

## MESSAGE

I am pleased to put a foreword to Number 1, Volume I of our LAW QUARTERLY. It is the sign that our College of Law is coming of age, and is intent on being an influential force in the formation of legal opinion in our country.

Its dress is modest as the debut is simple. Most things of permanent value begin so. But backed by the driving energy of Fr. Bello, Regent, and depending unashamedly on its loyal and talented corps of professors and students, we feel that it will be soon a coveted periodical, solid, progressive, radical in the first meaning of that word, but above all, Catholic to the core.

May Our Divine Lawgiver bless its pages with truth and beauty.

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## ATENEO LAW JOURNAL

CASE HISTORY: THE HACIENDA DE SAN PEDRO TUNASAN. Synopsis of the Contract, Law and Decisions of the Philippine Courts confirming the title and possession of the Colegio de San Jose over said Hacienda.

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*As recounted to P. C. Carag and E. P. Pangalangan \*\**

### INTRODUCTION

Laguna de Bay is a land-locked lake about which many a legend has been woven. Bordering along the waters of this lake is a sprawling hacienda, known as the Hacienda de San Pedro Tunasan. Around this hacienda has been woven many a litigation the results of which evoked many a smile and a tear.

Glancing in retrospect at the history of this hacienda and the litigations that arose about it, the impression is created that its saga somewhat runs parallel to the stormy history of this country. It, too, somewhat projects in bolder relief the oft-quoted statement, although not exactly correct, that mankind's troubles all started from the time someone claimed: "*This is my land.*"

At any rate, the history of Hacienda de San Pedro Tunasan merits more than just passing attention. The litigations pertaining to the ownership of the hacienda gave rise to a number of questions both of fact and of law, and the rulings on those questions serve as guides for future judicial determination of similar questions. Hacienda de San Pedro Tunasan is more than just another hacienda; it is an hacienda with a story all its own.

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## EARLY HISTORY

There is no end more noble than the salvation of souls. It was mainly for this end that the Spanish Crown sent explorers and soldiers to the high seas and to unknown lands. Spanish conquistadores pursued with warm zeal the Christianization of natives in those countries where they planted the flag of Spain. The Philippines was no exception.

The zeal for Christianization did not die with the conquistadores. Generous souls continued to work for the same end, either by actively participating in the apostolate or by granting endowments for the Christianization of natives. Esteban Rodriguez de Figueroa, one-time Governor of Mindanao, we might truly say, was one of these generous souls.

In March, 1596, said governor made a will, providing among other things, that should his wife and minor children die without leaving heirs in the descending line, their estates (among them being the Hacienda de San Pedro Tunasan in San Pedro, Laguna), together with the rents and profits therefrom, should be devoted to the founding of a college, and to that end a house must be constructed near the Society of Jesus in Manila sufficient to serve as a college and a seminary for boys. The Father Provincial of the said religious order was to be the patron and administrator of the said college and its properties. The Governor's disposition in his will was conditional, the condition being that his "wife and minor children die without leaving heirs in the descending line."

In 1605, after the death of Governor Figueroa, his wife and two minor children died without leaving any heir. The condition precedent for the gift of the estates to found a college was, therefore, fulfilled.

The Society of Jesus in Manila requested permission to found a college.

Since then, events moved swiftly. On September 13, 1609, the necessary permission was granted, and the applicant, the procurator of the Society of Jesus in the Philippines, was designated by the Pope as the Patron or Administrator of the College and all its properties. A year thereafter, to be exact, on February 28, 1610, the Vicar General of the diocese, acting upon an application of the

Father Provincial of the Society of Jesus, renewed and confirmed the license and permission granted previously to Father Gomez to establish the Colegio de San Jose with a grant from the will of Esteban Rodriguez de Figueroa.

A century thereafter, sometime in February, 1748, the King of Spain granted to the Colegio de San Jose, by that time already a thriving college, a "Titulo Real—Posesorio" over the Hacienda de San Pedro Tunasan in San Pedro, Laguna.<sup>(1)</sup> Ironically, it was after this grant that troubles with respect to the hacienda started.

By virtue of the *Pragmatica Sancion* of King Charles III of Spain, dated April 2, 1767, the Jesuits were expelled from the Philippines, and their properties were seized by the crown. The expulsion of the Jesuits became effective in the Philippines in 1768. The Governor of the Philippine Islands, believing that the Colegio de San Jose and its estates were subject to seizure, confiscated the said college and its estates. Against this confiscation, the Archbishop of Manila protested, contending among other things, that

(1) Excerpts from "Titulo Real Posesorio" of the Colegio de San Jose on Hacienda San Pedro Tunasan (Page 100).

"\*\*\* Por tanto ordeno y mando a mi Gobernador y Capitan General de las Islas Filipinas, los Subdelegados del Juez Privativo de ventas y composiciones de tierras de ellas; y a otros cualesquiera Jueces, Y Justicias que en uso y dominio de la expresad hacienda de San Pedro de Tunasan con lo que llaman el Potrecillo, no pongan en adelante impedimento ni embarazo alguno al anunciado Colegio de San Jose de la Compania de Jesus de Manila, para que la posea como suya propia, sin molestarsele, ni pedirsele nueva confirmacion por los subdelegados del Juzgado de ventas, y composiciones de tierras que huviere en aquellas Islas ni por otro Juez, ni persona alguna; por ser mi voluntad, que guarden, cumplan, y executen, y hagan guardar, cumplir, y executar esta mi resolucion; y de seto Despacho se tomara razon en la Contaduria general de valores de mi Real Hacienda; y por los contadores de cuentas que residen en mi Consejo de las Indias; y por oficiales Reales de las Islas Filipinas a los cuales mando pongan cobro de lo que se debe al derecho de la Media Annata por el servicio hecho en aquellas Caxas de cien pesos, haciendo la regulacion de un dos y medio por ciento, Fecha en el buen Retiro a otros... de Febrero de mil setecientos y cuarente y ocho. Yo el Rey (con rubrica)—(sigue otra rubrica), Tripido.—ocho res.—Confirmacion de las tierras que se expresan, a favor del Colegio de San Jose de la Compania de Jesus de la Ciudad de Manila en las Islas Filipinas.\*\*\*"

"Senor Regino Garcia YBARA, Administrator de la Hacienda de San Pedro Tunasan, como apoderado y mandatario del Colegio de San Jose de la Ciudad de Manila, I.F. ha presentado en titulo de las tierras de la Hacienda de San Pedro Tunasan, que en copia antecede para su inscripcion segun el asiente Numero 561 del libro dos Diario a folio ciento noventa y cinco. Y siendo conforme todo lo dicho con el documento a que refiere firmo la presente en Santa Cruz, provincia de Laguna a doce de Septiembre de mil novecientos siete."—C.H. LAMB, Treasurer of Laguna, Acting Register of Deeds. Honoraries No. 7 del Arancel P25.00."

the Colegio de San Jose and its properties, should, upon principles of law, revert to the status fixed by its foundation. The protesting Archbishop won his point, for on March 21, 1771, the King of Spain disapproved the seizure and despoliation of the properties of the College of San Jose on the ground that the Colegio de San Jose had nothing in common with the expelled priests, for the latter were only responsible for its administration and direction. It was held that inasmuch as this administration ended with the expulsion of the Jesuit fathers, the said Governor should have appointed an ecclesiastic of good standing as Rector and Administrator to take the place of the former administrators. The King accordingly ordered that all things be placed in the college in the same status and condition in which they were before confiscation took place.

As a consequence of the King's order, the administration of the Colegio and its properties was entrusted to an official of the Cathedral who held it until 1875. Thereafter, said college and its temporalities came under the administration of the Rector of the University of Santo Tomas. On December 21, 1892, the "Titulo Real Posessorio" of the Colegio de San Jose over the Hacienda de San Pedro Tunasan was registered in the Reglamentos de Montes, which later became the Bureau of Forestry, Manila.

#### MODERN HISTORY

Then came the Spanish-American War, and with it the change of sovereignty from Spain to the United States. In 1898, with this change of sovereignty, some contested the right of the Roman Catholic Church through the University of Santo Tomas to administer the estates of the Colegio de San Jose. The United States Philippine Commission, which investigated the case, enacted Act No. 69, which created a board of trustees empowered to challenge by legal action the ecclesiastical ownership over said temporalities.

On June 6, 1901, acting upon the findings and recommendation of the Philippine Commission, the Board of Trustees created under Act No. 69 filed an original action with the Supreme Court of the Philippines entitled "*T.H. Pardo de Tavera, et al., vs. The Roman Catholic*

*Church, et al., G.R. No. 469,*" in order to settle the status and determine the ownership of the temporalities of the Colegio de San Jose. During the pendency of the aforesaid case, the possession, absolute title and ownership of the Roman Catholic Church over the Colegio de San Jose and its temporalities, land property, real, personal and mixed including the Hacienda de San Pedro Tunasan were recognized in a contract executed and signed by and between William H. Taft, Secretary of War of the United States and Jeremiah Harty, Archbishop of Manila, which contract was affirmed and approved by the President of the United States of America. It was understood, however, that the Colegio de San Jose was to be surrendered and transferred unto the possession and ownership of the Archbishop of Manila for the specific purpose of its foundation.<sup>(2)</sup> Said agreement was ratified by the Philippine Government thru Act No. 1724, Section 2 of which in part provides: "that the Supreme Court x x x 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 by the Government of the Philippine Islands to the building and other property, real, personal, and mixed, pertaining to and belonging to the Colegio de San Jose, said college to be administered for the specific purposes of its foundation."<sup>(3)</sup> On November 12, 1907, after the approval and ratification of the contract, the *Titulo Real Posessorio* of the Colegio de San Jose over the Hacienda de San Pedro Tunasan was registered in the Office of the Register of Deeds for the Province of Laguna.<sup>(4)</sup>

(2) Agreement between the Secretary of War and Bishop Harty, June 8, 1907.

(3) Act 1724. AN ACT APPROVING, CONFIRMING, AND RATIFYING THE AGREEMENT MADE BETWEEN THE SECRETARY OF WAR, REPRESENTING THE GOVERNMENT OF THE PHILIPPINE ISLANDS, AND THE ARCHBISHOP OF MANILA, REPRESENTING THE ROMAN CATHOLIC CHURCH IN THE PHILIPPINE ISLANDS, DETERMINING THE TITLE TO VARIOUS ESTATES AND PROPERTIES HERETOFORE A MATTER OF DISPUTE BETWEEN THE ROMAN CATHOLIC CHURCH AND THE GOVERNMENT OF THE PHILIPPINE ISLANDS, AND SETTING THE RIGHT OF POSSESSION AND ADMINISTRATION OF SUCH ESTATES AND PROPERTIES AND ADJUSTING CERTAIN CONTROVERSIES BETWEEN THE SAID GOVERNMENT AND THE BANCO-ESPANOL FILIPINO, Enacted September 23, 1907.

(4) Tomo 1 del Mortgages, folio 221, Inscription No. 16, Register of Deeds of Batangas, re: Deed of Mortgage of Hacienda Lian.

On December 8, 1909, the Honorable Supreme Court upheld the contract of 1907 and Act 1724 and confirmed the title and ownership, when it rendered judgment, in favor of the Roman Catholic Church in T.H. Pardo de Tavera, et al., vs. The Roman Catholic Church, et al., 14 Phil. 775, adjudging to the Roman Church the ownership and right of possession, free from all claims by the Government of the Philippine Islands, of the buildings and other real or personal property pertaining to the Colegio de San Jose, to be administered for the special purpose for which the institution was founded.<sup>(5)</sup> On May 3, 1910, Pope Pius X ordered the Father Superior of the Society of Jesus in the Philippines to resume the administration of the Colegio de San Jose and its temporalities, which he does up to the present time.<sup>(6)</sup>

On June 5, 1915, upon the due incorporation of the Colegio de San Jose as a corporation sole under the

(5) UNITED STATES OF AMERICA  
GOVERNMENT OF THE PHILIPPINE ISLANDS  
BEFORE THE SUPREME COURT  
G.R. 469, December 8, 1909

T.H. Pardo de Tavera, et al., trustee of the San Jose College, plaintiffs, vs. THE ROMAN CATHOLIC CHURCH, represented by the Archbishop of Manila, et al., defendants.

San Jose College Estate—Original Action in the Supreme Court.

The parties filed a motion and written agreement signed by all of them, asking the court for a decree adjudging to the Roman Catholic Church the ownership and right of possession, free of all claims by the Government of the Philippine Islands, of the buildings and other real and personal property pertaining to the San Jose College, to be administered for the specific purposes for which the institution was founded. The agreement being in conformity with section 2 of Act No. 1724, judgment was rendered in favor of the Roman Catholic Church, represented by the Archbishop of Manila.

PER CURIAM

For plaintiffs: Attorney-General Wilfley and Felipe Calderon.  
For defendants: Hartigan, Marple, Rhode and Gutierrez, and G. L. Solignao.

(6) BULL OF POPE PIUS X OF MAY 3, 1910  
(Spanish Translation)

"El R. P. Sr. Ambrosio Aguius Arzobispo Titular de Palmyra, Delegado Apostolico por las Islas Filipinas, acerca de la restitucion del Colegio de San Jose en la ciudad de Manila a los P.P. de la Compania de Jesus. Venerable hermano, Salud y Apostolica bendicion. A nuestro cuidado y providencia paternal por la prosperidad de la Iglesia de Filipinas de desconocida para nadie en otros muchos asuntos parecemos conveniente añadir nuevo testimonio de ella y hacer que el Colegio de San Jose que no ha mucho estaba incorporado a la Universidad de Manila como un Departamento de la misma, que restituya a su estado primitivo y de al pueblo cristiano frutos abundantes de salud. Por mas que al hacer esto no nos mueve tanto la causa de la utilidad comun, cuanto un motivo de equidad que nos que pide ante todas las cosas se venga presente lo que en este asunto de mandado su piadoso autor.—Pues, no es oscuro que Rodriguez de Figueroa, fundador del Colegio de San Jose tuvo la intencion de que existiera un

laws of the Philippines,<sup>(7)</sup> it acquired juridical personality to own the properties and temporalities, including the Hacienda de San Pedro Tunasan, which were granted in its foundation for the support and maintenance of the college, the absolute title and right of possession of which were previously adjudged to the Roman Catholic Church of the Philippine Islands under the contract of June 8, 1907, Act 1724 of the Philippine Commission, and the decision in the case of T.H. Pardo de Tavera, et al., vs. Roman Catholic Church, et al., (14 Phil. 775.) Said transfer from the Roman Catholic Church to the Colegio de San Jose, Inc. was confirmed by the Honorable Supreme Court in its decision in the case of *Alviar, et al., vs. Cullum, G.R. No. L-2523, as follows:*

"On May 3rd, 1910, Pope Pius X ordered the Father Superior of the Society of Jesus in the Philippines to resume the administration of the Colegio de San Jose and its temporalities. On June 5, 1915, the Colegio de San Jose was made a corporation sole under the laws of the Philippines and acquired juridical personality to own properties and temporalities including the 'Hacienda de San Pedro Tunasan.' In Government of the Philippines vs. Colegio de San Jose, et al., 53 Phil., 423, this Court held "that the two parcels of land in litigation form an integral part of the 'Hacienda de San Pedro Tunasan' belonging to the claimant Colegio de San Jose," and the Original Certificate No. 19851 was issued in favor of Colegio de San Jose over portions of land included in said 'Hacienda de San Pedro Tunasan'."

On February 21, 1930, after the Honorable Supreme

Seminario sagrado para la formacion de Ministros evangelicos y para utilidad de dicha region, y que el mismo dejo precavido en su testamento que para siempre, y que fuera Preposito de los P.P. de la Compania de Jesus en Manila, tuviera a su cargo la administracion y regimen del Colegio. Habiendose obedecido durante mucho tiempo y con felicidad al proposito o prescripcion de tan bueno y generoso caballero, sabemos que despues sobrevinieron diferentes circunstancias de los tiempos que impidieron que se hiciera lo mismo en lo sucesivo.—Ahora que han desaparecido todas las cosas que se oponian a la voluntad del autor nos parece conveniente restituir en cuanto sea posible este asunto a su primitivo ser.—Por lo cual debe saber que es nuestra voluntad que los P.P. Dominicos de la Universidad de Santo Tomas de Manila que regentan ya hace tiempo el Colegio de San Jose, entreguen la administracion del mismo a los P.P. de la Compania de Jesus que moran en la misma Ciudad, y que los reditos de los bienes del Colegio se emplean en mantener y educar debidamente a jovenes escogidos de ese pais en los cuales se vea inclinacion al Sacerdocio.—\*\*\*\*\*"

(Tomo 1 del Mortgages, folio 221, Inscription No. 16, Register of Deeds of Batangas, Batangas re: Deed of Mortgage of Hacienda Lian.)—

(7) Pedro Amante vs. Hon. Serafin Hilado, Procurador General de Filipinas, G.R. No. 45536.

Court had affirmed the decision of the Court of First Instance of Laguna in Cadastral Case No. 39, G.L.R.O. Record No. 359 and held:

"If, as we have seen, the two parcels of land in litigation form no part of the bed of Laguna de Bay, and, consequently, do not belong to the public domain, *they must belong to the claimant Colegio de San Jose as part of the Hacienda de San Pedro Tunasan owned by it*, the north-western part of which borders on said lake, and in accordance with the legal provision just quoted, the fact that they are inundated by its waters during the extraordinary risings, which take place during the months of September, October and November, does not deprive said claimant of the ownership thereof.

\* \* \*

"Even, therefore, the two parcels of land in litigation were considered as secretions gradually deposited by accessions of sediments from the waters of Laguna de Bay, they would still, according to the legal provision just quoted, *belong to the claimant Colegio de San Jose as owner of the lands bordering on said Laguna de Bay.*

\* \* \*

"\*\*\* (3) that the two parcels of land in litigation form an integral part of the *Hacienda de San Pedro Tunasan belonging to the claimant Colegio de San Jose*: (4) *that said two parcels of land, being accidentally inundated by the waters of Laguna de Bay continue to be the property of the claimant Colegio de San Jose* (Art. 77, Law of Waters of August 3, 1866;) (5) that even supposing that the said two parcels of land have been formed by accession or deposits of sediment by the waters of said Laguna de Bay, *they still belong to the said claimant Colegio de San Jose, as owner of the land of the Hacienda de San Pedro Tunasan, bordering on said Laguna de Bay* (Art. 84, Law of Waters of August 3, 1866);"<sup>(8)</sup>

final Decree No. 376036 was issued and the Colegio de San Jose was granted Original Certificate of Title No. 10591 over certain portions of land included in the Hacienda de San Pedro Tunasan.

<sup>(8)</sup>The Gov't of the Philippines, Applicant vs. Colegio de San Jose et al, Claimants, 53 Phil. 423, 429-430, 431; See also Director of Lands vs. Colegio de San Jose, 53 Phil. 942.

On March 25, 1935 the tenants of the Hacienda de San Pedro Tunasan, thru Atty, Juan S. Rustia, filed an action for the specific performance of certain Lease Contracts<sup>(9)</sup> on the theory that in 1914 the said tenants entered into contracts of lease with the Colegio de San Jose over the respective portions they now occupy in the Hacienda de San Pedro Tunasan, which Carlos Young and Newland Baldwin (Lessees of the Hacienda) bound themselves to respect. This action of the tenants was a positive act of acknowledgment and confirmation of the title and ownership of the Colegio de San Jose over the said Hacienda. The tenants lost in this action, the dispositive part of the decision rendered by the Court of First Instance of Laguna on April 12, 1938 being as follows:

"POR TANTO, y en vista de los consideraciones arriba expuestas, se absuelve a los demandados de la demanda de los demandantes; se declara que los demandantes y sus causahabientes carecen de derecho de continuar ocupando, por si o por medio de otros, terrenos y solares de la Hacienda, se les condena a vacarlos enteramente y a entregarlos a los demandados, libre de toda edificacion o mejora que pertenezca a dichos demandantes y sus causahabientes; se ordena que los demandados sean puesto en posesion de los solares y causahabientes, con demolicion de edificaciones y mejoras pertenecientes a dichos demandantes, a pagar a la Hacienda sus respectivas deudas hasta el 31 de diciembre de 1935, segun aparecen relacionadas en los Exhs. "8" y "9" de los demandados, libre de toda edificacion o mejora que pertenenos ocupados por los demandantes y sus causahabientes, con demolición de edificaciones y mejoras pertenecientes a dichos demandantes, a pagar a la Hacienda sus respectivas deudas hasta el 31 de diciembre de 1935, segun aparecen relacionadas en los Exhs. "8" y "9" de los demandados, conforme han sido revisados por el comisionado Sandejas, cuyas deudas en total asciendan a P29,628.23, con sus intereses legales desde el 3 de Agosto de 1935, en que se presentó la reconvención de los demandados; se condena a los demandantes a pagar, además, a los demandados, el alquiler de los terrenos y solares desde el 1o. de enero de 1936 hasta que los hayan entregado y desalojado, a base de la renta anual consignada en la columna correspondiente del Exh. "9", con sus intereses legales desde la fecha de esta decisión; se prohíbe perpetuamente a los demandantes y a cada uno de ellos inmiscuirse en los otros terrenos y solares de la Hacienda y en

<sup>(9)</sup>Jose H. Guevara, et al., vs. Carlos Young, et al., Civil Case No. 6663, Court of First Instance of Laguna.

los regadíos de la misma, o molestar a los demandados y a sus empleados en la posesión y administración de dichos terrenos, solares, y regadíos, con las costas.

"De conformidad con las disposiciones del artículo 144 del Código de Procedimiento Civil, el Escribano expedirá el mandamiento de ejecución de esta sentencia contra los demandantes a los sesenta (60) días de haberse promulgado, no obstante la apelación que dichos demandantes o cualquiera de ellos pueda presentar, a menos que los mismos, dentro de dicho plazo, depositen en la escribanía de este Juzgado, el importe de sus respectivas deudas hasta la fecha de esta sentencia, así como el importe de la renta anual futura que los corresponde pagar, o sea, desde la fecha de esta sentencia hasta el 31 de diciembre de 1939, o presenten una fianza en lugar de dicha renta futura con fiadores solventes a satisfacción del Juzgado.

"Habiéndose incoado en este Juzgado por el Gobierno del Commonwealth la causa civil No. 6875 sobre expropiación forzosa de la zona residencial de dicha Hacienda de San José de acuerdo con la Ley No. 20 y habiéndose expedido por este Juzgado una orden para que el Gobierno sea puesto en posesión de la zona objeto de dicha expropiación, la parte de esta decisión relativa al desahucio de las ocupantes de solares dentro de la citada zona y el pago de futuros alquileres correspondientes a dichos solares, quedaran en suspenso desde la fecha en que el Gobierno Nacional certifique en este asunto que se ha hecho cargo de los solares de dicha zona residencial".

From this decision, the tenants appealed to the Court of Appeals, both on the merits of the case and on the question of the immediate execution of the judgment. As to the merits, the tenants failed in their appeal, the Court of Appeals holding:

"En meritos de lo expuesto, se confirma la sentencia apelada con la sola modificación de que queda excluida de la parte dispositiva del fallo sobre desahucio la parte de la Hacienda de San Pedro de Tunasan que, según consta en autos, ya ha sido expropiada por el Gobierno para ser vendida a los terratenientes bajo ciertas condiciones. Con las costas a cargo de los apelantes.<sup>(10)</sup>

As to the question of the immediate execution of the judgment, the appealed decision was likewise upheld, the Court of Appeals holding:

<sup>(10)</sup>Jose Guevara, et al., vs. Colegio de San José, G.R. No. 3739, promulgated July 31, 1940 C.A.-G.R. No. 3739.

"Ante todo encontramos en autos que no se han dado por los recurrentes todos los pasos necesarios para fundar un recurso de esta índole pues no han interpuesto debidamente una moción de reconsideración al citado fallo, con el fin de dar al Juzgado inferior oportunidad de insistir en su citada orden o de retirarla. Por otra parte la tramitación de este expediente ha consumido un tiempo considerable en el Juzgado de Primera Instancia de Laguna en vista de las tácticas dilatorias de que se han valido los allá demandantes y aquí recurrentes, después de haberse hecho constar en repetidas ocasiones por la parte contraria que dichos demandantes son en deber en la cantidad de P29,000.00 filipinos, además de los alquileres de los terrenos por ellos ocupados correspondientes a los años de 1936 a 1939, siendo notoria y conocida la insolvencia de los mismos. Los pasos dados por la parte demandada para urgir la obtención de un fallo contra los demandantes en orden a su contrareclamación y el evidente esfuerzo de la parte demandante de dilatar la tramitación del caso, puntos que aparecen claramente en autos, son motivos suficientes para justificar el pronunciamiento hecho por el Juzgado de Primera Instancia de Laguna que es atacado de nulo y abusivo por la parte recurrente.

"No encontramos meritos en el recurso entablado por la parte recurrente en este caso; por lo que lo desestimamos, con costas a dicha parte."<sup>(11)</sup>

From this decision of the Court of Appeals, the tenants appealed to the Supreme Court which, after due hearing, affirmed the Court of Appeals' decision as follows:

"Para que puede expidirse un mandamiento de ejecución de una sentencia de conformidad con el artículo 144 del Código de Procedimiento Civil, no obstante una apelación interpuesta contra la misma, no es de necesidad que una petición formal al efecto se presentó; ni tampoco de necesidad que en la Pieza de Excepciones se expresen y se enumeren claramente las razones especiales que el Juzgado tiene en cuenta para expedir dicho mandamiento. Es bastante que existan dichas razones, (Joven contra Boncan, R.G. No. 45898, Abril 10, 1939; Gutierrez Hermanos contra Oria Hermanos, 39 Jur. Fil. 99; Lusk contra Stevens y otros, 36 Gac. Off. No. 90 pag. 2003), y salta a la vista que en la causa de autos existían dichas razones, porque como lo dijo el Tribunal de Apelación, los recurrentes son

<sup>(11)</sup>Jose H. Guevara, et al., vs. Court of First Instance of Laguna, et al., CA-G.R. No. 3301, Promulgated March 31, 1939.

insolventes; han estado dando largas al asunto adoptando tácticas dilatorias; y su obligación sin pagarse montaba en Marzo de 1939 a P29,628.93, lo que quiere decir que en estas fechas monta a mucho mas de dicha suma.

"Por todo lo expuesto, confirmamos la decision y el fallo del Tribunal de Apelacion, con las costas a los recurrentes."<sup>(12)</sup>

On March 11, 1936, while the action for specific performance<sup>(13)</sup> was pending, about 5,000 "terratenientes" of San Pedro, Laguna, thru Atty. Juan Rusita, filed an Interpleading Proceeding<sup>(14)</sup> on the theory that the Hacienda de San Pedro Tunasan was confiscated by the King of Spain when the Jesuits were expelled from the Philippines in 1768, ceded to the United States of America by the Treaty of Paris, and turned over to the Commonwealth Government of the Philippines by the Tydings-McDuffie Act. The tenants lost, and on appeal the Supreme Court affirmed the decision of the lower court and held:

"Concerniente al otro fundamento del Juzgado, hemos indicado, al extractar las alegaciones de la demanda, que los demandantes sostienen la teoria de que el Commonwealth de Filipinas se ha hecho dueño de la Hacienda de San Pedro Tunasan por cesion o traspaso en virtud de la ley Tydings-McDuffie y a titulo de reversion por haber fallecido las hijas de Rodriguez de Figueroa sin haber dejado herederos. Por otro lado, alegan que el Colegio de San Jose, que para todos los efectos de este asunto es el mismo el Colegio de San José, Inc., que ha comparecido y al parte apelada, pretende igualmente ser dueño de la hacienda ostentando de esta suerte derechos dominicales adverbos a los del Commonwealth de Filipinas. Estando descartado el Commonwealth de Filipinas porque no quiere litigar ni enzarzarse con nadie en un pleito sobre una hacienda cuyo titulo se halla bien definido y reconocido, resulta que la acción de *interpleader* es a todas luces insostenible porque desaparece ya la razón y fundamento alegado por los demandantes en su demanda al efecto de que existen dos entidades, el Commonwealth de Filipinas y el Colegio de San José, que se disputan la hacienda y pretende tener derecho a cobrar el alquiler o canon proveniente de la misma. No incluimos a Carlos

(12) Jose H. Guevara, et al., vs. Court of First Instance of Laguna, et al., G.R. No. 46698, promulgated June 20, 1940.

(13) Civil Case No. 6663, filed March 25, 1935 before the Court of First Instance of Laguna.

(14) Praxedes Alvarez, et al., vs. Com. of the Philippines, et al., Civil Case No. 6790 Court of First Instance of Laguna.

Young, porque según sus propias admisiones él es mero arrendatario de El Colegio de San José, Inc., y no reclama ningún interes de caracter dominical adverso al de éste.

"Al llegar a esta conclusion no hemos perdido de vista el hecho de que el Municipio de San Pedro ha registrado ya su demanda de *interpleader* y que en ella alega tener cierto interes en la Hacienda y en sus rentas; pero, a parte de que el resolver los *demurrers* solo deben tenerse en cuenta las alegaciones de la demanda de los demandantes (artículo 91, Código de Procedimiento Civil), porque contra ella sola van dirigidos aquellos, resulta que según las alegaciones de dicha demanda de *interpleader* el Municipio de San Pedro admite igualmente que el Commonwealth de Filipinas es el dueño de la Hacienda por cesión y a título de reversion."<sup>(15)</sup>

When the Commonwealth of the Philippines refused to interplead in Civil Case No. 6790, "porque no quiere litigar ni enzarzarse con nadie en un pleito sobre una hacienda cuyo titulo se halla bien definido y conocido," the tenants, thru the Municipal Council of San Pedro, Laguna, and represented also by Atty. Juan S. Rustia, on May 16, 1936, instituted an Escheat Proceeding<sup>(16)</sup> under the theory that the Municipality of San Pedro, Laguna is the beneficiary of the Hacienda de San Pedro Tunasan thru escheat, because the original owners, Don Esteban Rodriguez de Figueroa, his wife and two daughters died without heirs. The tenants lost, and on appeal the Supreme Court affirmed the decision of the lower court, and held:

"Si la Hacienda de San Pedro Tunasan, que es la unica propiedad que se pide se revierta y adjudique al Municipio de San Pedro, ha pasado ya a ser del Dominio del Commonwealth de Filipinas es evidente que los solicitantes no pueden pretender que se traspase al referido municipio, a titulo de reversion, porque no se trata ya de un inmueble cuya propiedad era de una persona difunta que no ha dejado heredero ni persona que pueda legalmente reclamarlo, condiciones estas que requiere el artículo 750 y sin las cuales no debe prosperar una peticion de reversion. Desde el momento en que la hacienda fue confiscada por el Reino de España la misma dejó de ser de la propiedad de los hijos de Dn. Esteban Rodriguez de Figueroa, del Colegio de San Jose o de los Padres Jesuitas y se convirtio en propiedad

(15) Praxedes Alvarez vs. La Mancomunidad Filipina, et al., Municipality of San Pedro, Laguna, Interpleader-Appellant, G.R. No. 45315, promulgated February 25, 1938; 65 Phil. 302.

(16) Municipal Council of San Pedro, vs. Colegio de San Jose, et al., Civil Case No. 3502, Court of First Instance of Laguna; 65 Phil. 318.

del Commonwealth de Filipinas por virtud de la cesion mediante el Tratado de Paris, alegada en el peticion. Si el Municipio de San Pedro cree tener algun otro derecho a la hacienda, distinto del de reversion invocado en su peticion que inicio este procedimiento, debe ejercitar la accion adecuada, pero no puede utilizar con exito el remedio que confiere el articulo 750 del Codigo de Procedimiento Civil. Declaramos, por tanto, que el Juzgado no incurrió en el error señalado el dictaminar que la peticion no alega hechos suficientes que justifican la reversion de la hacienda a favor del Municipio de San Pedro y al sobreseer definitivamente la misma. Habiendose llegado a esta conclusion no creemos necesario entendernos en mas consideraciones sobre la personalidad del Municipio de San Pedro y la falta de jurisdiccion del Juzgado."

Incidentally, it may be mentioned in passing that for twisting and misrepresenting the decision of the Supreme Court in this escheat proceeding, Mr. Juan S. Rustia, Counsel of these tenants, was suspended for five years from the practice of law,<sup>(17)</sup> and the organization known as "Oras Na" of which said Mr. Rustia was the supreme head and these tenants, his clients, were the members, was found by the Supreme Court to be a Communist organization.<sup>(18)</sup>

During the pendency of the escheat case (which was later dismissed), the tenants thru Pedro Amante and represented also by Atty. Juan S. Rustia, presented a Mandamus Proceeding before the Honorable Supreme Court praying that the Attorney General be compelled to file the proper action impugning the legal and juridical personality of the Colegio de San Jose. This they did under the theory that said Colegio is a fictitious and non-existent entity for it failed to file its By-Laws and that therefore, it could not own the hacienda de San Pedro Tunasan. The tenants lost in this Mandamus Proceeding for the Supreme Court denied the petition on the following grounds:

"First. The facts alleged do not constitute a cause of action, for the Solicitor General well said:

"The failure of the Colegio de San Jose to file a certified copy of its by-laws does not warrant quo-warranto

<sup>(17)</sup>El Asunto de Juan S. Rustia, Adm. Case No. 1849, promulgated September 10, 1941; 40 O.G., No. 12, pp. 2473-2484.

<sup>(18)</sup>People vs. Amante, G.R. No. 47293, 40 O.G. No. 12, pp. 2468-2471.

proceedings for the forfeiture of the corporate franchise, or even mandamus proceedings to compel the corporation to file its by-laws. Even the failure to adopt by-laws does not cause powers of the corporation to lapse for the adoption of by-laws is not the act which constitutes 'formal organization' of the corporation. By-laws, while convenient, are not absolutely necessary to the exercise of corporate powers. (Fisher on the Philippine Law Stock Corporations, pp. 45-46). And this is very evident in the case of a corporation sole, such as the Colegio de San Jose, taking into consideration its peculiar organization.

"On this point, the Corpus Juris says:

"In the absence of charter or statutory provisions to the contrary, by-laws are not necessary either to the existence of a corporation or the valid exercise of the powers conferred upon it. They are 'unnecessary, in all cases where the charter sufficiently provided for the government of the body'. And even for the governing statute in expressed terms confers upon the corporation the power to adopt by-laws the failure to exercise the power will be ascribed to mere non-action which will not render void any acts of the corporation which would otherwise be valid." (14 C.J., p. 352, Sec. 444).

"Fletcher Cyclopedia Corporations (Vol. 1, 982, Sec. 485) also says:

"The mere fact of the existence in the corporation of the power to adopt by-laws does not ordinarily make the exercise of such power necessary to its corporate life or to the validity of any of its acts."

"Second. The action itself, if any, has already prescribed, because:

"According to the complaint the members of the former Colegio de San Jose have surreptitiously come back to the Philippines and on June 5, 1915, the articles of incorporation of the Colegio de San Jose were filed with the Executive Bureau, but a certified copy of its by-laws and a copy of the commission, certificate of election or letters of appointment of Rev. Francisco Tena, S.J., who presented said articles of incorporation, have not been filed at that time or subsequent thereto; that, on account of these supposed defects on December 10, 1921, the then Assistant Director of Commerce and Industry required by letter the Colegio de San Jose to comply with the requirements of law by filing its by-laws and a copy of the aforesaid commission, certificate of election or letters of appointment of Rev. Francisco Tena, S.J., but said request has never been complied with, notwithstanding the warning that its non-compliance would cause the institution of quo warranto proceedings for the dissolution of said corporation under section 190-A of Act 1459



(par. 2, 3, 5, 6, and 7, petition). From the foregoing allegations of the petitioner it is evident that on May 26, 1936, when the abovementioned complaint of the petitioner, was received by the respondent solicitor-general, more than five years have already elapsed from the date (Dec. 10, 1921) the Colegio de San Jose was demanded by the Assistant Director of the Bureau of Commerce and Industry to file a certified copy of its by-laws and a copy of the commission, certificate of election or letters of appointment of Rev. Francisco Tena, S.J. Therefore, no quo-warranto proceedings could be filed against the Colegio de San Jose, for such action was already barred by the provisions of Sec. 216 of the Code of Civil Procedure, which reads:

"Sec. 216 Limitation.—Nothing herein contained shall authorize an action against a corporation for forfeiture of charter, unless the same be commenced within five years after the act complained of was done or committed;\*\*\*\*"

"Third, they should be so—

"\*\*\*, because the institution of the action is expressly made to depend upon whether he has good reason to believe that he can establish by proof that the case is one of those specified in section 197 and 198 of the Code of Civil procedure. And it is a well settled rule that a writ of mandamus will not issue to control or review the discretion exercised by an officer and vested upon him by law. (Lamb vs. Phipps, 22 Phil., 456; Olsen vs. Fressel & Co., 37 Phil., 121; Dy Cay vs. Crossfield, 38 Phil., 521; Gonzales vs. Director of Lands, 43 Phil., 277; Abueva vs. Wood, 54 Phil., 612; Blanco vs. Board of Medical Examiners, 46 Phil., 190; Board of Election Inspector vs. Sison, 55 Phil., 914). While mandamus may be invoked to compel the exercise of discretion, it cannot compel such discretion to be exercised in a particular way. (Merchant vs. Del Rosario, 4 Phil., 316; Lamb vs. Phipps, supra; Dy Cay vs. Crossfield; supra).

"The rule may be departed from only in cases of manifest abuse of discretion, as where the acts complained of are whimsical, capricious or arbitrary (39 C.J., 599). But the facts of the present case do not warrant such departure." (19)

When the mandamus case was denied, the tenants, thru Atty. Juan S. Rustia, intervened in the Expropriation

(19) Pedro Amante vs. Hon. Serafin Hilado, Procurador General de Filipinas, G.R. No. 45536.

Proceeding<sup>(20)</sup> instituted by the Commonwealth Government against the Colegio de San Jose so as to expropriate the homesite portion of the Hacienda de San Pedro Tunasan, and filed a third party complaint, under the theory that the Municipality of San Pedro is the owner of said hacienda and, therefore, should be the recipient of the amount to be paid for the expropriation. The tenants lost again in this proceeding and, on appeal, the Supreme Court affirmed the decision of the lower court holding among others that:

"Segun dicho articulo cuando el demandado reconoce el derecho del demandante a expropiar el Juzgado puede proceder en seguida a nombrar comisionados para tasar los bienes y determinar los daños y perjuicios. En el presente caso el Colegio de San Jose y Carlos Young, que son los demandados, admitieron expresamente en sus contestaciones del derecho del Gobierno del Commonwealth de Filipinas de expropiar la porcion de terreno descrita en la demanda y en el plano anexo, por lo que el Juez recurrido estaba perfectamente autorizado para proceder al nombramiento de comisionados. Cierto es que el recurrente, como tercerista en aquel asunto, alego que ostentaba derechos adversos al Colegio de San Jose y Carlos Young, pero como se puede ver tanto en su demanda de terceria como en la solicitud que presento en este recurso todo el derecho que invoca consiste en su pretendido derecho de beneficiario. Desde el comienzo del asunto de expropiacion hasta ahora el recurrente admite que el dominio o titulo de la Hacienda de San Pedro Tunasan reside en el Commonwealth de Filipinas; por otro lado, esta entidad ha entablado la accion de expropiacion forzosa reconociendo el Colegio de San Jose como el dueño de la Hacienda de San Pedro Tunasan y de la porcion que trata de expropiar. En tales circunstancias nos parece claro, y así declaramos, que el recurrente no puede obstaculizar los procedimientos de expropiacion ni puede impedir que el Juzgado nombre los comisionados de avaluo de conformidad con las disposiciones del articulo 243 del Codigo de Procedimiento Civil. No queramos extendernos en mas consideraciones acerca de las pretensiones del recurrente en relacion con la hacienda y porcion de la misma que se trata de expropiar, para no prejuzgar la controversia que ha suscitado en el Juzgado de Primera Instancia que entiende del asunto de expropiacion. Declaramos, sin embargo, que con vista de los escritos de alegaciones presentados en la Causa Civil No. 6875 del Juzgado de Primera Instancia de Laguna el Juez recurrido tenia jur-

(20) Com. of the Phil. vs. Colegio de San Jose, Civil Case No. 6875 Court of First Instance of Laguna.

isdiccion y no se extralimito de ella ni se excedio en el ejercicio de su sana discrecion al dictar la Orden del 31 de Agosto de 1937 que nombre a los comisionados de avaluo."<sup>(21)</sup>

The tenants, thru Atty. Juan S. Rustia, moved for a reconsideration of the above quoted decision of the Supreme Court on the following ground:

"Por ser *obiter dicta* y contrario a los hechos, debe reconsiderarse o corregirse esta parte de los fundamentos de la decision:

"..... DESDE EL COMIENZO DEL ASUNTO DE EXPROPIACION HASTA AHORA EL RECURRENTE ADMITE QUE EL DOMINIO O TITULO DE LA HACIENDA DE SAN PEDRO TUNASAN RESIDE EN EL COMMONWEALTH DE FILIPINAS, POR OTRO LADO, ESTA ENTIDAD HA ENTABLADO LA ACCION DE EXPROPIACION FORZOSA RECONOCIENDO AL COLEGIO DE SAN JOSE COMO EL DUEÑO DE LA HACIENDA DE SAN PEDRO TUNASAN Y DE LA PORCION QUE TRATA DE EXPROPIAR."

"En este parrafo acotado se imputa el Commonwealth de Filipinas el hecho de reconocer al Colegio de San Jose el dominio de la Hacienda de San Pedro Tunasan por el mero hecho de haberse entablado la demanda de expropiacion.

"Sometemos respetuosamente que este fundamento o argumentacion se *obiter dicta* y no responde exactamente a los hechos que constan en autos, a parte de que servia solamente de instrumento obstaculizado de que luego se valdrian nuestros adversarios en cuanto se discuta en su fondo el titulo y el dominio de la Hacienda de San Pedro Tunasan."<sup>(22)</sup>

But the Honorable Supreme Court denied the aforesaid motion for reconsideration as follows:

"Upon consideration of the motion of the attorney for the petitioner in case G.R. No. 45713, El Municipio de San Pedro, Laguna vs. Hon. Modesto Castillo, etc., et al., praying that the decision heretofore rendered therein be reconsidered, and that a new trial be granted said petitioner, the Court DENIED the motion."<sup>(23)</sup>

(21) Municipality of San Pedro, Laguna, vs. Castillo, G.R. No. 45713, promulgated December 23, 1937; 65 Phil. 240.

(22) Motion for Reconsideration in the Municipality of San Pedro, Laguna, vs. Hon. Modesto Castillo et al., G.R. No. 45713.

(23) Resolution in G.R. No. 45713, *supra*.

In 1941, after the decision in Civil Case No. 6663, as affirmed in CA-G.R. Nos. 3301 and 3739 and G.R. No. 46698 become final and executory, the Commonwealth Government initiated negotiations with the Colegio de San Jose for the purchase of the San Pedro de Tunasan Estate. In view of these developments, the execution of the decision in Civil Case No. 6663 as affirmed in the aforementioned cases was held in abeyance and, in the meantime, a receivership over the San Pedro Tunasan Estate was established. Due to the outbreak of World War II, the proposed purchase of the San Pedro de Tunasan Estate by the Commonwealth Government failed to materialize. After Liberation, in view of the straitened financial circumstances of the National Government, the negotiations started before the war could not be revived.

In the meantime, in order to protect its interests, the Colegio de San Jose filed on December 9, 1947 an action to revive the right to execute the judgment in Civil Case No. 6663, and same was docketed in the Court of First Instance of Laguna as Civil Case No. 9039. As in civil case No. 6663, a receivership over the properties in litigation was also established in Civil Case No. 9039. The institution of this receivership, which, in various proceedings, was questioned by the tenants thru Atty. Juan S. Rustia, was consistently sustained by the Supreme Court, as shown by the dismissal of the following cases: Ramirez, et al., vs. Ibanez, et al., G.R. No. L-1878; Alvarez, et al., vs. Ibanez, et al., G.R. No. L-2120; Alvarez, et al., vs. Ibanez, et al., G.R. No. L-2984; Florencio Ambayec, et al., vs. Court of First Instance of Laguna, G.R. No. L-4195; Florencio Ambayec vs. Hon. Nicasio Yatco, et al., G.R. No. L-3878.

Upon the denial of the petitions for Injunction and the dismissal of the numerous proceedings for Certiorari and Prohibition filed<sup>(24)</sup> by the tenants in their desperate efforts to quash their receivership so instituted, an injunction was issued by the Honorable Court of First Instance of Laguna in Civil Case No. 9039, to sustain, maintain and protect the aforesaid receivership. All the various attempts made by the tenants thru Atty. Juan S. Rustia to lift this injunction ended in failure as

(24) G.R. No. L-1878; G.R. No. L-2120; G.R. No. L-2984, *supra*.

shown by the dismissal of the following cases: *Benedicto Austria vs. La Junta Provincial Filipino*, G.R. No. L-2425, and *Benedicto Austria vs. Hon. Nicasio Yatco and Colegio de San Jose*, G.R. No. L-3860.

When the opposition and third party complaint in the expropriation case were denied and dismissed, and the Commonwealth Government bought from the Colegio de San Jose the Homesite portion of the Hacienda de San Pedro Tunasan so that the same may be resold to these tenants and/or their successors-in-interest, said tenants, on October 6, 1946, thru Atty. Juan S. Rustia, filed an action to annul the Deed of Sale over said homesite,<sup>(25)</sup> under the theory that the Colegio de San Jose has no right to sell said homesite for it was not the owner of the Hacienda de San Pedro Tunasan. The tenants lost, and on appeal the Supreme Court affirmed the decision of the lower court and held:

"In our opinion, inasmuch as plaintiffs prayed for protection of their rights of possession and ownership over the portions occupied by them, it was proper for the court to require them to describe such portions so that the remedy prayed for may be—in time—granted. And non-compliance with such order was sufficient ground for dismissal (Rule 30, Sec. 3). It is true that on February 11, 1947, some of the occupied lots were described in a bill of particulars submitted to the court. But it was belated and partial. And under the circumstances we are not inclined to reverse, specially because it is quite probable that after the promulgation of this Court's views in the other case entitled "*Felipe C. Alviar, et al., vs. Rev. Leo A. Cullum, S.J.*, G.R. No. L-2523, April 24, 1950" (in which the attorney for plaintiffs is the same attorney of herein appellants), this suit will not be further pressed, because it is based mainly upon the propositions that the Colegio de San Jose has no personality and that the Jesuit Order in the Philippines may not validly acquire real property here, considering the Pragmatica Sancion issued by King Charles III of Spain on April 2, 1767, and the Real Cedula of October 19, 1852. Both these propositions were overruled—and rightly—in the above-mentioned recent decision."

When the action for annulment of contract was dismissed by the Court of First Instance of Laguna, the

(25) *Felipe C. Alviar, et al. vs. Rural Progress Administration, et al.*, Civil Case No. 8039, Court of First Instance of Laguna.

tenants thru Atty. Juan S. Rustia filed an action "*Para Poner en Vigor Una Interdicción Civil*" in the Court of First Instance of Manila<sup>(26)</sup> on the theory that the Pragmatica Sancion of King Charles III of Spain of October 19, 1852 is still in force in the Philippines to date. The tenants lost, and on appeal the Supreme Court affirmed the decision of the lower court, and confirmed the title and ownership of the Colegio de San Jose over the Hacienda de San Pedro Tunasan as follows:

"The theory of the lower court is that the 'Pragmatica Sancion' and 'Real Cedula' above-mentioned are political in nature and had ceased to be in force in the Philippines upon the cessation of the Spanish Sovereignty over this country. We find this holding to be correct for there can be no question that said 'Pragmatica Sancion' and 'Real Cedula' were political in character for they concerned matters affecting the relations between the inhabitants of the Philippines and their sovereign.

"But even supposing that the confiscated properties of the Jesuits belonged to the Crown of Spain which by the Treaty of Paris were ceded to the United States and later to the Republic of the Philippines, it is this Republic, not the plaintiffs, who may claim said properties.

"It appears, further, that the title of the Roman Catholic Church over the 'Hacienda de San Pedro Tunasan' was recognized in a contract executed and signed by and between the Secretary of War, Honorable William H. Taft and the Most Rev. Jeremiah Harty, Archbishop of Manila, and expressly approved by the President of the United States of America, and that such a recognition has been ratified by the Government of the Philippines through Act No. 1724, Section 2 of which in part provides 'That the Supreme Court 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'. And this Court, on December 8, 1909, rendered judgment upholding the title and ownership of the Roman Catholic Church over said properties, including the 'Hacienda de San Pedro

(26) *Alviar, et al., vs. Cullum*, Civil Case No. 2889, Court of First Instance of Manila.

Tunasan' (T.H. Pardo de Tavera, et al., v. The Roman Catholic Church, et al., G.R. No. 469, 14 Phil. 775).

"On May 3rd, 1910, Pope Pius X ordered the Father Superior of the Society of Jesus in the Philippines to resume the administration of the Colegio de San Jose and its temporalities. On June 5, 1915, the Colegio de San Jose was made a corporation sole under the laws of the Philippines and acquired juridical personality to own properties and temporalities including the 'Hacienda de San Pedro Tunasan'. In Government of the Philippines v. Colegio de San Jose, et al., 53 Phil. 423, this court held that the two parcels of land in litigation form an integral part of the 'Hacienda de San Pedro Tunasan' belonging to the claimant 'Colegio de San Jose', and the original Certificate No. 10851 was issued in favor of Colegio de San Jose over portions of land included in said 'Hacienda de San Pedro Tunasan.'

"Furthermore, the plaintiffs have once recognized the title of Colegio de San Jose over the 'Hacienda de San Pedro Tunasan.' In Guevara v. Young, G.R. No. 46698, the plaintiffs herein brought an action to compel the Colegio de San Jose to respect its contract of lease with them over several portions of the 'Hacienda de San Pedro Tunasan', and this is certainly inconsistent with their attitude in the instant case."<sup>(27)</sup>

In the meantime, several other cases in which the title and possession of the Colegio de San Jose were disputed and assailed, directly or indirectly, were instituted by individual tenants of the San Pedro de Tunasan Estate.<sup>(28)</sup> In all these cases, the title and possession of the Colegio de San Jose over the San Pedro de Tunasan Estate were confirmed and upheld. On October 11, 1950, the Court of First Instance of Laguna finally rendered judgment in Civil Case No. 9039 in favor of the plaintiff, Colegio de San Jose, the dispositive part of which reads as follows:

"IN VIEW OF THE FOREGOING, this Court renders judgment one in favor of the plaintiff and against all the defendants (old and new) in the above case, by granting the revival of the judgment in Civil

(27) Alviar, et al. vs. Cullum, G.R. No. L-2523.

(28) Among these may be mentioned the cases of Ambrocio Entila vs. Felipe Ansay, Civil case No. 9175; Felipe C. Alviar, et al., vs. Santos Pampolina, et al., Ca-G.R. No. 2279-B, G.R. No. L-1855, 46 O.G. 6057; Simeon Gerodias, et al., Applicants, Land Registration Cases Nos. 6, 8, 9, 10, 11 and 12 in the Court of First Instance of Laguna.

Case No. 6663 of this same Court as against the registered defendants, under the terms and conditions expressed in the dispositive part of the aforesaid decision\*\*\*"

The aforementioned decision is now final and executory, the appeal interposed by the defendants having been dismissed pursuant to the Order of the Court of First Instance of Laguna, dated February 1, 1950.<sup>(29)</sup>

#### CONCLUSION

Why men keep quarreling over properties is easily understandable. Why men keep quarreling over this particular hacienda known as Hacienda de San Pedro Tunasan is a little bit less understandable. But why men keep quarreling over the ownership of the Colegio de San Jose over the said hacienda despite the fact that it has been established, affirmed, re-affirmed and confirmed in various decisions<sup>(30)</sup> of the Supreme Court of the Philippines, and other courts somewhat defies understanding.

(29) Colegio de San Jose vs. H. Guevara, et al., Civil Case No. 9039, Court of First Instance of Laguna.

(30) RECAPITULATION: The ownership and title of the Roman Catholic Church and, subsequently, of the Colegio de San Jose of the San Pedro de Tunasan Estate was recognized in: the Contract of June 8, 1907 executed and signed by and between William H. Taft, Secretary of War of the United States, and Jeremiah Harty, Archbishop of Manila, and affirmed by the President of the United States; in Act No. 1724, which ratified the foregoing contract of 1907; was conclusively established in: T.H. Pardo de Tavera, et al., vs. The Roman Catholic Church, G.R. No. 469, and Amante vs. Hon. S. Hilado, G.R. No. 455 36;

Confirmed in: The Govt. of the Philippines vs. Colegio de San Jose, et al., 53 Phil. 423, 429-430; Civil Case No. 6663, Court of First Instance of Laguna, C.A.—G.R. Nos. 3739 and 3301, Court of Appeals, and G.R. No. 46698, Supreme Court; Civil Case No. 6790, Court of First Instance of Laguna, and Alvarez, et al., vs. Commonwealth of the Philippines, G.R. No. 45315, 65 Phil. 302; Civil Case No. 3502, Court of First Instance of Laguna, and Municipal Council of San Pedro vs. Colegio de San Jose, G.R. No. 45460, 65 Phil. 318; Civil Case No. 6875, Court of First Instance of Laguna, and Commonwealth of the Philippines vs. Colegio de San Jose, G.R. No. 45713; Mun. of San Pedro vs. Castillo, G.R. No. 45713, 65 Phil. 240;

Further affirmed indirectly in: Ramirez, et al., vs. Ibanez, et al., G.R. No. L-1878, 46 O.G. p. 4228; Alvarez, et al., vs. Ibanez, et al., G.R. No. L-2120, 46 O.G. p. 4233; Alvarez, et al., vs. Ibanez, et al., G.R. No. L-2984; Ambayec, et al., vs. Court of First Instance of Laguna, G.R. No. L-4195; Ambayec, et al., vs. Hon. N. Yatco and Colegio de San Jose, G.R. No. L-3860; Alviar vs. Pampolina, G.R. No. L-1855, 46 O.G. p. 6057;

And most emphatically reiterated in: Alviar, et al., vs. Cullum, G.R. No. L-2523; Alviar vs. Rural Progress Administration, G.R. No. L-1736; Colegio de San Jose vs. Jose H. Guevara, Civil Case No. 9039, Court of First Instance of Laguna; Anaya vs. Sietereales, et al., 49 O.G. p. 2394.

Men may come and men may go. The Hacienda remains where it was three hundred years ago and will so remain, serene and indifferent. Don Esteban Rodriguez de Figueroa, the generous soul who made possible the founding of the Colegio de San Jose by a grant of the estate under his will, in all probability, never dreamed that the grant would give rise to a stormy history. And if he were alive now he will probably say: "*In the beginning this land was mine. And then...*"

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## THE NEED FOR A STRONG JUDICIARY

*Judge Conrado V. Sanchez \**

Revered since ages past is the universally accepted classic concept that courts are the temples of right. Nations and men in all climes look up to the courts in their ever-recurrent search for truth and justice. To those schooled in the ways of democracy, courts are the zealous guardians of their constitutional guarantees—life, liberty and the pursuit of happiness. Where other remedies have failed, men have sought refuge behind the solid ramparts of the judiciary, the last bulwark in the protection of their rights. By precept and statute, our courts are clothed with the power to protect rights and redress wrongs. Indeed, government and people must accept with hallowed resignation the courts' pronouncement of the law.

Indispensable ministers of the courts and holders of the scepter of authority are the Judges. Great are their powers, heavy their responsibilities. Singled out in importance is their jurisdiction to sit in judgment over their fellow men. But piercing the shard of dignity and reverence, we stare at the bare, cold fact that "*judges at last are but men, subject to the imperfections and frailties of other men, encompassed by error, seasoned with sin and fettered by fallibility.*"

These postulates, inevitable as we must accept them to be, bring to the fore the necessity for an elevated type of judicial administration. The importance of this governmental function must have galvanized the wits of Aristotle into the formulation of that venerated truism, "*justice is the first concern of mankind*". Our Supreme Court gave expression to this apothegm with the judicial pronouncement that "*the administration of the law is a matter of vital public concern.*" Thus it is, that the Lawyer's

\* Seventh Branch, Court of First Instance of Manila. Ll. B., Ll. M.