

THE GOVERNMENT OF THE PHILIPPINE ISLANDS, APPLICANT AND APPELLANT, VS. THE ROMAN CATHOLIC ARCHBISHOP OF MANILA, OBJECTOR AND APPELLANT.

G.R. No. 9819. December 21, 1916

Ponente: TRENT, J.

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TRENT, J.:

The Government of the Philippine Islands seeks to have registered certain portions of the friar lands. The petitions were filed on October 1, 1912; September 30, 1912; and February 28, 1913, and were numbered in the court below 8503, 8509, and 8843, respectively. No. 8503 covers the Hacienda de Santa Maria de Pandi, 8509 the Hacienda de Lolomboy, and 8843 the Hacienda de Imus. The registration of these haciendas was opposed by the Archbishop of Manila on the ground that certain church properties were included therein. Oppositions were also entered by a number of occupants who claim to have purchased from the Director of the Bureau of Lands the small lots or parcels then in their possession. The cases having been consolidated, the court entered one judgment decreeing the registration of the three haciendas in the name of the Philippine Government, except the churches, atrios, convents, and cemeteries in the towns of Imus, Dasmarinas, and Santa Maria de Pandi, and directing the Bureau of Lands to file an amended plan showing the lots or parcels which had been sold to the other oppositors and paid for by them.

The court further ordered that on the presentation of this amended plan and after the decree had become final that certificates of title be issued to the Government, and that the Government issue to such purchasers the corresponding titles. From this judgment both the Government and the Archbishop appealed.

The Philippine Government urges that the Court of Land Registration erred (1) in ordering the petitioner to transfer to the purchasers, who had paid the full purchase price, the small lots or parcels occupied by them, respectively; (2) in excluding the lots occupied by the churches, atrios, convents, and cemeteries in Santa Maria de Pandi, Imus, and Dasmarinas; and (3) in declining to hold that the church was estopped from claiming the ownership of the lots or parcels occupied by those churches, atrios, convents, and cemeteries.

The Church insists that the court erred (a) in finding that the true boundary of the Hacienda de Santa Maria de Pandi which joins the property of the Church is a straight line from monument 3 to monument 4 (sheet No. 202 of 8503); (b) in refusing to apply to the visitas the same principles of law which it applied to the churches, atrios, convents, and cemeteries; and (c) in overruling the opposition of the Church with respect to the visitas and the church and cemetery of Pandi. (Santa Maria de Pandi and Pandi are two separate and distinct places.)

The Government acquired the Hacienda de Santa Maria de Pandi by purchase from the Philippine Sugar Estates Development Company (Ltd.), on October 19, 1905. The Philippine Sugar Estates Development Company acquired the title to this hacienda from the religious order known as the "Order of Dominicans." The title of the Dominicans dates back to July 4, 1699, when the hacienda was obtained from the Crown of Spain. The Hacienda de Lolomboy was acquired by the Government in the same manner and from the same parties. The "Order of

Dominicans," through their duly authorized representative, signed the documents of transfer of these two haciendas to the Government, guaranteeing the title thereto. The Hacienda de Imus was purchased by the Government from the "British-Manila Estates Company (Ltd.," which company in turn acquired the hacienda from the "Order of Recoletos," which order likewise signed the documents of transfer guaranteeing the title. All admit that the Philippine Government is the true owner of the haciendas, having acquired the same by purchase in the manner above set forth. The only objections raised by the parties are those set forth in the above assignments of error.

By an agreed statement of facts between the petitioner and the various oppositors, except the Church, made by their respective attorneys, it appears that the vendees of lots Nos. 607, 609, 611, 686, 687, 689, 690, 691, 700, 701, 703, 610, 688, 314, 550, 301, 362, 186, 188, 861, 1578, 15, 620, 2918, 1560, 1557, 1571, 1133, 1141, and 282 of the Hacienda de Pandi, and lots Nos. 2353, 2150, 3015, 1830, 2249, 2252, 2168, 2690, 1085, 2474, 2478, and 150 of the Hacienda de Lolomboy had at the time of the trial paid in full the purchase price of their respective lots.

It is immaterial to the Government and these vendees whether the latter's rights are noted on the Government's certificates or not, because the Government will, no doubt, comply with its contracts by executing the necessary documents to the vendees. There can be no objection, however, to the registrar making these facts appear on the Government's certificates of title. It is unnecessary for the Government to present a new plan in so far as these vendees are concerned for the reason that the lots here in question are each specifically designated with their respective metes and bounds.

The Government's second and third assignments of error may be considered together and involve the question whether the Roman Catholic Church divested itself of its title to the churches, atrios, convents, and cemeteries, together with the lots or parcels of land upon which the same are situated. It has been settled by a series of decisions that the Roman Catholic Church of the Philippine Islands is the true owner of the churches, atrios, convents, and cemeteries where it is shown that such churches, etc., are built upon sacred ground which has been withdrawn from the commerce of men. This is true, although the churches, etc., were built by the people of the municipality and the materials were paid for out of the royal treasury or furnished by popular subscription and whether the land was donated by individuals or granted by the Government. (*Bishop of Cebu vs. Mangaron*, 6 Phil. Rep., 286; *Barlin vs. Ramirez, and Municipality of Lagonoy*, 7 Phil. Rep., 41; *Municipality of Ponce vs. Roman Catholic Apostolic Church*, 210 U. S., 296.) While it is true that in the sale of these haciendas by the religious orders, the churches, etc., were not excepted, no mention of them having been made, yet the record clearly shows, and the trial court so found, that these lots or parcels of land were, after they became the property of the church, blessed by the holy father and were thereby withdrawn from barter and sale. Consequently, the religious orders had no power or authority to dispose of them to their vendee and all understood such to be the case; but all the land included in the hacienda was sold and the title thereto passed to the Government with the sole exceptions, in so far as the Church is concerned, of the lots or parcels occupied by those churches, atrios, convents, and cemeteries. This being true, it necessarily follows that the Church retained title to those parcels only. The lots excluded by the court included more land than that actually occupied by the churches, atrios, convents, and cemeteries. The Government is unquestionably the owner of this excess. The judgment appealed from in this regard must be modified by excluding only the land upon which the churches, atrios, convents, and cemeteries are actually located. The plans will have to be changed accordingly.

In the preparation of the amended plans it must be borne in mind that there must be excluded from registration only those plots or parcels of land which have been, as we have indicated, consecrated or formerly dedicated to holy worship or holy uses and which are recognized by the Canon Law to be outside of the commerce of men.

There should not be excluded, for instance, the walled vegetable garden which is located on lot No. 31, sheet 2, of the Hacienda de Santa Maria de Pandi, as it is clear that this lot or vegetable garden had never been consecrated or dedicated to holy worship or holy uses. The testimony with reference to the extension or area of the lots occupied by the churches and convents is indefinite and uncertain and we cannot for this reason determine the exact measurement in square meters of the lots which must be excluded from registration, but we desire that it be clearly understood that we are directing the exclusion of no lot or a part thereof except those actually covered by the churches, atrios, convents, and cemeteries. In the preparation of the new plan it appears to us that the interested parties will have no difficulty in determining just what lots or parts thereof must be excluded. Of course, we are now referring only to the churches, atrios, convents, and cemeteries, that is, the lots occupied by them, which were excluded by the court below.

The Church's first assignment of error questions the correctness of the findings of the trial court with reference to the boundary line between monuments 3 and 4 on the southwest side of the Hacienda de Santa Maria de Pandi. The contention of the Government is that the boundary here is fixed by five monuments, which are made of stone five feet high. The straight line between monuments 3 and 4 crosses the old mud walls or pilapiles which separate the rice paddies and thus throws a part of the rice fields into the hacienda. The Church contends that its land extends about 25 meters beyond the straight line between the two monuments to a ditch running in the same general direction. These monuments of stone are very ancient, their existence being traced back as far as 1699. In 1699, Don. Juan de Ozaeta de Oro, acting as special judge, set apart 10 quinones of land for the commons of the village of Santa Maria and described these monuments as being the boundary of the hacienda. Again in 1754 another special judge fixed these monuments as the boundary of the hacienda. There is, therefore, no merit in this assignment of error.

There were 47 lots claimed by the Church in its opposition which were excluded by the court. Of these the Church now claims only twenty-eight, having withdrawn its opposition as to some of the lots during the trial and now expressly withdrawing on appeal sixteen other lots, and not mentioning three others. Each of the twenty-eight remaining are partially occupied by visitas except one which is claimed to be the cemetery of the new parish of Pandi. We will consider the Church's claim to all of these lots, except lots Nos. 1481 and 1449, together. That these visitas should not be considered as being governed by the same principles as those which apply to churches, appears when the history and use of such visitas are compared with the requisites and nature of a church. Golmayo on Canon Law, vol. 2, p. 79 et seq., states that a new church may not be built without just reason and by permission of the bishop. Before giving the license it must be evident that account has been taken of the endowment necessary for the sustenance of the church and its ministers. When the preparations for building are made, the bishop or a presbyter, to whom he delegates his powers, proceeds to bless and lay the first stone, fixing a cross in the place where the main altar has to be. Before celebrating divine services in a church it must have been consecrated or blessed. The church is then fitted for divine worship by means of the solemnities and rites prescribed for this sacred act. Consecration is an act more solemn and, although both are reserved to the Episcopal authority, the power to consecrate may not be delegated, being a power pertaining to the office, while that of blessing may be entrusted to the presbyters.

The evidence concerning these visitas is of three general classes; that concerning the materials of which they are built, how long they have been in existence, and the use and control of the buildings. Fourteen of the twenty-six are built of bamboo and nipa. Six are built of mixed materials and six are built of stone with galvanized iron roofs. Some of those constructed of bamboo and nipa, and also some of those of mixed materials have stone foundations. One has a stone altar. Those built of stone and roofed with galvanized iron are of recent construction. Eleven of them can be said to have been built more than ten years, but had been used for church purposes at the time of the trial for only about ten years. There is some evidence which indicates that four have been used for

purposes of celebrating mass since 1896. The witness Abela testified that during the insurrection the American troops occupied the church property and so the priests, in order to continue divine worship among the people, began to conduct services in the visitas. One of these visitas, that on lot No. 5199, has been used as a place to assemble for religious processions, but no mass has ever been celebrated therein. In the majority of visitas mass is celebrated very infrequently, that is to say, at the barrio annual festivals and occasionally at other times when the service is solicited by the inhabitants. It was not the custom to celebrate mass in these visitas during the Spanish regime, but the custom to so do has become quite general since the American occupation. The visitas have no sacred utensils and no holy vestments. Not only is there no priest in charge, but the control of the parish priest is not in all instances absolute. Abela, parish priest of Santa Maria de Pandi, said that previous to ten years past mass had not been said nor had the communion been administered in these visitas and that prior to this period the hermano mayor of the barrio had control of the visitas, but in most instances under the direction and control of the parish priest, the parish priest being the spiritual and temporal chief. The witness Munding, testifying concerning a visita located on the Imus estate, which is typical of those on other estates, says that the land upon which the visita was built was offered to the Church by a person who rented the land from the Hacienda de Imus. The people of the barrio built the visitas and bear the original expense, as well as the cost of repairing them. The visitas are changed from place to place for various reasons at the will of the people of the barrio and the consent of the renter of the land where they are placed. In recent years when changes are sought to be made, notice is given to the parish priest and his advice is, as a rule, followed. It is therefore clear that the land upon which these visitas are built cannot be said to be sacred ground, withdrawn from the commerce of men.

With reference to the so-called parish church and cemetery of Pandi (lots Nos. 1481 and 1449 of the Hacienda de Santa Maria de Pandi) the trial court found that "the so-called church of Pandi (not of Santa Maria de Pandi which is distinct) was within some two years a visita as these in the rest of the barrios. The cemetery of Pandi appears to have been opened when the Hacienda of Pandi was already the property of the Government and it was opened only within the two years since the barrio of Pandi was constituted a parish, thus separating it from the ancient parish of Bigaa."

These findings of fact are based upon the testimony of the priest of Bigaa and one Gore of the Bureau of Lands. Thus the claim of the church to these two lots rests upon the same facts and law as its claim to the other visitas.

For the foregoing reason the judgment appealed from is modified (a) by directing the registrar of the Land Court to note on the Government's certificates of title the fact that the purchasers, whose names appear in the agreed statement and who, at the time of the trial, had paid the full purchase price under the contract, their respective interests thus acquired, and (b) by directing the Government to present amended plans, excluding only the lots or parcels of land actually occupied, as above set forth, by the churches, atrios, convents, and cemeteries excluded by the trial court. In all other respects the judgment is affirmed, without costs in this instance. The necessary decrees and the corresponding certificates of title will be issued in accordance herewith. So ordered.

Torres, Johnson, Carson, and Araullo, JJ., concur.

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