano, C. J., Mapa, Carson, Willard, and Tracey, JJ., concur.

Torres, J., did not sit in this case.

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