

The Neutral Approach in Resolving Disputes in Religious Corporate Law

Theoben Jerdan C. Orosa*

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*"So if you have not been trustworthy in handling worldly wealth, who will trust you
with true riches?"*

- Luke 16:11

I. INTRODUCTION

In her critique¹ of the Revised Model of the American Nonprofit Act, Catherine M. Knight lamented the virtual self-regulation that religious

* '06 J.D., cand., Member, Board of Editors, *Ateneo Law Journal*. His works published in the *Journal* include: *Constitutional Kritarchy Under the Grave Abuse Clause*, 49 ATENEO L.J. 565 (2004); *The Failed Computerization of the National Elections and the Nullification of the Automated Election Contract*, 49 ATENEO L.J. 211 (2004) and *Taruc v. dela Cruz: Conservatism in Reviewing Decisions of Ecclesiastical Tribunals*, 50 ATENEO L.J. 211 (2005). He also co-authored *In Re Purisima: Competence and Character Requirement for Membership in the Bar*, 48 ATENEO L.J. 840 (2003) with Ms. Aimee Dabu et al.

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corporations seem to enjoy. She argued that "...the Revised Act takes what appears to be an unnecessarily 'hands-off' approach toward the regulation of religious corporations, and consequently, directors and officers of such corporations are virtually self-regulated. These flaws create a significant potential for fiscal abuse."²

This, notwithstanding the fact that in the United States, the religious corporation is already governed by a multitude of nonprofit regulatory acts and state incorporation statutes. In the Philippines, the Corporation Code mirrors these regulations in pale with its handful of provisions, most of which contain general guidelines in incorporation and in election of officers. But the religious corporation cannot just be likened to any other corporation which might easily yield to regulation and state resolution of inter and intra-corporate disputes. The religious corporation is special in the sense that the law that should govern it must be careful in considering the Constitutional considerations of the "business" of the religious corporation vis-à-vis the common law equity considerations that the corporation enters into with its private transactions.

Regulation and specific regulatory measures aside, what constitutes the barrier to regulation and state interference with the religious corporation? The answer is contained in the two Religious Clauses of Free-Exercise and Non-Establishment. Under the Free Exercise Clause, civil courts are prohibited from playing a role in "[those matters which] require the civil court to determine matters at the very core of a religion — the interpretation of particular church doctrines and the importance of those doctrines to the religion."³ However, free-exercise has never been an absolute right. As the United States Supreme Court once remarked, "nothing we have said is intended even remotely to imply that, under the cloak of religion, persons may with impunity, commit frauds upon the public."⁴ Free-exercise jurisprudence, therefore, recognized the right of the state to prevent and punish fiscal abuse and fraud — and should that be the purpose of recognizing regulation for religious corporations, then a sensitive approach should be developed so as not to impede free exercise, and yet maintain that legitimate exercise of regulation.

On the other hand, the Establishment Clause has been interpreted as requiring that a statute that would likewise benefit a religious entity, group

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1. Catherine M. Knight, *Must God Regulate the Religious Corporations? A Proposal for Reform of the Religious Corporation Provisions of the Revised Model Nonprofit Act*, 42 EMORY L.J. 721, 723-24 (1993).
 2. *Id.* at 733.
 3. *Id.*
 4. *Cantwell v. Connecticut*, 310 U.S. 296, 306 (1940).

or religion in the associational level must pass three constitutional tests. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; third, the statute must not foster an "excessive government entanglement with religion."⁵

Both Clauses effectuate a seeming policy of non-interference—a structuring of the "wall of separation" between the State and the Church. The advent of modernity however, begs an inquiry into a more obscure sub-topic under Philippine Corporate Law—that of the Religious Corporate Law. A handful of provisions in the Corporation Code provide for the textual mandate for the incorporation and governance of religious corporations.

Corporate Law has been a most helpful advancement in the field of development in commercial dealings and in private transactions. Civil courts play an important role in keeping in check private associations, most importantly corporations. It is with this branch of law that an American Decision in *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*,⁶ where the United States Supreme Court ruled that civil courts must employ "neutral principles of law, developed for use in all property disputes,"⁷ for religious associations may be observed as budding and ideal.

When the Corporation Code left much for jurisprudence to seep through Religious Corporate Law, the policy of law may be read easily. Non-interference requires every case to be decided by its intricacies; but a more general approach is needed to determine property issues with uniformity and equality. It is with neutral principles of law that the State may acquire proper footing in the determination of an otherwise underdeveloped area of modern day governmentality—Religious Corporate Law.

II. THE RELIGIOUS CORPORATION AS A PRIVATE PERSON

A corporation is an artificial being created by operation of law having the powers conferred upon it as expressly authorized by law or incident to its existence. This statutory definition of a corporation follows the Theory of

5. *Lemon v. Kurtzman*, 403 U.S. 602, 612-13 (1971). The Court attributed the second test to *Board of Education v. Allen*, 392 U.S. 236, 243 (1968), and the third test to *Walz v. Tax Commission*, 397 U.S. 664, 674 (1970).

6. *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440 (1969).

7. *Id.* at 449.

Concession of which the birth of the corporation is purely dependent upon the will of the State. However, as to the religious corporation, a legal authority quagmire is present in that the religious corporation whose actual business is protected by the Religion Clauses, cannot be fully governed by the State that gave "birth" to it.

Well-recognized is the concept that religion is a field which secular law cannot really plow through nor conquer — religion per se being a field protected by a constitutionally fortified wall. Drawing from the political theory of a separation of the Church and the State; the wall that was created to delineate the boundaries of individualistic freedom as against the grasping arm of the law yields to the protection of the freedom as embodied in the Religious Clauses, particularly the non-interference policy in the Non-Establishment Clause. However, religion exists not only in the divine nor in the metaphysical. Religion also possesses a temporal existence. Where religion enters the realm of the secular, those very gates where all beliefs converge to transact worldly businesses outside the limits of the religious protection must crack open. These worldly transaction subjects itself to the powers of the secular positive law.

Outside the religious gates, there are markets and traders; lands and property, capital and investments and other worldly affairs that are undoubtedly necessary for the sustenance of the religious organization. Outside these pearly gates of the protected field, religion travels in a worldly vessel — the religious corporation. It is in this artificial construct, completely created by law, by which the worldly affairs, property and temporalities of any religious denomination, sect or church are conducted. Being the vessel by which religion can conduct its "businesses," the religious corporation enjoys a treatment different from its regular counterparts or the usual forms of corporations falling under the profit or nonprofit category — the religious corporation is treated with respect and consternation in the exercise of State jurisdiction.

It is not without a purpose that the law touches lightly on religious corporations. An indulgent approach toward religious corporations is required by the Non-Establishment Clause. However this indulgent approach leaves no room for a vacuum that may result in virtual self-regulation by the Board of Directors. The religious corporation being the manifestation of the temporal existence of religion to pursue "worldly transactions," it must be governed not by a legal vacuum to the detriment of the church members or the general public but rather, where it may be permitted, by Corporate Law principles: the goal and the aim of which is to protect the purposes for which the religious corporation was conceded juridical personality by the State.

Religious corporations, like other private corporations, own property, receive gifts, benefit from trusts, enter into contracts, and owe common law duties of loyalty to members and care for the general public.⁸

The religious corporation acquires properties through the different modes of acquisition available to civil persons. Thus it has the capacity to transact in the same way that other persons do. The religious corporation may acquire by purchase, barter or by any other contract whereby an ordinary corporation may do so. It may also acquire property from gifts and bequests, unless specifically disqualified by law to receive a donation⁹ or a testamentary disposition.¹⁰ But for purpose of qualifying as a person to receive the gift or bequest, the rule in donations, which provides that the donee must be a person not otherwise incapacitated should be observed. Hence, the religious corporation must have had its juridical personality before the donation may be recorded in its name. A donation to a religious corporation however may be accepted without question by the leaders for and on behalf of the religious corporation, but such repudiation of the same is a different issue. The repudiation must be made by public or authentic instrument, or by petition to court.¹¹ The religious corporation may be prohibited by law to received public property but not if it was for a consideration such as in the case of *Orden de Predicadores v. Metropolitan Water District*,¹² where the local government granted free use of water in the building of the convent of Sto. Domingo (which was a religious corporation) but because the religious corporation donated land to the government, it did not come within the prohibition of the Jones law — being in the nature of a remuneratory donation.¹³

In *The Roman Catholic Apostolic Church v. the Municipalities of Tarlac and Victoria*,¹⁴ the Court discussed the very first property dispute that arose in this land between contending religious corporations — the Roman Catholic Church and the Philippine Independent Church.

8. See Corporation Code of the Philippines [CORPORATION CODE], Batas Pambansa Bilang 68 §36 (1980).

9. See An Act to Institute the Civil Code of the Philippines [CIVIL CODE], Republic Act No. 386, art. 738 (1949).

10. CIVIL CODE, art. 1026.

11. CIVIL CODE, art. 1051.

12. *Orden de Predicadores v. Metropolitan Water District*, 44 Phil. 292 (1923).

13. *Id.* at 297-99.

14. *The Roman Catholic Apostolic Church v. the Municipalities of Tarlac and Victoria*, 9 Phil. 450 (1907).

The issue on the juridical personality and the right to acquire property has been settled in the previous cases of *Barlin v. Ramirez*,¹⁵ *Roman Catholic Church v. Santos*,¹⁶ and *City of Manila v. Roman Catholic Church*.¹⁷ However it was in the case of *Tarlac and Victoria* where the Court explained that the Supreme Court had jurisdiction to decide property disputes between religious corporations as well as other third persons, such as, in this case — the local government units of Tarlac and Victoria. This ruling was followed in *The Roman Catholic Church et al. v. Municipalities of Cuyapo, San Antonio, San Isidro, Cabanatuan, Talavera, and Licab*,¹⁸ where the court added the ruling that the right of the former possessor to recover the possession from one who has no title or interest in property (*jus vindicatoria*) is an inherent part of the right of ownership that a religious corporation possesses. This right cannot be lost even if the properties were abandoned because of the war and insurrection, wherein there is no clear case of intent to abandon.¹⁹

A religious corporation is also perfectly capacitated to acquire property by prescription,²⁰ or through the lapse of time in the manner and under the conditions laid down by law.²¹ In fact, prescription of actions may also work for the benefit of a religious corporation or against the religious corporation itself.²² Religious corporations are also bound by the acts of its predecessors in interest.²³ However, like any person, the religious corporation cannot acquire through acquisitive prescription those considered as public lands for this is contrary to law and public policy.²⁴

15. *Barlin v. Ramirez*, 7 Phil. 41 (1907).

16. *Roman Catholic Church v. Santos*, 7 Phil. 66 (1907).

17. *City of Manila v. Roman Catholic Church*, 7 Phil. 763 (1907).

18. *Roman Catholic Church v. Municipalities of Cuyapo et al.*, 9 Phil. 457 (1908).

19. *Catholic Church v. Mun. of Badoc*, 10 Phil 659 (1908).

20. *Catholic Vicar Apostolic of the Mountain Province v. C.A.*, 183 SCRA 639 (1990).

21. CIVIL CODE, art. 1106.

22. *Roman Catholic Archbishop of Manila v. C.A.*, 198 SCRA 300 (1991) (where the deed of donation provided for an automatic revocation and reversion of the property if the property be sold within 100 hundred years upon possession of the religious corporation, the Court held that its was an illegal or impossible condition under Article 727 of the Civil Code).

23. *Republic v. Iglesia ni Cristo*, 128 SCRA 44 (1984).

24. *Director of Lands v. Iglesia ni Cristo*, 200 SCRA 607 (1991).

III. SECULARIZING JUDICIAL APPROACHES TO RELIGIOUS PROPERTY DISPUTES

A. *The Traditional Non-Entertainment of Dispute*

Civil courts are frequently called on to adjudicate disputes within religious associations and churches concerning important civil interests in these zones of activity. Disputes between a church and its members that involve important civil interests pose special problems for civil courts. While the Religion Clauses prohibit courts from making doctrinal decisions²⁵ or from interfering with the right of churches to order their internal affairs,²⁶ it fails to provide clear guidance when civil disputes arise in a religious context. For more than a century, the Supreme Court has grappled with the difficult task of reconciling respect for the autonomy of religious organizations with the responsibility of courts to resolve conflicts that involve such civil matters as property use or trust management.

In an attempt to resolve this conflict, the Court adopted a rule of judicial deference to the decisions of hierarchical church authorities and congregational majorities in intra-church disputes.²⁷ Decisions of the highest tribunals and authorities of hierarchical churches involving matters of internal organization and law as well as issues of faith and doctrine are, according to the deference rule, binding on courts. During the last fifteen years, the Court has articulated an alternative rule to resolve cases that involve property disputes but do not require judicial examinations of church affairs.

At this stage of the discussion it is proposed that the Court focus on the approbation of a method by which civil courts apply ordinary, neutral principles of property law to interpret church documents as well as deeds and trust instruments.

In *Watson v. Jones*,²⁸ the United States Supreme Court laid down a ruling regarding religious organizations by which later jurisprudence would ripple around. It was held in that case that a State has a legitimate interest in resolving secular issues arising within religious organizations, such as property disputes, and that a civil court is a proper forum for that

25. *U.S. v. Ballard*, 322 U.S. 730 (1944) (The courts cannot inquire as to the veracity of the doctrines of the religious organization.).

26. *Islamic Da'wah Council of the Philippines, Inc. v. Office of the Executive Secretary*, 405 SCRA 497 (2003). See *Taruc v. dela Cruz*, 453 SCRA 123 (2005).

27. Theoben Jerdan C. Orosa, Comment, *Taruc v. dela Cruz: Conservatism in Reviewing Decisions of Ecclesiastical Tribunals*, 50 ATENEO L.J. 211 (2005).

28. *Watson v. Jones*, 13 Wall. 679 (1872).

resolution.²⁹ However, as in subsequent jurisprudence, the ruling in *Watson* is reluctantly devoid in determination because of hesitation in ruling over secular issues where the issue might be tainted by religious color.

In *Watson*, civil courts were asked to resolve a property dispute between a national religious organization and the local churches of that organization. Such disputes arose out of a controversy over *church doctrine*. In this case, the court was asked to decree the termination of an implied trust because of departures from doctrine by the national organization. The *Watson* Court refused, pointing out that it was wholly inconsistent with the American concept of the relationship between church and state to permit civil courts to determine ecclesiastical questions.

In a language which has a clear constitutional tone in it, the *Watson* Court said:

In this country the full and free right to entertain any religious belief, to practice any religious principle, and to teach any religious doctrine which does not violate the laws of morality and property, and which does not infringe personal rights, is conceded to all. The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect... *All who unite themselves to such a body [the general church] do so with an implied consent to [its] government, and are bound to submit to it. But it would be a vain consent and would lead to the total subversion of such religious bodies, if any one aggrieved by one of their decisions could appeal to the secular courts and have them [sic] reversed.* It is of the essence of these religious unions, and of their right to establish tribunals for the decision of questions arising among themselves, that those decisions should be binding in all cases of ecclesiastical cognizance, subject only to such appeals as the organism itself provides for.³⁰

If followed as a general principle with no qualification whatsoever, the *Watson* ruling leaves civil courts with no role in determining ecclesiastical questions in the process of resolving property disputes involving ecclesiastical questions. The implied consent doctrine will render membership with no recourse as to what remedy they may obtain because by nature of the government of the ecclesiastical tribunal the rules and regulations they impose are subject only to the cognizance and appeal to the same body.

29. *Id.* at 726-27.

30. *Id.* at 728-29.

B. *Marginal Review of the Civil Courts*

The application of neutral principles of corporate law approach encourages churches to structure contractual relations, trusts, and real property arrangements in the language of the common law — a language the courts can interpret with ease and without extensive investigation into theologically colored terminology.³¹

Defining their relations in such a manner serves the churches' own interests by making their intentions objectively evident. If litigation results, the religious corporations' prior structuring of both their internal relations and their obligations in the language and format of the non-stock corporate law limits the length and complexity of trials and minimizes the inevitable acrimony and internal dissention that accompanies such litigation.³²

The United States Supreme Court ruling in *Watson* should be understood as qualified by another review, this time, of a dispute that arose in the then US Colony, the Philippine Islands.

On non-constitutional grounds, the United States Supreme Court, deciding for the Philippine colony, recognized that there might be some circumstances in which marginal civil court review of ecclesiastical determinations would be appropriate. The scope of this review was delineated in *Gonzalez v. Archbishop*.³³

In this case, petitioner Gonzalez claimed the right to be appointed to a chaplaincy in the Roman Catholic Church under a will which provided that a member of his family receive that appointment. The Roman Catholic Archbishop of Manila, refused to appoint Gonzalez on the ground that he did not satisfy the qualifications established by Canon Law for that office. Gonzalez brought suit in the Court of First Instance of Manila for a judgment directing the Archbishop, among other things, to appoint him as chaplain. The trial court ruled in favor of Gonzales, but the Supreme Court of the Philippine Islands reversed and “absolved the Archbishop from the complaint.” The United States Supreme Court affirmed. Mr. Justice Brandeis, speaking for the Court, defined the civil court role in the following words: “[i]n the absence of fraud, collusion, or arbitrariness, the decisions of the proper church tribunals on matters purely ecclesiastical, although affecting civil rights, are accepted in litigation before the secular

31. Michael William Galligan, *Judicial Resolution of Intrachurch Disputes*, 83 COLUM. L. REV. 2007, 2020 (1983).

32. *Id.* at 2021-22.

33. *Gonzalez v. Archbishop of Manila*, 280 U.S. 1 (1929).

courts as conclusive, because the parties in interest made them so by contract or otherwise.”³⁴

Thus, the First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes. It is obvious, however, that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property. There are neutral principles of law, developed for use in all property disputes, which can be applied without “establishing” churches to which property is awarded.

One of those neutral, secular and positive laws, designed for the protection of the property of the church is Corporate Law. The very same branch of law that grants juridical personality to the religious organization is the very same law that governs the manner by which property issues are litigated upon and governed.

The religious corporation is governed by the same provisions as the Corporation Code. Its incorporation is also governed by the very same Code. The religious corporation as a creature of the law remains only such insofar as the former can be governed by the latter. The creature in this case is possessed of a sanctified nature that hinders complete governance by the State. Under the Establishment Clause of the Constitution, there is a negative injunction to the State. The touchstone for a legal analysis of matters involving religion should be that the “First Amendment mandates governmental neutrality between religion and religion, and between religion and non-religion.”³⁵

The purpose of the religious corporation being the holding, administration, and transmitting of the “temporalities” of the religious denomination, sect or church; it is therefore but a necessity that the courts be allowed to delineate between what is temporal and the ecclesiastical. Arguably, there are sacred and non-sacred properties owned by the religious corporation. But the issue of determination of civil jurisdiction over property is an important focal point in these disquisitions because it is with property rights that most intra-church disputes arise. Church property is private property and is therefore entitled to the same protection as all other private

34. *Id.* at 16.

35. *McCreary County v. American Civil Liberties Union et al.* 2005 W.L. 1498988, argued Mar. 2, 2005, decided June 27, 2005.

properties.³⁶ Therefore, the State has the power and duty to protect the property rights of religious corporations in their property rights.³⁷

But how far can the courts intervene in secular issues of the religious corporation? Before one can determine the answer to that question, one must first identify the issues that the State can actually play a role in. As a noted jurist once remarked:

[t]he proper relationship between civil authority and ecclesiastical jurisdiction on religious matters is important for the preservation of the principle of freedom of religion. For freedom of worship cannot be attained if civil authorities are permitted to invade the domain of the religious society or when ecclesiastical power is allowed to interfere in civil affairs.³⁸

For example, what if a case arose that involved a division of the original body into rival organizations, each claiming to be the true church and/or because of an alleged diversion of church property from the support of the doctrines to which it had originally been devoted to — can the civil courts intervene therein?

Under the principle of “separation of Church and State” there is a need for the proper treatment of the proper functions of both the Church and the State. And in deference to the Church,³⁹ the State recognizes ecclesiastical jurisdiction if not for the fact that the Church is not merely a society based upon contract but one that comes from a “higher plane,”⁴⁰ then perhaps for the “immemorial usage... that [the Church] has the power to establish tribunals and to pass final judgment on controverted questions of faith and morals and of ecclesiastical discipline, where and when its members are concerned.”⁴¹

36. 76 C.J.S. *Religious Societies* § 56, at 818-19.

37. *Id.*

38. JORGE COQUIA, *CHURCH AND STATE LAW AND RELATIONS* 216 (1988).

39. Or to the many religious organizations that comprise the ambivalent term.

40. *See* *Watson v. Jones*, 13 Wall. 679 (1879).

41. GEORGE MALCOLM AND JOSE P. LAUREL, *THE CONSTITUTIONAL LAW OF THE PHILIPPINES* 409 (3d ed. 1936); *Versoza v. Fernandez*, 55 Phil. 307 (1930); *Gonzales v. Roman Catholic Archbishop of Manila*, 280 U.S. 1 (1929) (This perspective however was mentioned in regard to the Roman Catholic Church, other religious corporations which are relatively newer, such as the many *Iglesia ni Cristo* or the *Ang Dating Daan*, or the many protestant groups and Mohammedan councils in the Philippines obviously did not predate the State nor Roman Civil Law from which Spanish law is derived... however, it is argued that these groups are covered by the same pronouncement by the Supreme Court based on the principle of equal protection of the law and that if one would argue that there is substantial distinction between the Roman

The recognition of ecclesiastical tribunal is not an original doctrine in this jurisdiction. Drawn from the wisdom of foreign jurisprudence, it has been decided previously that "courts will defer to the decision made by a hierarchical church even if there is a contention that said church's own law was not applied."⁴² This is derived from the functions of the "wall of separation."⁴³ It is a false assumption to say that religion and the State operate under two separate realms. The State being composed by people, territory, government and sovereignty; share two elements concentrically with religion, and another two elements in an interstitial relationship with religion. Religion occupies a territory and is composed of individuals who are of the same belief. Religion also has its government and is possessed of some semblance of sovereignty. In fact, it is with the latter two concepts that the State usually encounters social friction or legal issues with religion. This unseemly relationship between the State and the Church seeped in to a religious corporation's ability or capacity to perform certain acts.

According to Prof. Salonga:

[T]he right to administer all temporalities and all property held or owned by a religious order or society, or by the diocese, synod, or district organization of any religious denomination or church *shall be held in trust for* the use, purchase, behalf, and benefit *of the religious society* or order so incorporated or of the church of which the diocese, synod or district organization is an organized and constituent part.⁴⁴

The use of property and the acquisition of property for religious use is therefore imbued with the most sincere and genuine need for the

Catholic Church and the newer religious denominations — one's argument would fail because to scrutinize their differences would mean an intrusion that may favor or disfavor a religious group.).

42. *Watson*, 13 Wall. at 700.

43. See *McCullum v. Board of Education of Champaign*, 333 U.S. 203, 223 (1948) ("...both [religion and the State] must operate in unrelated spheres behind an impregnable 'wall of separation...'""); *but see Zorach v. Clauson*, et al., 393 U.S. 203 (1952) (where the United States Supreme Court declared that while the First Amendment requires complete and unequivocal separation of Church and State, so far as interference with "the free exercise" of religion and an 'establishment' of religion are concerned, and within the scope of its coverage permits no exception, it does not require separation in every and all respects). See also *US v. Villacorta*, 25 Phil. 273, 276 (1913) (where the Philippine Supreme Court adopted the "wall of separation" doctrine citing the adoption of the Philippine Bill of 1902, which adopted United States law into the local legal system).

44. JOVITO R. SALONGA, PHILIPPINE LAW ON PRIVATE CORPORATIONS 529 (1952) (interpreting §163 of the Old Corporation Act) (emphasis supplied).

“happiness” or rather, utility of those who are the faithful who compose the religious organization. The utility concept aside, the acquisition and disposition of properties are not simple powers that the religious corporation enjoys. In fact, as opposed to the ordinary corporation whose ability to acquire and dispose of properties is but one of its most cherished powers and attributes, the acquisition and disposition of properties may be the only power and attribute granted by law that a religious corporation truly enjoys from the State and that the latter has full governance of. All the other powers and attributes of a religious corporation are inherent and cannot be taken away nor be given by the State — such as, for example, the ability to do its business — or the right to propagate religion.

The State cannot take away the right of an association to promote religiosity. In fact, it may not even regulate it. But an ordinary corporation may not do business without the State’s permission. A business permit is required even for unincorporated associations such as partnerships. But no permit is needed for one to perform its religious businesses. Property however contains an inherent worldliness being attached to the material plane that the State may have jurisdiction over it even to the objection of religious corporations because under the Regalian Doctrine, the State is the ultimate owner of its territory and the inhabitants thereof enjoy the property held in private capacity because of the acquiescence of the State and through a proper system of institutionalization of order — such as for example, the Torrens system in the Philippines.⁴⁵ The object of such institutionalization of order is *governmental authority* over the grant of title and to “simplify [property] transfers.”⁴⁶

In *Romero v. de los Reyes Jr.*⁴⁷ involving intra-organizational dispute in the *Iglesia Filipina Independiente* (IFI) or popularly known as the Aglipayan Church, the Supreme Court had the occasion to define what an ecclesiastical matter is, and by process of exclusion, determined what the courts may not inquire into. Following the earlier decision in *Fonacier v. Court of Appeals*,⁴⁸ a collective suit was filed by one faction of the IFI (headed by de los Reyes) arguing that the other faction (lead by Fonacier) be declared unlawfully using the IFI name and to cease and desist in such and that the Court declare who between the two faction is the lawful successor to Bishop Aglipay’s administration of the IFI. The Court held that “...before the property rights of the parties can be passed upon, the question of apostasy must first be

45. See *Grey Alba v. dela Cruz*, 17 Phil. 49, 58 (1910).

46. *Id.* at 60.

47. *Romero v. de los Reyes Jr.*, 14 SCRA 115 (1965).

48. *Fonacier v. C.A.*, 96 Phil. 417 (1955).

determined by the majority of the members of the Church itself, because such question is inherently an ecclesiastical matter.”⁴⁹

An ecclesiastical matter is:

[o]ne that concerns doctrine, creed, or form of worship of the church, or the adoption and enforcement within a religious association of needful laws and regulations for the government of the membership, and the power of excluding from such associations those deemed unworthy of membership. Based on this definition, an ecclesiastical affair involves the relationship between the church and its members and relate to matters of faith, religious doctrines, worship and governance of the congregation. To be concrete, examples of this so-called ecclesiastical affairs to which the State cannot meddle are proceedings for excommunication, ordinations of religious ministers, administration of sacraments and other activities which attached religious significance.⁵⁰

This review of the Supreme Court's decisions demonstrates that the Court is still groping for a consistent and satisfactory approach to guide the judiciary in resolving intra-church disputes. On the one hand and under the traditional notion of deference, the Court mandates that civil tribunals refrain from resolving doctrinal disputes. In order to avoid even the appearance of interference with the religious freedom of religious associations, it has commanded judicial withdrawal from a wide range of organizational disputes as well. On the other hand, the Court has recognized that it cannot exclude all intra-church disputes from the courts. It has acknowledged that property disputes between religious groups that do not recognize each other's authority must be resolved by courts in order to protect the peace and maximize land utilization. The obvious rule therefore is to open the doors to review, even for a minimal chance, so as to delineate between what is ecclesiastical and what is not and to allow a ruling thereon where there are neutral principles of law applicable.

To make the rule effective, however, courts must be allowed to investigate internal church affairs from a non-doctrinal corporate perspective, in order to give effect to the intent of the parties. Such investigation need not lead to an unconstitutional intrusion into church affairs because neutral principles jurisprudence necessarily encourages courts to apply only non-intrusive remedies. In addition, religious institutions should adopt arbitration procedures. Such procedures would protect churches from external intrusion while providing an effective method of intra-church dispute resolution.

49. *Romero*, 14 SCRA at 127.

50. *Id.*

C. *Opening the Doors*

The Supreme Court has, seemingly, espoused the deference rule as a means of resolving all intra-church disputes in religious organizations both incorporated and unincorporated on the grounds that it effectively prevents courts from making doctrinal decisions while at the same time providing a means for the resolution of each conflict.

However, an endorsement of the use of applicable neutral principles of corporate law as an alternative in those property disputes in which such legal principles can be applied without infringing on doctrinal or internal church matters is submitted herein. Admittedly, the legitimacy of extending the use of those neutral principles beyond property disputes depends on a constitutional assessment of each rule. But as regards property disputes — there is a strong argument in favor of its application.

For this application, the marginal review of the courts therefore should be contextualized — concededly, where the issue is ecclesiastical the court must defer to the religious organization. However where the Court by marginal review determines that the issue involved is secular, the Court must apply the full force of corporate law principles.

IV. CASES INVOLVING RELIGIOUS CORPORATE DISPUTES

A. *The Islamic Directorate Case: Corporate Consent and Inter-corporate Sale*

In *Islamic Directorate of the Phils. v. Court of Appeals*,⁵¹ the sale of a parcel of land by the religious corporation of the Islamic Directorate of the Philippines, Inc. to the *Iglesia ni Cristo*, another religious corporation, was held to be null and void because it was done without the consent of the board of trustees (because only half of the trustees were able to vote and a schism occurred). This was held to be in violation of Section 40 of the Corporate Code which prohibits the sale of *all or substantially all* of the assets of the corporation without the required 2/3 consent of the members. The Court in *Islamic Directorate* decided to use Section 40⁵² of the Corporation Code as a basis to make inquiries into the validity of the disposition of the sale — applying a provision designed for the ordinary profit corporation to a religious corporation.

In *Islamic Directorate*, there were two religious corporations involved: (1) the petitioner Islamic Directorate of the Philippines Inc., a religious

51. *Islamic Directorate of the Philippines Inc. v. Court of Appeals*, 272 SCRA 454 (1997).

52. CORPORATION CODE, § 40.

corporation (corporation aggregate) organized in the Philippines, the primary purpose of which is to establish a Mosque prayer place, a Madrasah or an Arabic school, and other religious infrastructures for facilitating the effective practice of the Islamic faith in the area;⁵³ and (2) the *Iglesia ni Cristo*, a well-known religious corporation (corporation sole), whose primary purpose is to spread the teachings of the Bible and of Christ.

The Islamic Directorate received money from the Libyan government as a donation and used the same to purchase land in Quezon City to be used as the "center for Islamic populace."⁵⁴ There were eight members of the board of trustees as according to their Articles of Incorporation.

The petitioner contended that sometime after the purchase of the property in question, Martial Law was imposed by the late President Ferdinand Marcos. For political reasons and to escape persecution, most of the members of the Board of Trustees of the *Islamic Directorate* fled to the Middle East.⁵⁵ Thereafter, two Muslim groups came into being and the membership was allegedly divided between these two factions: one headed by Engineer Farouk Carpizo (the Carpizo group), and the other, headed by Atty. Firdausi Abbas (the Abbas group).⁵⁶

Both groups elected their respective set of Board of Trustees.

In 1986, the Securities and Exchange Commission (SEC) came out with a decision nullifying the election of the two contending groups of their Board of Trustees. The dispositive portion of the SEC ruling required the submission of by-laws for the election to govern the internal government of the association including the conduct of the election. The SEC ruled that:

Wherefore, judgment is hereby rendered declaring the elections of both the petitioners and respondents as null and void for being violative of the Articles of Incorporation of petitioner corporation [Islamic Directorate]. With the nullification of the election of the respondents, the approved by-laws which they certified to this commission as members of the Board of Trustees must necessarily be likewise declared null and void. However, *before any election of the members of the Board of Trustees could be conducted, there must be an approved by-laws to govern the internal government of the association including the conduct of the election.* And since the election of both petitioners and respondents have been declared null and void, a vacuum is created as to who should adopt the by-laws and certify its adoption. To remedy this unfortunate situation that the association has found itself in, *the members of*

53. *Islamic Directorate*, 272 SCRA at 459.

54. *Id.*

55. *Id.* at 460.

56. *Id.*

the petitioning corporation are hereby authorized to prepare and adopt their by-laws for submission to the Commission...57

Neither group however, took the necessary steps ordered by the SEC. This did not stop the Carpizo group from preparing and adopting their set of by-laws and by including therein of members who were allegedly not part of the corporation.⁵⁸

In 1989, the Carpizo group caused the signing an alleged Board Resolution of the Islamic Directorate authorizing the sale of the parcel of land.

In 1991, some members of the original Board of Trustees headed by Senator Mamintal Tamano questioned the sale of the property before the Regional Trial Court and argued that the sale was null and void since the Carpizo group was not the legitimate Board of Trustees of the Islamic Directorate.

The respondent *Iglesia ni Cristo*, filed for specific performance against the Carpizo group and raised the argument of estoppel.

The lower courts and the Court of Appeals ruled in favor of the *Iglesia ni Cristo* and held the sale to be valid. The Supreme Court however, reversed the ruling in favor of the petitioners claiming to be the original members of the Board of Trustees.

The Court in *Islamic Directorate*, argued that for a valid contract to have been set, there must have had been compliance with the requisites of the Civil Code which provided that the following requisites must be present in order for a contract to exist, to wit:

1. Consent of the contracting parties;
2. Object certain which is the subject matter of the contract;
3. Cause of the obligation which is established.⁵⁹

In the case at bar, *consent* was lacking because there was no legitimate Board of Trustees. Further, the Court invoked Section 40 of the Corporation Code, which provided that:

Section 40. Sale or other disposition of assets. - Subject to the provisions of existing laws on illegal combinations and monopolies, a corporation may, by a majority vote of its board of directors or trustees, sell, lease, exchange,

57. *Islamic Directorate of the Philippines Inc. v. Court of Appeals*, 272 SCRA 454, 461 (1997).

58. *Id.*

59. CIVIL CODE art. 1318 cited in *Islamic Directorate*, 272 SCRA at 470-71.

mortgage, pledge or otherwise dispose of all or substantially all of its property and assets, including its goodwill, upon such terms and conditions and for such consideration, which may be money, stocks, bonds or other instruments for the payment of money or other property or consideration, as its board of directors or trustees may deem expedient, *when authorized by the vote of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, or in case of non-stock corporation, by the vote of at least two-thirds (2/3) of the members, in a stockholder's or member's meeting duly called for the purpose.* Written notice of the proposed action and of the time and place of the meeting shall be addressed to each stockholder or member at his place of residence as shown on the books of the corporation and deposited to the addressee in the post office with postage prepaid, or served personally: Provided, That any dissenting stockholder may exercise his appraisal right under the conditions provided in this Code.

A sale or other disposition shall be deemed to cover substantially all the corporate property and assets if thereby the corporation would be rendered incapable of continuing the business or accomplishing the purpose for which it was incorporated...⁶⁰

60. *Islamic Directorate*, 272 SCRA at 471-72. The Supreme Court deliberately deleted the succeeding portion of the provisions that goes on saying that:

...After such authorization or approval by the stockholders or members, the board of directors or trustees may, nevertheless, in its discretion, abandon such sale, lease, exchange, mortgage, pledge or other disposition of property and assets, subject to the rights of third parties under any contract relating thereto, without further action or approval by the stockholders or members.

Nothing in this section is intended to restrict the power of any corporation, without the authorization by the stockholders or members, to sell, lease, exchange, mortgage, pledge or otherwise dispose of any of its property and assets if the same is necessary in the usual and regular course of business of said corporation or if the proceeds of the sale or other disposition of such property and assets be appropriated for the conduct of its remaining business.

In non-stock corporations where there are no members with voting rights, the vote of at least a majority of the trustees in office will be sufficient authorization for the corporation to enter into any transaction authorized by this section (28 1/2a).

Perhaps because to include the same might open up interpretations as to the last two paragraphs of the section that may cause unwarranted application to the case at bar. But it should be noted that the last paragraph clearly gave the rights to vote in non-stock corporations to the members, with or without a by-law provision as to who may contract the transaction.

Consent in this case would not have been possible since the required 2/3 vote of the members were clearly absent in the sale. It was also elaborated by the Court that there was evidence submitted to the fact that property sold constituted the only corporate property or asset of the corporation, a disposition of which would result in the sale of all or substantially all the asset of the corporation.

1. Non-Applicability of the Estoppel Doctrine

It has been ruled that the principle of estoppel precludes a corporation and its Board of Directors from denying the validity of the transaction entered into by its officer with a third party who in good faith, relied on the authority of the former as manager to act on behalf of the corporation. That

[w]hile the power and responsibility to decide whether the corporation should enter into a contract that will bind the corporation is lodged in its board of directors, subject to the articles of incorporation, by-laws, or relevant provisions of law, yet as a natural person may authorize another to do certain acts for and on his behalf, the board of directors may validly delegate some of its functions and powers to officers, committees, or agent. The authority of such individuals to bind the corporation is generally derived from law, corporate by-laws, or authorization from the board, either expressly or impliedly by habit, custom, or acquiescence in the general course of business.⁶¹

In *Islamic Directorate*, however, it was also contested that the officers who made the transaction was, in the first place, without authority to bind the corporation. Hence, the estoppel doctrine is inapplicable. This however was never discussed by the Supreme Court. Furthermore, there was no ratification in this case by the members of the Board of Trustees and in fact, what was present was a direct attack assailing the authority of the Carpizo group.

It has been held that in order to ratify the unauthorized act of an agent and make it binding on the corporation, it must be shown that the governing body or officer authorized to ratify had full and complete knowledge of all the material facts connected with the transaction to which it relates.⁶²

When the Carpizo group issued their own set of by-laws and conducted their own meetings and made their set of resolutions, there could not have had been a ratification as well since such can never be made on the part of the corporation by the same person who wrongfully assumed the power to

61. *Lipat v. Pacific Banking Corporation*, 402 SCRA 339 (2003).

62. *Vicente v. Geraldez*, 52 SCRA 210 (1973).

make the contract. The ratification must be by the officer or governing body having authority to make such contract. The act or conduct for which the corporation may be liable under the doctrine of estoppel must be by those of the corporation, its governing body or authorized officers, and not those of the purported agent who is himself responsible for the misrepresentation.⁶³

2. Theory of Apparent Authority

The Supreme Court could also have looked into the issue of whether the actuations of the Carpizo group were enough to sustain an argument of an apparent authority.

The *theory of apparent authority* in Corporate Law provides that:

[i]f a corporation knowingly permits one of its officers, or any other agent, to act within the scope of an apparent authority, it holds him out to the public as possessing the power to do those acts; and thus, the corporation will, as against anyone who has in good faith dealt with it through such agent, be estopped from denying the agent's authority.⁶⁴

The authority of a corporate officer in dealing with third persons may be actual or apparent... the principal is liable for the obligations contracted by the agent. The agent's apparent representation yields to the principal's true representation and the contract is considered as entered into between the principal and the third person.⁶⁵

But in *Islamic Directorate*, the "officers" were clearly without authority. As the Supreme Court noted that the buyers (Iglesia ni Cristo) should have been more alert in that they should have made inquiries as to the status of the property in question.⁶⁶ They should have at least checked the Owner's Duplicate Copy or in the absence of such, at least checked with the Registry of Deeds as to who owns the property. They should also have checked the articles of incorporation and by-laws of the other corporation to determine how much authority the officers had.

Due to the fact that the rule of the theory of apparent authority is limited in its application, persons who deal with corporate agents within circumstances showing that the latter are acting in excess of corporate authority, may not hold the corporation liable.⁶⁷

63. *Id.*

64. *Soler v. Court of Appeals*, 358 SCRA 57 (2001).

65. *First Philippine International Bank v. Court of Appeals*, 252 SCRA 259 (1996).

66. *Islamic Directorate of the Philippines Inc. v. Court of Appeals*, 272 SCRA 454, 473 (1997).

67. *Traders Royal Bank v. Court of Appeals*, 269 SCRA 601 (1997).

When the Carpizo group sold the property, the buyers should have made more inquiries and at the very least, checked the title, as the Supreme Court so noted.⁶⁸

It is also advised that for as with all corporations, where its dealing was not within or contrary to its purposes, any transaction made under such circumstances is outside any apparent authority. As it was held before, where the corporation's primary purpose is to market, distribute, export and import merchandise, the sale of land is not within the actual or apparent authority of the corporation acting through its officers, much less when acting through the treasurer.⁶⁹

In the *Islamic Directorate*, the purpose of the religious corporation was clear — its primary purpose is to establish a Mosque prayer place, a Madrasah or an Arabic school, and other religious infrastructures, the purpose of which is to facilitate the effective practice of the Islamic faith in the area.⁷⁰ Where the corporation seeks to sell all of its properties contrary to its purpose of establishing the faith in the area — the buyer should be placed on the guard.

Assuming that the Carpizo group was able to take control of the property, the sale or disposition of all or substantially all of the property of the corporation could have been nullified on another ground — that of being *ultra vires*.

An *ultra vires* act is one committed outside the object for which a corporation is created as defined by the law of its organization and therefore beyond the power conferred upon it by law. The term “*ultra vires*” is “distinguished from an illegal act for the former is merely voidable which may be enforced by performance, ratification, or estoppel, while the latter is void and cannot be validated.”⁷¹

3. Non-Applicability of the Law of Agency

Likewise Articles 1874 and 1878 of the Civil Code requires that when land is sold through an agent, the agent's authority must be in writing, otherwise the sale is void. Since the sale of corporate land can only be effected through an agent, the Law on Agency takes precedence. Under Article 1409 of the Civil Code, when a sale of land is effected through an agent, the lack of

68. *Islamic Directorate*, 272 SCRA at 473.

69. *San Juan Structural v. Court of Appeals*, 296 SCRA 631 (1998).

70. *Islamic Directorate*, 272 SCRA at 454.

71. *Atrium Management Corp. v. Court of Appeals*, 353 SCRA 23 (2001).

written authority of the agent, would make the sale void and the principles of corporate ratification cannot be given effect to save the contract.⁷²

B. The Medlock v. Medlock Case: The Juridical Entity and Property Issues Warranting Piercing

A corporation's status as a nonprofit corporation does not bar a court from finding the corporation to be the alter ego of an individual and from applying the equitable remedy of piercing the corporate veil.⁷³ Religious corporations being governed by the same general rules of law and equity as other corporations are, it is subject to the same principles of law as any other civil corporation in courts of general jurisdiction. Where a nominally religious nonprofit corporation is engaged in a discrete commercial enterprise, it subjects itself to the same general rules of law otherwise applicable to such enterprises.⁷⁴

In the case of *Medlock v. Medlock*,⁷⁵ a nonprofit religious corporation called "Union Oaks" was founded in 1978 by the spouses Medlock. The wife claimed that the corporation was founded by both her and the husband. The husband claimed that the corporation was founded solely by him. The corporation was a tax-exempt organization under the Internal Revenue Code, and the husband was listed as the president of the corporation in the corporate records. The wife filed a petition for legal separation on 2 July 1997. The husband answered and cross-petitioned for dissolution. On 18 September 2000, the district court entered a decree of dissolution.

The wife appealed the decree. The wife contended that the trial court erred in failing to include property held in the name of the corporation in the marital estate.

It was undisputed that the husband and the wife provided the seed money for the funding of the corporation by selling certain real estate. In effect, the husband and the wife sold their marital property and transferred all their income and remaining property to the corporation. The husband and the wife have not owned any personal property since 1978, the year of the founding of the corporation. Instead, the corporation provided the husband with a parsonage, the use of various vehicles, and a salary, which varied from year to year. The couple's joint tax returns for the years 1991 through 1998 showed the total annual income for the couple ranging from a low of

72. *AF Realty & Dev., Inc. v. Dieselman Freight Services Co.*, 373 SCRA 385 (2002).

73. *Medlock v. Medlock*, 263 Neb. 666, 642 N.W. 2d. 113 (2002).

74. *Id.*

75. *Id.*

\$7,779.00 in 1998 to a high of \$25,181.00 in 1993. The corporation at the time of trial had assets with a total value of approximately \$1.3 million. Most of these assets were in real estate. A certified real estate appraiser retained by the wife valued the parsonage at \$275,000.00, an unimproved lot adjacent to the parsonage at \$43,000.00, and a former restaurant used as a banquet hall at \$525,000.00. The corporation also owned a \$12,000.00 motorcycle and three other vehicles and had sold six other vehicles since the wife had filed her petition for legal separation. The corporation had cash assets of \$134,381.73 and held debts in the amount of roughly \$90,000.00 at the time of trial. The only debt admittedly owed by the corporation was a note owed to the husband and the wife in the amount of approximately \$50,000.00.

The assets of the corporation were accrued from the initial funding provided by the husband and the wife through a series of real estate transactions, primarily involving "like-kind" exchanges of real property. The Nebraska Supreme Court noted that, apparently, "[t]he details of many of these transactions are rather murky. Generally speaking, [the husband's] answers to cross-examination regarding his financial dealings can be characterized as evasive, as [the husband] repeatedly denied knowledge or recollection of even the most basic aspects of [the corporation's] financial transactions."⁷⁶ The court noted that it was undisputed that the corporation had received very few donations and that most corporate revenue came from the gains on the purchase and sale of real estate by the husband.

The record also contained a substantial amount of testimony regarding the board of directors of the corporation and the amount of actual control that the three members of the board, in addition to the husband, had exercised over the corporation. According to the corporate charter, a majority of the board could have removed the husband from office and taken control of the assets of the corporation.

The *Medlock* Court stated that as a general rule, a corporation will normally be looked upon as a legal entity until sufficient reason to the contrary appears. However, it should be note that when a corporation is or becomes a mere alter-ego or business conduit of a person or shareholder, it may be necessary to disregard its corporate fiction in order to prevent fraud or injustice. The *Medlock* Court stated that the factors that are relevant in determining whether to disregard the corporate entity are the following: 1) diversion by the shareholder or shareholders of corporate funds or assets to their own or improper uses and 2) the fact that the corporation is a mere facade for the personal dealings of the shareholder and that the operations of the corporation are carried on by the shareholder in disregard of the corporate entity. In addition, other factors to be considered in determining

76. *Id.* at 670.

whether to disregard the corporate entity include grossly inadequate capitalization and insolvency of the debtor corporation at the time the debt is incurred. These factors are relevant in cases in which creditors are seeking to pierce the corporate veil and hold individual shareholders liable for corporate debts.

The *Medlock* Court, applying the above principles to the facts of this case, concluded that the corporation was the alter ego of the husband and that the corporation's assets should be included in the marital estate. The record demonstrated beyond a reasonable question that the husband made extensive personal use of corporate funds and assets and that the husband carried on personal dealings in the name of the corporation. There was a nearly complete unity of interest between the husband and the corporation. The husband exercised almost total control of the corporation and regularly purchased vehicles and expended money on travel and other goods and services in the corporate name for his and his family's personal use.

Questions of evidence also played a major role in the decision. The record showed that the couple did not acquire personal property in their own names because all of the property that would normally have been acquired during the twenty eight year of the couple's marriage was, instead, acquired in the name of the corporation. The husband claimed poverty, but this conflicted sharply with the affluent lifestyle he maintained with the use of corporate assets.

[The husband's] ability to maintain his family's manner of living, with no reported assets and the meager income to which he will admit, is significant both to our determination that [the corporation] is [the husband's] alter ego and to our conclusion that equity requires the assets of [the corporation] to be included in the marital estate.⁷⁷

1. Status as a Religious Corporation is Not a Bar to Alter Ego Piercing

The husband in *Medlock* also argued that ordinary equitable principles could not be applied in this case because of the following reasons: 1) the corporation was a nonprofit religious corporation, 2) the corporation was not a party to the divorce proceedings and 3) due to the separate juridical personality doctrine, the corporation cannot be made liable.

The husband argued that because he did not legally own the corporation, it could not be considered an alter ego.

The *Medlock* Court noted that courts have generally held that legal ownership, while relevant, is not a dispositive factor and does not preclude

77. *Id.* at 671.

the finding of an alter ego when control of the corporation is otherwise established. Because the record clearly established control in this case, the *Medlock* Court stated that its finding that the corporation was the husband's alter ego was not affected by the fact that the husband did not legally own the corporation — what was important was that he controlled the same.

2. Non-distribution Constraints of the Non-profit Religious Corporation Waived

The primary distinction between nonprofit corporations and for-profit corporations is found in the non-distribution constraint,⁷⁸ which bars the nonprofit corporation from distributing profits or net earnings to those who control the corporation. However, the non-distribution constraint does not preclude nonprofit corporations from engaging in commercial activity, as the religious corporation here clearly did.

The religious corporation, while organized as a nonprofit corporation, engaged in the sale and purchase of real estate in the same way that a for-profit real estate business would. Courts in other states have held that nonprofit corporations are subject to the same rules of law as for-profit corporations.

The *Medlock* Court determined that the application of equitable principles to the corporation here was appropriate. The corporation, while organized as a religious nonprofit corporation, was financed by its activities as a commercial nonprofit corporation, specifically by real estate transactions. Though the religious corporation received few if any donations; the husband's real estate transactions were the primary foundation for the corporation's assets.

3. Exemption from Scrutiny under the Religious Clauses

The husband in *Medlock* also argued that the corporation was exempt from scrutiny under the First Amendment to the United States Constitution because the corporation was a religious organization. The court stated, however, that religious corporations are governed by the same general rules of law and equity as other corporations. The husband did not specify whether his First Amendment claim was made pursuant to the Establishment Clause or the Free Exercise Clause. Neither Clause, however, would have supported the husband's claim that the First Amendment bars the equitable remedy applied above.

78. See CESAR VILLANUEVA, PHILIPPINE CORPORATE LAW 740 (2001).

In Establishment Clause cases, a three-part test has been elaborated by the Supreme Court. Government action passes muster under this clause if (1) the statute or government action has a secular legislative purpose, (2) its principal or primary effect must neither advance nor inhibit religion, and (3) it does not foster excessive government entanglement with religion.⁷⁹

Measured by this standard, the application of equitable distribution principles to the religious corporation is not barred by the non-establishment clause. The ratio of the Court in *Medlock* was that the State has a legitimate interest in resolving property disputes, and a civil court is a proper forum for that resolution. Furthermore, not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment "...the application of general law, the purpose and effect of which is to advance the State's secular goals, is valid despite an indirect burden on religious observance."⁸⁰ So long as a court is not involved in resolving underlying controversies over religious doctrine, "there are neutral principles of law, developed for use in all property disputes, which can be applied without 'establishing' churches to which property is awarded."⁸¹ In *Medlock*, there was no dispute presented regarding the corporation's religious doctrine, if any, and what was applied was the same well-established principles of law to the religious corporation that would be applied in any similar dispute involving a secular corporation. A truism it is and an acceptable principle that an individual's religious beliefs do not excuse the individual from compliance with an otherwise valid law regarding conduct that the State is free to regulate. Moreover, where the activities of the religious corporation at issue are related to its commercial activity, not a course of conduct asserted to be an expression of religion the application of strict secular, even corporate law principles are very much proper.

As what happened in *Medlock*, the application of general rules of family law and corporate law to a situation involving a religious corporation offended neither the Establishment Clause nor the Free Exercise Clause. Without inquiry into the legitimacy of the religious corporation's religious activities, the Court concluded that on the facts presented, the corporate veil of the religious corporation may be pierced without violating the First Amendment to the U.S. Constitution.

The Court pierced a religious corporation in *Medlock* because of the alter-ego doctrine — that the assets that were owned by the religious corporation were controlled by the husband and that the wife had established property rights over the same. However, as the rule goes for ordinary

79. *Medlock v. Medlock*, 263 Neb. 666, 683 N.W. 2d. 113 (2002).

80. *Id.* at 684.

81. *Id.* at 685.

corporations, domination and control of the corporation by the sole or principal shareholder, who is entitled to all of the corporation's profits, does not alone make the shareholder personally liable. Since alter ego corporations are not of themselves illegal, the fact that an individual is the alter ego of a corporation is insufficient to state a claim against him.⁸² But the rule may be different as to the officers for presiding elders have direct responsibility and their control is unquestionable.

Under the alter-ego theory—the act of constituting religious corporations all under the control of the same person may constitute a strong relationship to which a case of piercing, given the concurrence of all the other circumstances, would apply to work against an inequitable holding of property. No corporation, even allegedly for the benefit of its religious denomination, should be allowed to continue unchallenged if its actions harm its members and the general public. The corporation's prerogatives do not depend on any natural or human right. It is an instrument created by law for a specific purpose. If it ceases to serve the purpose it does not deserve to continue, at least not in the same way. If we knew that all corporations, corporations of a type, or even an individual corporation created more social harm than good, no society in its right mind of seeking the protection of its constituents would look the other way and no state would willingly grant their formation or would prevent a member from piercing its separate juridical personality.

Officers and directors of a corporation who avail themselves of the benefits of incorporation cannot pierce the corporate veil and deny existence of the corporation in an effort to avoid liability for breach of their fiduciary duties.⁸³ To determine whether the alter ego theory applies, courts must look at the level of control evidenced by the actual, substantial relationship of the parties; the mere existence or nonexistence of formal stock ownership is not necessarily conclusive.⁸⁴ It should be noted however that domination

82. *Capital Parks, Inc. v. Southeastern Advertising & Sales System, Inc.*, 30 F3d 627 (CA5 1994) (applying Texas law); *U.S. ex rel. Joseph Siewick v. Jamieson Science and Engineering, Inc.*, 191 F Supp 2d 17 (DC 2002).

83. *Catawba Indian Tribe v. State of South Carolina*, 978 F2d 1334 (CA4 1992).

84. *United States v. Scherping*, 187 F3d 796 (CA8 1999) (applying Minnesota law); *Gardemal v. Westin Hotel Co.*, 186 F3d 588 (CA5 1999); *Shades Bridge Holding Co. v. United States*, 880 F2d 342 (CA11 1989) (although the taxpayer did not own stock in the corporation, the evidence is sufficient to show substantial control); *Labadie Coal Co. v. Black*, 672 F2d 92 (CA DC 1982) (whether to pierce the corporate veil is not conclusively determined by fact that the individual does not formally own stock); *Plastic Film Corp. of America, Inc. v. Unipac*, 128 F Supp 2d 1143 (ND Ill 2001) (the fact that the corporation has only one shareholder, without more, is not proof that the corporation is an alter

and control of the corporation by officer, who is entitled to the management of the corporation's profits, does not alone make the shareholder personally liable.⁸⁵

Although it is essential that complete control and domination be proven, it is not necessarily required to prove illegality in order to establish excessive control of the corporation by shareholders so as to warrant the imposition of personal liability on the shareholders for the corporation's debts. Where there is no single fact which would alone justify piercing the corporate veil, a careful review of the entire relationship between various corporate entities, their directors and officers, may reveal that such an equitable action is warranted.

Well-settled is the principle that the corporate veil may be pierced when the corporation is just an alter ego of a person or of another corporation. For reasons of public policy and in the interest of justice, the corporate veil will justifiably be impaled only when it becomes a shield for fraud, illegality or inequity committed against third persons. Hence, any application of the doctrine of piercing the corporate veil should be done with caution. A court should be mindful of the milieu where it is to be applied. It must be certain that the corporate fiction was misused to such an extent that injustice, fraud, or crime was committed against another, in disregard of its rights. The wrongdoing must be clearly and convincingly established; it cannot be presumed. Otherwise, an injustice that was never unintended may result from an erroneous application.⁸⁶

To disregard the separate juridical personality of a corporation, it is elementary that the wrongdoing cannot be presumed and must be clearly and convincingly established. The organization of the corporation at the time when the relationship between the landowner and the developer were still cordial cannot be used as a basis to hold the corporation liable later on for the obligations of the landowner to the developer under the mere allegation that the corporation is being used to evade the performance of obligation by one of its major stockholders.⁸⁷

Piercing the corporate veil is not a cause of action; it is an equitable remedy. Strictly speaking, then, it may be wrong to speak of "defenses" to

ego of the shareholder, otherwise it would nullify the protection of limited liability) (applying Illinois law).

85. *Capital Parks, Inc. v. Southeastern Advertising & Sales System, Inc.*, 30 F3d 627 (CA5 1994) (applying Texas law).

86. *Philippine National Bank v. Andrada Electric & Engineering Co.*, 381 SCRA 244 (2002).

87. *Luxuria Homes, Inc. v. Court of Appeals*, 302 SCRA 315 (1999).

an action to pierce the corporate veil. The best “defense” is simply that the doctrine is inapplicable on the facts of the case and this is primarily a matter of ascertaining the plaintiff’s theory and negating the plaintiff’s allegations.

Piercing the corporate veil was unwarranted to hold nonprofit corporation sole, headed by a church bishop, liable for abuse of children at an orphanage operated by the church’s nonprofit corporation. The bishop’s status as common officer was insufficient, he could act in different capacity as president of the orphanage, the orphanage’s separate personnel manual and reports of abuse were never sent to the diocese, and the corporation sole provided no financial assistance to the orphanage.⁸⁸

The State has a legitimate interest in resolving property disputes, and a civil court is a proper forum for that resolution, such that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment.⁸⁹

C. *Ang Mga Kaanib Case: Corporate Name and Corporate Guidelines*

In *Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. sa Bansang Pilipinas v. Iglesia ng Dios Kay Cristo Hesus, Haligi at Suhay ng Katotohanan*,⁹⁰ the petitioners assail the decision of the SEC that ordered the petitioners to change their corporate name.

Respondent Iglesia ng Dios Kay Kristo Hesus, Haligi at Suhay ng Katotohanan (SUHAY) is a non-stock religious corporation (corporation aggregate) registered in 1936. Sometime in 1976, one Eliseo Soriano and several other members disassociated themselves from the latter and succeeded in registering in 1977 a new non stock religious corporation (corporation aggregate) named “Iglesia ng Dios Kay Kristo Hesus, Haligi at Saligan ng Katotohanan (SALIGAN).”⁹¹

In 1979, the SUHAY group who had prior registration in their side, filed with the SEC a petition to compel the SALIGAN group to change its corporate name.⁹²

88. 45 AM. JUR. 3d 43 *Proof of Facts* (1964) (citing *Doe v. Gelinue*, 732 A. 2d. 43 (R.I. 1999)).

89. *Medlock v. Medlock*, 263 Neb. 666, 642 N.W. 2d. 113 (2002).

90. *Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. sa Bansang Pilipinas v. Iglesia ng Dios Kay Cristo Hesus, Haligi at Suhay ng Katotohanan*, 373 SCRA 171 (2001).

91. *Id.* at 173.

92. *Id.*

In 1988, the SEC rendered judgment in favor of the SUHAY group and ordered the SALIGAN group to change its corporate name to another that is not similar or identical to any name already used by a corporation, partnership or association registered with the SEC.⁹³ In the same SEC case, the SUHAY group argued that the use by respondent church of its name and the acronym “Iglesia Ng Dios Kay Kristo Hesus, H.S.K.” cause confusion among the members of the petitioner as well as the general public.

Respondents, in their answer, alleged that the use of the corporate name of the respondent corporation will not in any manner confuse others, especially the faithful considering that the word “Suhay” used by petitioner in its corporate name and the word “Saligan” used by respondent corporation in its corporate name are two different words with different meanings.⁹⁴ Respondents further argued that the words *Iglesia Ng Dios Kay Kristo Hesus* were taken from the Bible of which petitioner cannot claim proprietary right to the use of the same.⁹⁵

During the pendency of the SEC Case, the SALIGAN group registered another religious corporation under the name, “Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. sa Bansang Pilipinas,” where the acronym H.S.K. stands for “Haligi at Salilgan ng Katotohan.”⁹⁶

Upholding the power of the SEC to register and de-register at all times and under all circumstances corporate names which in its estimation are likely to cause confusion, the Supreme Court held that:

It is the duty of the SEC to prevent confusion in the use of corporate names not only for the protection of the corporations involved but more so for the protection of the public.

Section 18 of the Corporation Code provides:

Section 18. Corporate name. — No corporate name may be allowed by the Securities and Exchange Commission if the proposed name is identical or deceptively or confusingly similar to that of any existing corporation or to any other name already protected by law or is patently deceptive, confusing or contrary to existing law.’

93. *Id.* (citing *Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, Haligi at Suhay ng Katotohanan v. Iglesia ng Dios Kay Cristo Hesus, Haligi at Saligan ng Katotohan*, SEC Case No. 1774, May 4, 1988).

94. SEC Case No. 1774, at 2.

95. *Id.* at 3.

96. *Ang Mga Kaanib sa Iglesia ng Dios Kay Kristo Hesus, H.S.K. sa Bansang Pilipinas v. Iglesia ng Dios Kay Cristo Hesus, Haligi at Suhay ng Katotohan*, 373 SCRA 171, 174 (2001).

Corollary thereto, the pertinent portion of the SEC Guidelines on Corporate Names states:

x x x

(d) If the proposed name contains a word similar to a word already used as part of the firm name or style of a registered company, the proposed name must contain two other words different from the name of the company already registered;

Parties organizing a corporation must choose a name at their peril; and the use of a name similar to one adopted by another corporation, whether a business or a nonprofit organization, if misleading or likely to injure the exercise of its corporate functions, regardless of intent, may be prevented by the corporation having a prior right, by a suit for injunction against the new corporation to prevent the use of the name.⁹⁷

The Supreme Court also made a textual analysis of the words used by the new registration and held that they were “strikingly similar to respondent’s corporate name, thus making it even more evident that the additional words ‘Ang Mga Kaanib’ and ‘sa Bansang Pilipinas, Inc.’ are merely descriptive of and pertaining to the members of respondent corporation.”⁹⁸

The Court noted that the only difference between the corporate names of the two religious corporations were the words “SALIGAN” and “SUHAY.” The Court held that these words were in fact synonymous — both of which means ground, foundation or support.

Invoking the case of *Universal Mills Corporation v. Universal Textile Mills, Inc.*⁹⁹ the Supreme Court held that the names are undisputedly so similar that even under the test of reasonable care and observation, confusion may arise.

V. APPLYING STRICT CORPORATE LAW PRINCIPLES

Ang Mga Kaanib placed the religious corporation in a new perspective. Since it was the corporate name, arguably a property right, which was at stake, the issue was held to be within the clear bounds of SEC jurisdiction and as upheld by the Supreme Court, the rules and guidelines in fact are applicable.

There is no merit to the query that in order to evaluate the SEC decision both to extend the rule of neutral principles and to limit the range of judicial inquiry, it is necessary to examine the constitutional and practical

97. *Id.* at 177-78.

98. *Id.* at 178.

99. *Universal Mills Corporation v. Universal Textile Mills, Inc.*, 78 SCRA 62 (1977).

implications of both methods of dispute resolution because as the Supreme Court held:

We need not belabor the fourth issue raised by the petitioner. Certainly, ordering petitioner to change its corporate name is not a violation of its constitutionally guaranteed right to religious freedom. In so doing, the SEC merely compelled the petitioner to abide by one of the SEC guidelines in the approval of partnership and corporate names, namely its undertaking to manifest its willingness to change its corporate name in the event another person, firm, or entity has acquired a prior right to the use of the said firm name or one deceptively or confusingly similar to it.¹⁰⁰

The same rules and guidelines were applied by the SEC in several other cases involving corporate name disputes between religious corporations.¹⁰¹

It seems therefore that as long as the SEC can conduct the inquiry from a non-theological, administrative perspective, no justification exists for setting an arbitrary limit on the extent of the SEC's power of investigation into the corporate structure of a religious corporation.

Without such investigation, correct application of the relevant legal principles, contract or property law for example, is impossible.

As the SEC held in one of its corporate name rulings:

Respondent insists that its name is in accordance with the teaching of the Holy Scripture and therefore, the Commission has no jurisdiction over the

100. *Ang Mga Kaanib*, 373 SCRA AT 179.

101. See e.g. *Church of God in Christ Jesus, Iglesia ng Diyos Kay Kristo Hesus*, petitioner, v. *Iglesia ng Dios Kay Kristo Hesus, Inc.*, respondent, SEC Case No. 3320, Aug. 16, 1990 (This is an action for the revocation and cancellation of the certificate of registration of respondent corporation.); *Church of God in Christ Jesus* also known as *Iglesia de Dios en Cristo Jesus* or *Iglesia ng Dios Kay Kristo Hesus*, petitioner, v. *Ang Tunay na Iglesia ng Dios Kay Kristo Hesus et al.*, respondents, SEC Case No. 2023. Sept. 13, 1990 (This is a petition brought by *Church of God in Christ Jesus* also known as *Iglesia De Dios En Cristo Jesus* or *Iglesia Ng Dios Kay Cristo Hesus* to direct respondent corporations to change their names and to desist from using petitioner's name.); *Iglesia Watawat ng Lahi, Ing. (Presiding Elder)*, petitioner, v. *Kapatiran ng Watawat ng Lahi, Inc.*, respondent, SEC Case No. 4455, Oct. 6, 1994 (This is a petition initiated by petitioner, *Iglesia Watawat ng Lahi, Inc.*, against *Kapatiran ng Watawat ng Lahi, Inc.* both of them being non-stock religious corporation duly organized under Philippine Laws, for the latter to change its corporate name and for the SEC to revoke its certificate of registration if it unjustifiably failed to do so.). In all of the foregoing cases, the SEC exercised its power to compel a corporation to change its corporate name and in some cases, to revoke the registration of the respondent religious corporations.

subject matter and/or nature of the action. The law provides that corporations created by special laws or charters shall be governed primarily by the provision of the special law or charter creating them or applicable to them, supplemented by the provisions of the Corporation Code. In the instant case, there is no doubt that the use by the respondent of its corporate name falls within the purview of Section 18 of the Corporation Code as follows:

'No corporation may be allowed by the Securities and Exchange Commission if the proposed name is identical or deceptively or confusingly similar to that of any existing corporation or any other name already protected by law ...'

From the facts narrated in the petition, as well as the evidence adduced, we find the corporate name of petitioner and the respondent to be sufficiently identical or deceptively or confusingly similar. Furthermore, it is clear that the corporate names in question resemble each other principally on the use of the words 'Iglesia Ng Diyos Kay Kristo Hesus' and this is aggravated by the fact that both corporations are engaged in similar line of religious activities. Accordingly, deception or confusion is probable to occur.

Jurisprudence is replete with rulings to the effect that the nature and business of the corporation involved are important factors bearing on the likelihood of deception from the use of similar name. In fact, petitioner was able to prove confusion through the testimony of respondents' witness as to what sect or group he is a Minister of. Nevertheless, it has been held that even the lack or absence of proof of actual confusion or deception of the public is immaterial since actual confusion need not be shown, but it is sufficient that confusion is probable or likely to occur. (Weiskitted & Son Co. Harry C. Weiskitted & Son Co. 48, Fletcher Vol. 6)...¹⁰²

It must be argued that evaluating evidence of internal church procedures and policies to the extent required to establish the intent of the parties is neither judicially unmanageable nor constitutionally infirm.

True, as cautioned in *Presbyterian*¹⁰³ courts must not be too intrusive otherwise they would violate the Religious Clauses as the Georgia court did. The necessity of avoiding intrusive remedies, however, does not suggest either that courts cannot successfully apply neutral principles or that they should not engage in inquiry into intra-organizational issues especially given the secular nature of the issues that the religious corporations are involved in such as in this case, property rights.

102. Church of God in Christ Jesus, Iglesia ng Diyos Kay Kristo Hesus, petitioner, v. Iglesia ng Dios Kay Kristo Hesus, Inc., respondent, SEC Case No. 3320, Aug. 16, 1990 at 2-5 (emphasis supplied).

103. *Presbyterian Church v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 450 (1969).

Courts should be also be able to successfully examine church organization in order to resolve civil disputes and at the same time reject those remedies that unconstitutionally interfere with the right of churches to order their internal affairs.

This marginal review and opening up of its doors would have in mind the protection of third parties as well as the religious denomination, as one case held:

When a third person transacted with the [religious denomination] as a corporation *sole*... but under the canons of such Church, the value of the contract having been above the limits set forth in the [internal rules] of the Church and that the approval of the superior ecclesiastical authority was needed, the agreement was held to be unenforceable since the necessary approval is not secured.¹⁰⁴

Therefore, in allowing the applicability of corporate law principles such as corporate consent, or as was previously discussed, doctrines like *ultra vires*, the protection afforded by the neutral principles of corporate law secures all the parties to the corporate contract.

In addition, plaintiffs should be allowed to formulate their claims in a manner that enables the court to structure an unobtrusive — and therefore constitutionally unobjectionable — remedy and that where the parties themselves submit their disputes to the courts, they are thereby waiving to the jurisdiction of the courts and the applicability of neutral principles of law.

Therefore, the neutral principles approach gives ample leeway to courts to resolving those causes of action permitted under the law of contract, property, trust and other basic areas of the positive law — especially corporate law, as discussed in the previous chapters of this Note.

VI. CONCLUSION

Religious Corporate Law is a field that results from the intertwining and balancing of the constitutional precepts and the considerations of corporate law principles. As presented in the discussion in the body, civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property.¹⁰⁵ However, judicial meddling in the decision-making process within the church is bound, in the long run, to debilitate the characteristic functioning of the religious association and so destroy freedom of opportunity. Therefore, the State, the religious corporations and

104. *Gana v. Roman Catholic Archbishop of Manila*, 8 App. Ct. Rep. 754 (1947).

105. *Id.* at 448.

individuals must structure relationships involving church property so as not to require civil courts to resolve ecclesiastical questions.

In a religious corporate setting, this may be had by a clear understanding of the religious corporation's nature where the articles of incorporation and the by-laws may be used to resolve intra-church disputes where no ecclesiastical question is brought forward. This was the case of *Islamic Directorate*, where it was ruled that corporate consent shall be determined by the articles of incorporation and the by-laws of the religious corporation and the applicable provisions of the Corporation Code. Referral to the by-laws would give the religious group concerned a level of respect accorded to other corporations in matters of internal dealings. This is more important to be recognized in religious corporations where the special nature of the religious corporation is a consideration in judicial interference and review.

Where two or three have gathered united by a common spiritual belief, there is religion in their midst. Where two or three have gathered to incorporate themselves into a religious corporation, the principles of Corporate Law are there in their midst ready to serve the nature of the religious corporation as a vessel for the rightful management of the temporal existence of their religion. Giving to Caesar what is his, the State should have ample jurisdiction to regulate the secular aspects of religious corporations. However, this regulation must remember that it should be in a manner that neither prohibits nor infringes and must be structured in a manner that is the least intrusive and non-excessively entangling.

In Religious Corporate Law, there is therefore a need to recognize what principles of corporate law may apply — which principle is neutral and more in recognition of the special contract between the members of a religious corporation, the limited State interference, and governance over religious corporations.