

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, PETITIONER AND APPELLANT, VS. THE ROMAN CATHOLIC BISHOP OF NUEVA CACERES, OBJECTOR AND APPELLEE.

G.R. No. 9004. March 25, 1915

Ponente: ARAULLO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-9004/>

ARAULLO, J.:

On April 16, 1912, the Director of Lands, through the Attorney-General in representation of the Government of the Philippine Islands, filed with the Court of Land Registration a petition for the registration, in the name of the Government, of a tract of land, together with its improvements, situated in the municipality of Bacon of the Province of Sorsogon, containing an area of 6,497 square meters, bounded on all its sides by property of the municipality and described in the petition. Petitioner alleged that the property was anciently occupied by the bastion which from time immemorial had been erected for national defense against Moro invasions; that, at the present time, it was not occupied by any individual or corporation whatever and that it was entirely surrounded by stone walls; that it was acquired by the petitioner by virtue of the Treaty of Paris made by Spain with the Government of the United States of America, which acquisition was subsequently ratified by the Act of Congress of the United States of July 1, 1902; that, with the exception of the Roman Catholic Church, which claimed to be the absolute owner of the said property, there was no encumbrance thereon nor did anyone consider he had any rights or interest therein; that finally, in case that its petition were not allowable under the Land Registration Act, as the Government of the Philippine Islands had been in possession of the said property for a period of more than fifty years, in the capacity of owner, quietly, publicly, and peaceably and without interruption of any kind, during which time the land had constantly been used for public purposes, the same should be adjudicated to it by virtue of the provisions of the Public Land Act.

The publications required by law were made, and, as no one appeared to oppose the petition, a general default was decreed against the whole world, except the Roman Catholic Bishop of Nueva Caceres who, according to the petition itself, claimed to be the absolute owner of the aforementioned property. Upon the trial of the case, in which evidence was submitted both by the representative of the Government and that of the Roman Catholic Bishop of Nueva Caceres, as objector, the Honorable Jesse George, auxiliary judge of the Court of Land Registration, before whom the case was tried and the evidence adduced, in rendering judgment, under date of April 1, 1913, after summing up the evidence and the facts which, in his opinion, were proven, said as follows:

"Upon petition of the parties an ocular inspection was made of the land and, from that inspection and the evidence taken at the hearing, it is found that the land sought to be registered is entirely surrounded by stone walls. These walls, along the greater part of their inner side, are built so as to form a parapet and, in each angle or corner of the walls, there is a kind of tower having embrasures for cannons. Without any doubt, these walls formed a kind of fort. It is also proved that nearly all the space embraced within the walls has been occupied since time immemorial by the church, convents, and sacristy of the Roman Catholic Apostolic Church. The said church, convents, and sacristy were destroyed about sixty years ago, according to the testimony of the aged and reliable witnesses named Jose de Atan and Juan Duca Primero. The witness Jose de Atan stated that

he was 90 years old, and from his appearance he may be of that age. He testified that he remembered very clearly that Father Gregorio Santa Ana was in charge of the church and used to live in the convent, and he pointed out to the court the remains of the church as well as those of the convents and sacristy and the site of the atrium of the church where the bodies of faithful Catholics were buried in former years. In this atrium are still to be found the foundations where the cemetery cross was placed. After the destruction of the church and convents, a public school of the municipality of Bacon was erected almost in the center of the land, the old walls of which still exist and are shown on the plan presented by the church as Exhibit 1. It has also been proved that, until the arrival of the Americans, there were some useless iron cannon in the fort. But, according to the witnesses, the brass cannons were sent to the governor of the Province of Albay during the last years of the Spanish domination. It does not appear to be proven that soldiers of the former Spanish Government were ever quartered in the fort in question, and, according to the witnesses, in remote times it was the residents of the municipality of Bacon who went there to defend the place against Moro invasions. But none of the witnesses had a clear remembrance of any invasion of the Moros, nor of any quartering of troops in the fort during the Spanish regime; apparently it had been completely abandoned as a fort by the Government, since time immemorial."

Afterwards, in making findings of law from the facts he held to have been proved, and mentioning the principles contained in established jurisprudence of the Supreme Court applicable to these facts, the said honorable court in said judgment further stated: pauleen

"In the case of the Municipality of Hinunangan vs. The Director of Lands (24 Phil. Rep., 124), the Supreme Court said that forts erected to resist invasion are presumed to have been erected by the National Government, in the absence of evidence to the contrary. But, in the opinion of this court, the fact that all the land within the fort in question undoubtedly belonged to the Roman Catholic Apostolic Church and was set apart and used for religious worship by this church might destroy that presumption. For example: Although the walls of the city of Manila are, in a certain sense, a fort, constructed without any doubt by the Government, nobody would assert that, by reason of this fact, the Government is the owner of all the land inside those walls. This court is also of the opinion that we must distinguish between permanent forts and temporary forts accidentally constructed by the Government for a temporary purpose. The Government can never acquire the land where troops have camped, temporarily, to prevent an invasion, nor can it acquire the temporary forts erected for the same purpose. It is well known that in an invasion the Government, being in full command, is accustomed to locate its works of defense in the most appropriate places, whether the land so occupied belongs to the municipality, to the church, or to private parties.

"The court cannot fail to take into consideration the many cases, already heard by him, wherein these so-called forts, erected for national defense against Moro invasions, have been subjects of controversy. These small forts are found scattered here and there along almost all the coast lines of the principal islands of the Archipelago, and more especially in its southern part near the Moro Province. It appears from the evidence in many of these cases that the National Government never took any part in the construction of many of the fortifications. But, admitting as a fact that it did so, the court doubts very much whether it was the intention of the Government, in all cases at least, to take possession of the lands where such forts are situated. But, aside from this, the court is unable to find that the Government of the Philippine Islands is entitled to the ownership of the land sought to be registered. Admitting that the Government is the owner of the walls, the court cannot find that it is also the owner of the land within the walls. It has been proved that the Roman Catholic Apostolic Church, in the year 1906, declared the land for assessment and, from all the evidence, the court is unable to find that the church ever intended to abandon said land.

"In the case of The Municipality of Ponce vs. The Roman Catholic Apostolic Church in Porto Rico (6 Off. Gaz., 1213), the principle is laid down that prescription does not run against the church with respect to lands that were used for the purposes of religious worship by the Roman Catholic Apostolic Church for a hundred years.

"Also in the case of Barlin vs. Ramirez et al. (7 Phil. Rep., 41), the Supreme Court said:

" 'Prior to the cession of the Philippines to the United States, the King of Spain was not the owner of the consecrated churches therein and had no right to the possession thereof. The exclusive right to such possession was in the Roman Catholic Church and such right has continued since such cession and now exists.'"

"In another part of this same decision, the Supreme Court further says:

" 'The truth is that, from the earliest times down to the cession of the Philippines to the United States, churches and other consecrated objects were considered outside of the commerce of man. They were not public property, nor could they be subjects of private property in the sense that any private person could be the owner thereof. They constituted a kind of property whose distinctive characteristic was that it was devoted to the worship of God.'"

"The fact that the church was within the fort in question is not exceptional. The court remembers very well a case he tried in the Province of Leyte where a church was also situated within a similar fort. As a general rule, in ancient times, the Roman Catholic churches were the best buildings in the municipalities and constituted in themselves a defense. These same buildings could be and very often were utilized for the defense of the pueblo. But this does not convert the church into national property, nor, in the opinion of the court, do they become such from the fact that the national government surrounded the buildings with walls for defense against invasion."

Upon all the foregoing grounds, the said judge in his judgment aforecited concluded by sustaining the opposition of the Roman Catholic Bishop of Nueva Caceres and denying the registration sought by the Government of the Philippine Islands. The Attorney-General excepted to this judgment and at the same time moved for a rehearing. This motion was denied, due and timely exception was entered thereto, and the case was brought up on appeal to the Supreme Court on bill of exceptions. Here the appellant alleges that the Court of Land Registration erred: (1) In denying the registration of the land in question, with its improvements, in favor of the petitioner, the Government of the Philippine Islands; and (2) in sustaining the opposition of the Roman Catholic Bishop of Nueva Caceres.

In support of the two assignments of error mentioned, the appellant cites the decisions rendered by this Supreme Court in the cases of *The Municipality of Hinunangan vs. The Director of Lands* (24 Phil. Rep., 124) and *The Municipality of San Francisco vs. The Director of Lands* (R. G., No. 7055, not reported), for he understands that in the present case, as in those cited, with respect to the fort erected for defense against Moro invasions, both the land on which the fort stands as well as the walls that constitute it belong to the public domain. In arriving at this conclusion, appellant starts from the supposition that, in the fort in question, there were soldiers who garrisoned it and kept watch over the security and defense of the town of Bacon as alleged to be proven by the existence, until recent years, of iron and brass cannon therein; and undoubtedly, says this appellant, a priest was appointed to say mass and administer the sacraments to the said soldiers of the garrison, so that the church building, constructed within the fort, was but a mere accessory to the latter and not in the full sense a church, as mentioned in law 2, book 1, title 5, of the *Recopilacion de Indias*, erected and founded, with the permission of the King, for the purposes of preaching teaching, and propagating the Holy Roman Catholic Faith and whose right of ecclesiastical patronage pertained to the King of Spain.

Precisely what is shown by the evidence taken is that none of the witnesses who testified at the trial, one of them 76 years of age and the other 96, stated that either within the fort—that is, within the land surrounded by the stone walls mentioned in the petition—or in the walls or parapets themselves, which still exist, of that so-called bastion, had there ever been stationed any soldiers of the army or any military force whatever, or that the said fort had at any time been garrisoned by soldiers or military forces. On the contrary, one of these witnesses, Cirilo Jimenez,

who had been gobernadorcillo of the same pueblo thirty years before and as such was acquainted with its history and all matters connected with the so-called bastion, stated that when the Moros arrived at Bacon, the people of the town took refuge inside the walls and that the cuadrilleros (a kind of municipal police) were the ones who handled the guns. The other witness, Jose de Atan, 96 years of age, who had seen and knew the church that stood within the walls of the so-called fort, and had entered it, as he himself so testified; and who in the ocular inspection made by the court, pointed out to the latter in minute detail the sites occupied within the said walls by the church, the convent, the sacristy, the bell tower, and the places where the church cross and the main altar stood, said in his turn that when the Moros came to the pueblo the polistas—that is, the inhabitants of the town and barrios who were by turns charged with municipal service—would station themselves in the large towers, erected in the four corners of the fort marked on the plan by the letters A, B, C, and D, and also in the plaza, in order to defend the pueblo. Thus what the trial court stated in his judgment appears true, namely, that it did not appear to be proven that soldiers of the former Spanish Government had ever been quartered in the fort in question; and that it was the residents of the municipality of Bacon who, in ancient times, went to the fort to defend the pueblo against Moro invasions.

The doctrine contained in the above-mentioned two decisions of this Supreme Court cannot therefore be applied to the case at bar, in the sense and scope meant by the appellant, not only because, as shown by the evidence and so stated in the said decision, the church and other buildings thereto accessory were not constructed on the land, surrounded by the fort or its walls, for the purpose or object specified by the appellant, and because the church building existing on that land did not signify, as the appellant himself says in his brief, more than the fitness of a place for the saying of mass and the administration of the sacraments to the soldiers of the fort; but also because, in the said two decisions the argument is based on the premise that the land on which the forts stood, the land mentioned in said decisions, had been utilized by the Government for the defense of the national territory and the deduction was rightly made in those decisions that, as the land belonged to the Government, the fact that for years the fort had not been utilized by the latter for the purpose for which it was originally constructed; and the further fact that the municipality or other entity had during these last years exercised acts of ownership over the land, did not necessarily determine that such land had become the property of the municipality or of those entities, nor necessarily deprive the state of its rights of ownership in the fort.

However, in the present case it happens that the land has not at any time been utilized by the Government for the fort, but by the Roman Catholic Apostolic Church which, from time immemorial, had erected thereon a church with all the buildings thereto accessory and had used a part of the land for a cemetery, where the faithful Catholics who died in the bosom of that church were buried. But the walls erected around those buildings did not on this account cease to serve as a fort for the defense of the pueblo, in the event of invasion by the Moros—walls raised from time immemorial for that purpose and which by their special construction form, as stated in the said judgment of the trial court, a kind of fort.

It must then be presumed that this fort was constructed by the National Government, and this presumption cannot be considered destroyed by the fact that all the land inside the fort belonged to the Roman Catholic Apostolic Church and was dedicated and used for purposes of religious worship by that church. Therefore, the trial court should have established the corresponding distinction between the property of the Roman Catholic Apostolic Church in the land encircled or surrounded by the walls of the fort and that of the Government of the Philippine Islands in the land occupied by the walls, since in the case at bar the two properties are distinct, while in the two cases cited by the appellant they were not so.

The said two properties can coexist without any conflict, as shown by the undeniable fact alluded to in the decision of the lower court, to wit, that the land occupied by the walls which surrounded the ancient part of the

city of Manila, known as Intramuros, belongs to the Government of the Philippine Islands; while the land comprised within or enclosed by the same walls does not, for that reason, likewise belong to the Government.

It having been proved that the Roman Catholic Apostolic Church has been from time immemorial in possession of the land surrounded by the forts and had erected thereon the church, convent, and the other accessory buildings, all of them devoted to the religious uses of the said church, and that, after the destruction of the said buildings it continued, in the said possession, without ever having abandoned or even intending to abandon the same, as so held by the trial court and set forth in his decision, in view of the evidence taken; and, further, as the said church has up to these late years exercised acts demonstrative of its said possession, such as the designation by the vicar, according to the witness Marcelo Garcia, of the site for the erection of the school that was constructed on that land, after the destruction of the church, the convent, and the other buildings; the granting of permission by the same priest, according to other witnesses, to various persons of the pueblo to plant vegetables on the land, and his declaring the land for assessment in 1906; the Roman Catholic Apostolic Church being recognized as the owner of the same, according to the testimony of Marcelo Garcia, 70 years of age, and Miguel Ramirez, 54 years of age, which latter testified that, as to himself, he had been aware of this recognition ever since he had known the land. No evidence was offered by petitioner at the trial to show that such acts of possession were not performed, while, on the contrary, Cirilo Jimenez, formerly a gobernadorcillo of the pueblo of Bacon, testified that, as such gobernadorcillo, he had never exercised any acts of ownership over the land within the walls.

It is evident, therefore, that the objector was not obliged to bring any action, as the appellant understands that he should have done, to recover title to or possession of the land in question, or of any right therein of the church he represents, within the period of ten years counting from the 1st of October, 1901, when the Code of Civil Procedure went into force, in order not to lose the ownership which he claims over the said land, for the reason that the objector has not been deprived of his possession. It is also evident that it is unnecessary to recur to the doctrine, established in the decision of the Supreme Court of the United States in the case of *The Municipality of Ponce vs. The Roman Catholic Apostolic Church of Porto Rico* (6 Off. Gaz., 1213), concordant with the provisions of law 26, title 29, Partida 3, relative to the period of time necessary for prescription of ownership against the church with respect to lands used for religious worship by the same or belonging to it, for the reason that in the present case, as has been seen, prescription has not begun to run against the church; while on the other hand, the finding made in the said decision in referring to article 8 of the Treaty of Paris which says that "the relinquishment or cession," mentioned in the preceding paragraph, cannot "impair the property or rights which by law belong to the peaceful possession of property of all kinds, of provinces, municipalities, public or private establishments, ecclesiastical or civic bodies," may be invoked so far as that finding says that: "This article manifestly has for its object the defense of the property of the church against any intrusion or dispossession on the part of the new owner, either acting directly or through the means of his local officials," a declaration which certainly affirms the property rights of the Roman Catholic Apostolic Church in the property it lawfully possesses in the Philippine Islands, or in any other of the territories that were the subject of the relinquishment or cession mentioned in the said treaty from the time prior to the date when this latter became effective.

Therefore, the opposition of the Roman Catholic Bishop of Nueva Caceres is sustained, and the registration applied for by the Government of the Philippine Islands is denied in so far as it concerns the land, with its improvements, comprised within the stone walls which encircle or surround the said land; and the opposition of the said Bishop is overruled and the registration applied for by the Government of the Philippine Islands is granted in so far as concerns the land, with its improvements, that is occupied by the walls which surround the land mentioned. Registration shall be made after survey and the preparation of the proper plan.

The judgment appealed from is thus affirmed, in so far as it agrees with this decision, and is reversed, in so far as

it does not, without special finding as to the costs. So ordered.

Arellano, C. J., and Torres, J., concur.

Johnson, Carson, Moreland, and Trent, JJ., concur in the result.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.