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**THE SAN PEDRO TUNASAN ESTATE:
A REPORT * TO THE PRESIDENT**

by Hon. AMBROSIO PADILLA**

Under date of August 26, 1954, a document entitled, "Deed of Sale of Real Property With Mortgage" was executed by Colegio de San Jose, as vendor, and the National Resettlement and Rehabilitation Administration (NARRA), as buyer, covering Lot No. 26 with an area of 1,500,000 square meters on the northern portion of, and Lot No. 29, with an area of 7,000,000 square meters on the southern portion of, the San Pedro Tunasan Estate for the price of P200,000.00 at the rate of P235.00 per hectare. In said document, the title of the vendor is expressly recognized as follows:

Of which land the *vendor*, Colegio de San Jose, is the absolute owner by virtue of a *Titulo Real Posesorio* of 1748, registered on November 12, 1907 under the Old Spanish Mortgage Law (Inscription No. 1, pages 121 to 210, Volume 3-A and pages 150 to 163, Volume 3-B of the Register corresponding to the Municipality of San Pedro Tunasan, Province of Laguna) and, further confirmed in a Contract executed on June 8, 1907 by and

* Submitted to Malacañang on December 27, 1954, "... In the earnest hope," the author states in the letter accompanying the submittal thereof, "that the enclosed Memorandum-Report would help quiet the title to the Hacienda de San Pedro Tunasan and thus contribute to the solution of the social problem involved therein."

** Solicitor General of the Philippines.

The Ateneo Law Journal is published quarterly, September through March, by the Student Body of the College of Law, Ateneo de Manila.

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between the Honorable William H. Taft, Secretary of War of the United States of America, representing the Government of the Philippine Islands, and Monsignor Jeremiah J. Harty, Archbishop of Manila, by Act 1724, dated September 23, 1907, of the Philippine Commission, and by Decisions of the Supreme Court of the Philippines in G. R. No. 469, entitled *T. M. Pardo de Tavera, et al. v. Roman Catholic Church, represented by Archbishop of Manila, et al.*, promulgated on December 8, 1909, and in G. R. No. L-2523 entitled *Alviar, et al. v. Rev. P. Leo Cullum, et al.*, promulgated on April 24, 1930.

The Government, thru the NARRA, acquired the 850 hectares of land for the purpose of resettling the residents of San Pedro Tunasan, Laguna, who have been faced with writs of execution as a result of the series of litigations involving the ownership and/or possession of other portions of the Hacienda de San Pedro Tunasan. However, when the representatives of the Government, and despite the personal appearance of President Magsaysay, announced to the residents of San Pedro the acquisition of said 850 hectares from the Colegio de San Jose, many of its residents, with the support of the municipal officials, disagreed with the governmental purchase, contending that the Government should not have bought said tract of land from the Colegio de San Jose, because the latter has no valid title thereto. It was then proposed, with the acquiescence of the residents and their Congressman, Hon. Jacobo Gonzales, that the matter be referred for a thorough study, recommendation, and decision by the undersigned Solicitor General.

Conformably to said plan, a group of residents affiliated with the tenants' association, which was formerly known as *Oras Na*, now better known as *Yapak* or *Anak Ng Bayan*, headed by its President, Mr. Ciriaco Almansor, accompanied by the Mayor, Vice-Mayor, and several councilors, and assisted by their counsel, Atty. Candido Alejo, called at the Office of the Solicitor General on September 14, 1954, and expounded their side of the controversy. Briefly, their position is that the Colegio de San Jose does not have a true and valid title over the Hacienda de San Pedro Tunasan; that the various decisions rendered by our

Supreme Court and other courts of justice did not squarely decide the question of title, but only of possession; and that the real Hacienda de San Pedro Tunasan is not located at San Pedro, Laguna, but in Muntinglupa, Rizal.

The Solicitor General suggested that the various contentions of the tenants be reduced to writing with the supporting papers or documents which said association thru counsel might wish to submit for study.

A week after, on September 21, 1954, a group of the "Land Buyers' Association," sometimes known as "Alias No Parking" identified with the Makabayan, headed by its President, Mr. Jose Amante, called at the Office of the Solicitor General to explain their side as purchasers of lots from the Colegio de San Jose, and submitted various documents including decisions of various courts, to the effect that the Colegio de San Jose has valid title to the Hacienda de San Pedro Tunasan; that a portion thereof now known as "Homesite" was acquired by the Government from said Colegio de San Jose; that various judicial actions filed by the occupants and/or tenants have invariably failed, for our courts have repeatedly recognized and confirmed the title of Colegio de San Jose to the Hacienda located at San Pedro, Laguna.

Atty. Deogracias T. Reyes,* counsel for the Colegio de San Jose, submitted a brief memorandum giving a summary of the acts of the Executive, Legislative and Judicial departments of the government, recognizing the ownership and possession of the Colegio de San Jose over the Hacienda de San Pedro Tunasan.

Atty. Alejo F. Candido, counsel for the resident occupants (*vecinos*) of San Pedro has likewise submitted his memorandum with the concurrence of some municipal officials and other residents of San Pedro, Laguna.

The undersigned has attempted a purely objective and dispassionate study of the origin of the title to the Hacienda de San Pedro Tunasan, giving due recognition to all available records, the decisions of our courts, and especially those rendered by our Honorable Supreme Court.

* Dean of the Ateneo College of Law. For an article by Dean Reyes on the same subject, see "Case History: The Hacienda de San Pedro Tunasan", 1 Ateneo Law Journal p. 1.

Origin of Hacienda de San Pedro Tunasan

The Hacienda de San Pedro Tunasan was originally granted to Don Esteban Rodriguez de Figueroa, Governor of Mindanao, by royal concession. On March 16, 1596, he executed a will providing, among others, that should his wife and minor children die without leaving heirs in the descending line, their estate, together with the rents and profits therefrom shall be devoted to the founding of a college, and that a house be constructed near the Society of Jesus of Manila, sufficient to serve as a college and seminary for boys, with the Father Provincial of said society to be the patron and administrator of said college. (See last will and testament of Don Esteban Rodriguez de Figueroa, Exhibit "E-2" and pp. 7-8 of Memo of Atty. Alejo F. Candido, counsel for the residents of San Pedro, Laguna). The wife and two minor children of Governor Figueroa died without leaving any heir, and so an application was made by the Head of the Society of Jesus for the founding of a college and seminary, as per the grant from the will of Figueroa.

On February 12, 1748, the King of Spain granted to the Colegio de San Jose a *Titulo Real Posesorio* (p. 27 of Candido's Memo) over the Hacienda de San Pedro Tunasan which mentioned:

Uso y dominio de la expresada Hacienda de San Pedro de Tunasan con lo que llaman el Potrecillo.

Confirmación de las tierras que se expresan, a favor del Colegio de San José de la Compañía de Jesús de la Ciudad de Manila en las Islas Filipinas.

King Charles III of Spain by his "*Pragmatica Sancion*" of April 2, 1767 expelled the Jesuits from the Philippines, and the Crown seized and confiscated the properties of the Colegio de San Jose.

On March 21, 1771, the King disapproved the confiscation of the properties of the Colegio de San Jose, and its administration was entrusted to an official of the Cathedral, and later to the Rector of the University of Santo Tomas.

On December 21, 1892, the *Titulo Real Posesorio* of the

Colegio de San Jose was registered in the "*Reglamentos de Montes*", which later became the Bureau of Forestry, Manila. (See Brief for the Defendant-Appellee in G. R. No. L-2523, entitled *Alviar v. Cullum*, pp. 3-6, marked Exh. "E-1" in Memo of Atty. Candido).

With the change of sovereignty in 1898, the right of the Church and that of Santo Tomas University to administer the estates of the Colegio de San Jose was contested. (See *The Municipal Council of San Pedro, Laguna v. Colegio de San Jose*, 65 Phil. 318, p. 326). Hence, the United States Philippine Commission enacted on January 5, 1901, Act No. 69, providing for a Board of Trustees to bring an action against the persons now in possession of the property of the Colegio de San Jose, vesting the Supreme Court with jurisdiction to determine the controversy. (See Act No. 69, particularly Sections 3 and 4 thereof). The Board of Trustees filed original action with the Supreme Court of the Philippines entitled *P. H. Pardo de Tavera, et al. v. The Roman Catholic Church, et al.*, G. R. No. 469, in order to settle the status and determine the ownership of the properties of the Colegio de San Jose.

During the pendency of said case, an agreement between Secretary of War William H. Taft and Archbishop of Manila Jeremiah J. Harty was signed, dated June 8, 1907, which confirmed that

the Roman Catholic Church in the Philippine Islands is to take possession and hold an *absolute title*, free from all claims or demands of the Philippine Government, the land and property, real, personal and mixed x x x

which expressly included the Colegio de San Jose —

"Third. The Colegio de San Jose, now in litigation in the Supreme Court of the Philippine Islands, including buildings, hospital plant, or *other property of the Colegio de San Jose*, and any *hospicios, estates* or investments held by it." (Agreement between the Secretary of War and Archbishop Harty. Italics supplied.)

On September 23, 1907, the Philippine Commission enacted Act No. 1724 entitled —

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 settling the right of possession and administration of such estates and properties and adjusting certain controversies between the said Government and the Banco-Español Filipino.

Said Act made express reference to the Colegio de San Jose—

Third—The Colegio de San Jose, now in litigation in the Supreme Court of the Philippine Islands, including buildings, hospital plant, or other property of the Colegio de San Jose, and any *hospicios*, estates or investments held by it.

and the purpose was—

to confirm the titles of the persons by this agreement to take the respective properties, x x x.

Section 2 of said Act No. 1724 expressly provided—

Section 2. The Attorney-General is hereby authorized and directed to enter into a stipulation with the defendants in the action now pending in the Supreme Court of the Philippine Islands entitled *T. H. Pardo de Tavera, Louis M. Maus, Leon M. Guerrero, Manuel Gomez Martinez, and Frank S. Bourns, trustees of the College of San Jose, plaintiffs, versus The Holy Roman Catholic Church, represented by the Most Reverend Archbishop of Manila, the Most Reverend Archbishop of New Orleans, Apostolic Delegate, and Raymundo Velasquez, Rector of the University of Santo Tomas, defendants*, stipulating and agreeing that the Supreme Court of the Philippine Islands shall enter judgment in the said action decreeing to the Roman Catholic Church of the Philippine Islands, as represented by 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 building and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, said college to be administered for the specific purposes of its foundation.

By virtue of Act No. 1724, which ratified the agreement between Secretary of War Taft and Archbishop Harty, the Supreme Court rendered judgment in G. R. No. 469 (14 Phil. 775), as follows:

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

The parties filed a joint motion and a 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 special 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. (Italics supplied.)

On September 12, 1907, the *Titulo Real Posesorio* 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, with the certification that

"colegio de San José de la Ciudad de Manila, I. F. ha presentado el título de las tierras de la Hacienda de San Pedro Tunasan."

Pope Pius X, by Papal Bull of May 3, 1910 authorized the Society of Jesus to resume administration of the Colegio de San Jose and its temporalities. (See Decision in *Alviar et al. v. Cullum*, G. R. No. L-2523, 47 O. G. 6142).

On June 5, 1915, the Colegio de San Jose was incorporated as a corporation sole (See *Amante v. Hilado*, 67 Phil. 338), thereby acquiring juridical personality to own the properties which were included among the properties adjudged in favor of the Roman Catholic Church under the agreement of June 8, 1907, Act No. 1724 of the Philippine Commission and the Supreme Court decision in 14 Phil. 775.

On August 20, 1918, portions of the Hacienda de San Pedro Tunasan were sold in favor of the municipal-

ity of San Pedro, Laguna, for the construction of a municipal building and a public market in said municipality. The registration of the *titulo real posesorio* shows a marginal note which reads:

De la Hacienda de San Pedro Tunasan a que se refiere la inscripción adjunta a favor del Colegio de San José como dueño legítimo de la misma, quedan segregadas dos porciones de terreno, una de nueve mil cuatrocientos noventa y seis (9,496) metros cuadrados, y otra de mil doscientos veinte metros de extensión superficial, por haber estos vendidos absolutamente y a perpetuidad por el Padre Salvador Ginal Sacerdote Jesuita Administrador General de dicho Colegio de San José, a favor del Municipio de San Pedro, Provincia de Laguna, ambas parcelas por la cantidad de Setecientos diez y ocho pesos y ochenta centimos (P718.80), para destinarles una de ellas a la construcción del edificio para gobierno municipal, y la otra para mercado público del indicado municipio, x x x. (*Notas Marginales al Título Real Posesorio.*)

The corporation sole, Colegio de San Jose, was expressly recognized in the *mandamus* proceeding entitled *Amante v. Hilado*, G. R. No. 45536, 67 Phil. 338 and the transfer from the Roman Catholic Church to the Colegio de San Jose, Inc., was recognized in the civil interdiction case entitled *Alviar et al. v. Cullum*, G. R. No. L-2523, 47 O. G. 6142.

Judicial Actions Involving the Hacienda de San Pedro Tunasan

By decision of the Supreme Court in G. R. No. 30829, dated August 28, 1929 in the Cadastral Case No. 30, G. L. R. O. Rec. No. 359 of the Municipality of San Pedro, Province of Laguna, entitled *Government of the Philippine Islands v. Colegio de San Jose, et al.*, 53 Phil. 423, two parcels of land which were claimed by the Government as belonging to the public domain as part of the bed of Laguna de Bay were held to form an integral part of the Hacienda de San Pedro Tunasan, belonging to the claimant

Colegio de San Jose. Pertinent portions of the decision (J. Villareal) read:

The only question to be decided in the present appeal is whether the two aforesaid parcels of land in controversy belong to the *Hacienda de San Pedro Tunasan* and are owned by the claimant Colegio de San Jose, or whether they belong to the public domain as a part of the bed of the Laguna de Bay (p. 426).

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 a part of the *Hacienda de San Pedro Tunasan*, owned by it, the northeastern 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 extraordinary risings, which take place during the months of September, October and November, does not deprive said claimant of the ownership thereof (pp. 429-430).

Summarizing, we find: (1) That the natural bed or basin of Laguna de Bay is the ground covered by its waters at their highest ordinary depth during the dry season, that is, during the months of December, January, February, March, April, May, June, July and August; (2) that the highest depth reached by said waters during the rainy season, or during the months of September, October and November, is extraordinary; (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, *ibid.*); (6) that provisions of the Law of Waters regulating the ownership and use of the waters of the sea are not applicable to the ownership and use of lakes, which are governed by special provisions. (53 Phil. 423, 431).

The ownership of the Colegio de San Jose of said two parcels was recognized in the case of *Director of Lands*

v. Colegio de San Jose, 53 Phil. 942, (Nov. 23, 1928), wherein the Supreme Court (J. Ostrand) mentioned that the two parcels of land in the municipality of San Pedro were part of the Hacienda de San Pedro Tunasan, for which the "Colegio holds a royal grant."

It appears from the record that on September 9, 1927, a compulsory registration proceeding was commenced in the Court of First Instance of the Province of Laguna for the settlement and adjudication of the title to two parcels of land situated in the municipality of San Pedro of said province. The respondent Colegio de San Jose claimed ownership of the parcels, alleging that they were a part of the *Hacienda de San Pedro Tunasan*, for which the Colegio holds a royal grant. The Director of Lands, in behalf of the Insular Government, also filed a claim alleging that the parcels are a part of the shores of the Laguna de Bay and are periodically covered and uncovered by the waters of said lake and, therefore, belong to the public domain. Carlos Young, Newland Baldwin, and Adele C. Baldwin appeared in the case as lessees of the land under a sixty-year lease executed in their favor by the Colegio de San Jose on January 3, 1914. Upon trial the Court of First Instance, presided over by Judge Recto, rendered a decision ordering the registration of the land in the name of the Colegio de San Jose with the proviso that the lease executed by the Colegio de San Jose in favor of Carlos Young and Baldwin should subsist and continue on the same terms and conditions stated in the contracts of lease. (53 Phil. 942, 943).

On May 25, 1935, the occupants of the Hacienda de San Pedro Tunasan, numbering 720, thru their counsel Atty. Juan S. Rustia, filed an action (CFI-Laguna No. 6663), entitled *Guevara, et al. v. Young, et al.*, to compel the defendants as lessees of the Hacienda Tunasan by virtue of the lease contract of January 3, 1914, to respect the existing lease agreements in favor of plaintiffs over the portions occupied by them. On March 29, 1937, plaintiff filed a supplemental complaint alleging that said lease of January 3, 1914 in favor of defendants was void *ab initio*. The Court of First Instance of Laguna (Judge Modesto Castillo) rendered decision, dated April 12, 1938, 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 entregarles a los demandados, libre de toda edificacion o mejora que pertenezca a dichos demandantes y sus causahabientes; se ordena que los demandados sean puestos en posesion de los solares y terrenos ocupados por los demandantes y sus 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, x x x.

In the meantime, the Commonwealth Government filed expropriation proceedings (CFI-Laguna No. 6875) covering the residential zone of the Hacienda, and the portion was expressly excluded from the decision in said case No. 6663.

Habiendose incoado en este Juzgado por el Gobierno del Commonwealth la causa Civil No. 6875 sobre expropiacion forzosa de la zona residencial de dicha Hacienda de San Jose de acuerdo con la Ley No. 20 y habiendose expedido por este Juzgado una orden para que el Gobierno sea puesto en posesion de la zona objeto de dicha expropiacion, la parte de esta decision relativa al desahucio de los 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. (Decision in CFI-Laguna Case No. 6663).

The Court of Appeals (J. Manuel C. Briones) affirmed the foregoing decision in C.A.—G.R. No. 3739 (July 31, 1949).

En meritos de lo expuesto, se confirma la sentencia apelada con la sola modificacion de que queda excluida de la parte dispositiva del fallo sobre desahucio la parte de la Hacienda de San Pedro de Tunasan que, segun 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.

The Court of Appeals also observed that the original and

supplemental complaints contained inconsistent allegations:

Mientras en la primera demanda no se discutía la propiedad y dominio del Colegio de San Jose sobre los terrenos en litigio y solamente se pedía que los demandados cumplieren el contrato de arrendamiento de 1914, expresado en el Exhibito A, en la demanda suplementaria se alegaba que dichos terrenos pertenecían al Commonwealth de Filipinas y que el referido contrato de arrendamiento era nulo *ab initio*. Ambas alegaciones, pues, son enteramente irreconciliables, y es jurisprudencia firmemente establecida que en una demanda suplementaria no se puedan exponer motivos de acción totalmente nuevos e independientes de los auducidos en la demanda original.

The execution of the decision in CFI-Laguna No. 6663 was likewise reviewed on *certiorari* and prohibition (CA-G.R. No. 3301) by the Court of Appeals (March 31, 1939), which dismissed the petition, the Court (J. Jose Hontiveros) holding that:

x x x 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 alla demandantes y aqui recurrentes, despues de haberse hecho constar en repetidas ocasiones por la parte contraria que dichos demandantes la son en deber en la cantidad de P29,000.00 Filipinos, ademas de los alquileres de 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 obtencion de un fallo contra los demandantes en orden a su contra-reclamación 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.

The foregoing decision was affirmed by the Supreme Court in G.R. No. 46698 (70 Phil. 48) by decision promulgated on June 20, 1940 (J. Anacleto Diaz) which in part states:

x x x Los hechos que el Tribunal de Apelación relata respecto a las tácticas dilatorias de los recurrentes y el largo tiempo ya consumido en la tramitación de la causa, son finales para nosotros y no pueden ser objeto de revision.

x x x porque como lo dijo el Tribunal de Apelación, los recurrentes son insolventes; han estado dando largas al asunto adoptando tácticas dilatorias; y su obligación sin pagarse montaba en Marzo de 1939 mucho mas de dicha suma.

Por todo lo expuesto, confirmamos la decision y el fallo del Tribunal de Apelación, con las costas a los recurrentes. (See 70 Phil. 48, 52).

On March 11, 1936, while the action for specific performance of lease agreements (CFI Laguna Case No. 6663) was pending, Praxedes Alvarez and others and in behalf of other 5,000 tenants of San Pedro, Laguna, thru Atty. Juan S. Rustia, filed an interpleading proceeding (*Alvarez, et al. v. Commonwealth, et al.*, CFI-Laguna, Case No. 6790) to compel the respondents —

x x x para que litiguen entre si y determinen quien es el verdadero dueño de dicha Hacienda.

on the theory that the Colegio de San Jose is a mere trustee (*fiduciario*) over the Hacienda de San Pedro Tunasan which was confiscated by the King of Spain when the Jesuits were expelled from the Philippines, and claiming that the title of the Colegio de San Jose to said Hacienda is not authentic. Pertinent portions of the complaint read as follows:

Que, el conflicto sobre el dominio surge entre el Colegio de San Jose que pretende poseer, en su calidad de mero fiduciario, título legal de propiedad sobre dichos terrenos de la Hacienda de San Pedro Tunasan, y el Estado Filipino que pretende o podría justamente pretender el mismo título por reversion como el legítimo heredero y sucesor de su dueño primitivo Don Esteban Rodriguez de Figueroa fallecido sin ninguna sucesión legítima ascendente o descendente, testada ni intestada.

x x x Don Esteban Rodriguez de Figueroa el 16 de Marzo de 1596 otorgó un testamento en la villa de Arevalo, hoy municipio del mismo nombre en la provincia de Iloilo, dejando en calidad de fideicomiso la Hacienda de San Pedro Tunasan al Colegio de San

Jose para que la administre a fin de que con sus rentas se abriesen y mantengan once becas y tres misas anuales con la limosna de dos pesos cada misa en la parroquia de San Pedro Tunasan x x x se cerraron dichas once becas en el Colegio de San Jose, dado el hecho de que en 1768 se ordenó por el Gobierno de España la expulsación de los Jesuitas en todas sus dominios incluyendo Filipinas; x x x.

x x x el Colegio de San Jose x x x pretende haber solicitado un titulo de composición con el Estado el 13 de Julio de 1746 que dice haberse confirmado por Carta Real de 3 de Febrero de 1748, inscripcion No. 1, folios 195 en adelante de los tomos 3a y 3b de la Oficina del Registro de la Propiedad de la Provincia de Laguna. x x x

This interpleading proceeding was dismissed despite the answer of the Municipality of San Pedro, claiming title to the Hacienda, for it had filed a case of escheat or reversion (CFI-Laguna No. 3052). The order contains the following:

2.—El Gobierno Municipal de San Pedro ha presentado contestacion a la demanda de *interpleading* con contrademanda para que sea declarado dueño de la hacienda y con derecho a sus rentas.

x x x resultando ademas que el Municipio de San Pedro, con el cual estan coaligados los demandantes, ha presentado solicitud de reversion de la Hacienda de San Pedro al Estado, se decreta el sobreseimiento definitivo de la demanda, x x x.

On appeal to the Supreme Court as G. R. No. 45315, the above resolution dismissing the case was affirmed (February 25, 1938; 65 Phil. 302). Said decision (J. Carlos A. Imperial) restated the claim of the Municipality of San Pedro as follows:

x x x El Municipio de San Pedro presento su demanda de *interpleader* y en ella expone: que segun la Historia de Filipinas, y asi lo alega, la Hacienda de San Pedro Tunasan era primitivamente de un tal Don Esteban Rodriguez de Figueroa, que ocupó el cargo de Gobernador y Capitan General de la Isla de Mindanao, quien otorgo testamento cediendo en fideicomiso y administracion toda la referida hacienda a una institucion de beneficencia y enseñanza que mas tarde se llamo Colegio de San Jose, regido por otros sacer-

dotes de la Compañia de Jesus, llamados por otro nombre, Padres Jesuitas; que Rodriguez de Figueroa fallecio hacia Abril de 1596 dejando como sus herederas a sus dos hijas menores de edad, quienes fallecieron asimismo sin dejar herederos; que desde entonces el Colegio de San Jose, por medio de los Padres Jesuitas, estuvo poseyendo y administrando la hacienda u mediante el tramite que el reclamante denomina "sustitucion pupilar" los Padres Jesuitas lograron apropiarse de la misma, considerandosela desde entonces como patrimonio suyo y como parte de los bienes temporales de la Iglesia; que los Padres Jesuitas fueron expulsados de Filipinas en 1768 y sus bienes, con la hacienda, fueron confiscados por el Gobierno de España; que por virtud del Tratado de Paris, la Ley Organica del Congreso de los Estados Unidos de I.o de Julio de 1902, Tydings-McDuffie, la referida hacienda paso al dominio del Commonwealth de Filipinas y este es en la actualidad el dueño y propietario de la misma, la que debe ser administrada y conservada para el beneficio y provecho de los habitantes de Filipinas, y en particular de los del Municipio de San Pedro; que por derecho de reversion (*escheat*) el Commonwealth de Filipinas se ha hecho igualmente dueño de la hacienda, por haber fallecido las hijas de Rodriguez de Figueroa sin haber dejado herederos y porque no existe persona alguna que tenga derecho legal a la misma; que el Municipio de San Pedro tiene derecho a la hacienda para el beneficio exclusivo de sus habitantes; y que el Colegio de San José debe rendir cuenta de las rentas que ha estado recibiendo de la hacienda, que no deben ser menos de ₱60,000.00. Y como remedio pide que sea declarado dueño de la Hacienda de San Pedro Tunasan y que el Colegio de San José rinda cuenta y le pague la expresada cantidad de ₱60,000.00. (*See English translation in 65 Phil. 302, 306-307.*)

and the stand of the Colegio de San Jose, Inc.:

El Colegio de San José, Inc., x x x archivo su contestación a la demanda de *interpleader* del Municipio de San Pedro, en donde nego todas las alegaciones materiales de la misma e interpuso la defensa de que la Hacienda de San Pedro Tunasan es de su exclusiva propiedad y que su titulo ha sido reconocido por el gobierno y los tribunales. (*See English translation in 65 Phil. 302, 308.*)

But before rendering said decision, the Municipality

los bienes temporales de los Sacerdotes de la Compañía de Jesús, entre ellos la Hacienda pasaron desde entonces a favor de la Corona de España. Las siguientes alegaciones de la solicitud son importantes y específicas y reflejan claramente la teoría sustentada por los solicitantes: '11° con motivo de la expulsión perpetua de los Jesuitas en sus dominios, el Rey había ordenado igualmente la confiscación de todas sus propiedades, bienes, rentas, fundaciones, etc., a favor de la Corona de España, y así dio cumplimiento a la orden del Rey aquí en Filipinas. La hacienda de San Pedro Tunasan paso desde entonces a la Corona de España bajo la administración y dirección de su representante aquí el Gobernador General de las Islas Filipinas.' '12° Con motivo de la guerra de España y los Estados Unidos, estos adquirieron mediante cesión, todas las propiedades de la Corona de España en Filipinas, según los Artículos III y VIII del Tratado de Paz celebrado en Paris el 10 de Diciembre de 1898, y entre cuyas propiedades se contaba la Hacienda de San Pedro Tunasan.' '13° Que dicha Hacienda de San Pedro Tunasan paso luego al Gobierno de las Islas Filipinas por virtud de la Ley del Congreso de los Estados Unidos de 1° de Julio de 1902 (Bill de Filipinas), por mera administración en beneficio de los habitantes de Filipinas; y mas tarde, por la Ley Tydings-McDuffie aprobada por el mismo Congreso el 24 de Marzo de 1934, en su artículo 5, los Estados Unidos ha cedido a su vez al Commonwealth de Filipinas, una vez inaugurado, todas las propiedades, bienes, etc., cedidos por España a los Estados Unidos como arriba se ha dicho, entre ellos la Hacienda de San Pedro Tunasan, dicho Commonwealth quedo inaugurado el 15 de Noviembre, 1935.

Si la Hacienda de San Pedro Tunasan, que es la única propiedad que se pide que 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 petición de reversion. Desde el momento en que la hacienda fue confiscada por el Reino de España la misma dejo 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 pro-

priedad del Commonwealth de Filipinas por virtud de la cesion mediante el Tratado de Paris, alegada en la petición. Si el Municipio de San Pedro cree tener algun otro derecho a la hacienda, distinto del de reversion invocado en su petición que inicio este procedimiento, debe ejercitar la accion adecuada, pero no puede utilizar con exito el remedio que confiere el artículo 750 del Codigo de Procedimiento Civil. Declaramos, por tanto, que el Juzgado no incurrio en el error señalado al dictaminar que la petición 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 creamos necesario extendernos en mas consideraciones sobre la personalidad del Municipio de San Pedro y la falta de jurisdiccion del Juzgado. (See English translation in 65 Phil. 318, 326-327).

During the pendency of the escheat case, the tenants, thru Pedro Amante and represented also by Atty. Juan S. Rustia, filed a *mandamus* proceeding in CFI Manila, entitled *Amante v. Hilado* to compel the respondent Solicitor General Serafin P. Hilado to institute *quo warranto* proceedings for the dissolution of the Colegio de San Jose as a corporation sole and the forfeiture of its corporate franchise (67 Phil. 338, 339). Upon demurrer of the Solicitor General, the complaint was dismissed and, on appeal to the Supreme Court, G. R. No. 45536, the order of dismissal was affirmed by decision (J. Manuel V. Moran) dated April 14, 1939 (67 Phil. 338).

The Commonwealth of the Philippines instituted an expropriation proceeding (CFI-Laguna Case No. 6875), entitled *Commonwealth of the Philippines v. Colegio de San Jose* to expropriate the homestead portion of the Hacienda de San Pedro Tunasan. When the *mandamus* case was dismissed (67 Phil. 338), the tenants, thru Atty. Juan S. Rustia, intervened in the expropriation proceedings on the theory that the municipality of San Pedro is the owner of said Hacienda and should be the recipient of the amount to be paid for expropriation. The intervention was denied, and on appeal to the Supreme Court (G. R. No. 45713, dated December 23, 1937), the Supreme Court (J. Carlos A. Imperial) affirmed the denial of the Peti-

tion (65 Phil. 240). The pertinent portion of the decision reads:

Desde el comienzo del asunto de expropiacion hasta ahora al 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 Código de Procedimiento Civil. x x x

En vista de que el recurrente nunca ha cuestionado ni discute el derecho del Gobierno del Commonwealth de Filipinas a expropiar la gran porcion de la Hacienda de San Pedro Tunasan y en atencion, ademas, a que el recurrente no invoca ningun derecho dominical sobre dicha hacienda o sobre porcion alguna de ella. x x x (G. R. No. 45713; See English translation in 65 Phil. 240, pp. 245-246).

The petitioner thru counsel filed a motion for reconsideration restating its claim that:

El Colegio de San Jose estaba formado desde su creacion por los sacerdotes de la Compañia de Jesus desde el año 1601 aproximamente. En 1767 dichos sacerdotes fueron expulsados de Filipinas y de los dominios de la Monarquia Española, secundada con la disolucion y supresion total de la Compañia de Jesus y sus otras organizaciones auxiliares en los dominios del Catolicismo, decretada por su Santidad el Papa Clemente XIV hacia el año 1773. Por su expulsion se decreto igualmente la confiscacion de todas las temporalidades de cualquier genero a favor de la Corona de España, y entre ellas se contaban las Haciendas de San Pedro Tunasan en Laguna, y de Lian en Batangas. x x x Por la Real Cedula de 19 de Octubre de 1852, La Reina Isabel II permitio el restablecimiento en Filipinas de los sacerdotes de la Compañia de Jesus, pero con la expresa provicion y prohibicion de que fuesen reintegrados en las temporalidades curatos y doctrinas que anteriormente tenian en las Islas, haciendose definitiva la propiedad de la Corona de España sobre dichas temporalidades que constituyeron parte del pa-

trimonio Real. Con motivo del Tratado de Paris en 10 de Diciembre de 1898, la Corona de España cedio todo su patrimonio a los Estados Unidos de America, y ultimamente, los Estados Unidos cedieron las mismas propiedades y patrimonio a Filipinas en beneficio de sus habitantes.

but the said motion for reconsideration was denied by resolution of January 11, 1938.

After the decision of the Court of First Instance of Laguna in Civil Case No. 6663 was affirmed in CA—G.R. No. 3738, and its execution upheld in CA—G.R. No. 3301 and G. R. No. 46698 (70 Phil. 48), the Commonwealth Government initiated negotiations with the Colegio de San Jose for the purchase of the Hacienda de San Pedro Tunasan. The execution of the decision in the said Case No. 6663, though final and executory, was held in abeyance, and in the meantime, a receivership over the San Pedro de Tunasan estate was established by petition of the Colegio de San Jose for the "revival of judgment with petition for receivership" (CFI-Laguna, case No. 9039). The Court of Laguna (Judge Nicasio A. Yatco), by decision dated October 11, 1950, granted the receivership and observed that:

To be blunt in the case at bar, this Court is of the opinion that the defendants and their attorney, have made use of all means and devices to find a hidden flaw in the mass of evidence and decisions of the Supreme Court in the various allied cases already decided about this well-known San Pedro Tunasan property of Colegio de San Jose, and yet defendants as well as attorney of record wanted to flout upon the evidence and final decisions by technicality and all known devices of human ingenuity to defeat the well established right of the plaintiff from time immemorial. The time has come, for the Court to put a stop to these unnecessary and useless litigations; prejudicial to the common interest of the parties litigants to which the State cannot look with indifference. The responsibility for all the actions taken should be lodged to the instigator of the action and for this purpose the Supreme Court will be the final arbiter on this score. (CFI Decision G. R. No. 9039).

Thereafter, writ of execution was issued to enforce the final decision of October 11, 1950.

The institution of this receivership was questioned by the tenants thru Atty. Juan S. Rustia in various proceedings, but they were dismissed by the Court of First Instance of Laguna and sustained by the Supreme Court, among them —

1. Ramirez et al. v. Judge Ibañez et al., G. R. No. L-1873 (March 22, 1948);

The "Reiteracion de la Peticion de Interdicto Prohibitorio Preliminar" filed by counsel for petitioners in L-1873, *Ramirez et al. v. Judge Ibañez et al.*, is denied, it appearing that respondent Judge had given the parties a chance to be heard on the question of privity and identity of the land, and that, instead of arguing at the hearing, the present case was immediately brought here. Mr. Justice Perfecto dissented in a separate opinion. (46 O. G. No. 9, p. 4232).

2. Ramirez et al. v. Ibañez et al., G. R. No. L-1878 (March 9, 1949), J. Perfecto —

That in case No. 6663, the judgment of which is sought to be revived, a receiver has also been appointed;

That the Colegio de San Jose did not transfer to the Commonwealth of the Philippines its rights to the judgment in its favor in civil case No. 6663 with respect to the agricultural lands which are now the subject of controversy, but only its rights therein pertaining to the portion of the hacienda used as homesites; (46 O. G. No. 9, 4228, pp. 4230-4231).

3. Alvarez et al. v. Ibañez et al., G. R. No. L-2120 (March 9, 1949), J. Perfecto —

Respondents allege also that the ownership of the Colegio de San Jose over the property in question is recognized by contracts, ratified by law and confirmed by courts of justice; x x x.

The issues in the present case are substantially the same as those in the case of *Ramirez v. Ibañez, supra.*, (No. 2) wherein it was decided by majority decision to dismiss the case x x x (46 O. G. No. 9, 4233, p. 4235).

4. Petition for *certiorari* in Alvarez et al. v. Ibañez et al., G. R. No. L-2984 was dismissed by resolution of the Supreme Court dated May 27, 1949;

5. Petition for *certiorari* in Ambayec et al. v. Court

of First Instance of Laguna, et al., G. R. No. L-4195 was dismissed for lack of merit by resolution of the Supreme Court dated October 18, 1950;

6. Ambayec vs. Yatco et al., G. R. No. L-3878 dated December 21, 1950 (J. Pedro Tuason)—the petition for *mandamus* "to act immediately upon and resolve the petition for the lifting of receivership Exhibit A, in Civil Case No. 9039" was dismissed.

By a document entitled *escritura de venta* dated August 31, 1939, the Commonwealth Government purchased from the Colegio de San Jose the homesite portion of the Hacienda de San Pedro Tunasan so that the same might be resold to the actual tenants or occupants. On October 9, 1946, said tenants again thru Atty. Juan S. Rustia filed an action to annul said deed of sale over said homesite (*Alviar et al. v. Rural Progress Administration et al.*, CFI-Laguna, Civil Case No. 8039), on the theory that the Colegio de San Jose had no right to sell said homesite for it was not the owner of the Hacienda de San Pedro Tunasan.

Que el 21 de Agosto de 1939, los demandados Rev. John F. Hurley, Msgr. William Piani y Jorge B. Vargas, coaligandose contra los intereses de los demandantes, suscribieron cierto documento de venta de ciertos porciones de terreno comprendidos dentro de la jurisdiccion territorial de San Pedro, Laguna, que mas tarde se pretendio haber sido ratificado ilegalmente en otra fecha, el 27 de Septiembre de 1939, ante el Notario Publico de Manila Sr. Deogracias Reyes, cuya copia se acompaña aqui y se marca como Exhibito "A" (par. V, p. 3 of *demanda*).

Que dicho documento Exhibito "A" es ilegal y nulo *ab initio*, inexistente y sin efecto legal alguno, x x x (par. VII, p. 4 of *demanda*).

Que la Ley No. 1724 de la Comision Civil de Filipinas aprobada el 23 de Septiembre 1907 es nula y anticonstitucional, y no debe regir al advenimiento de la Republica de Filipinas, x x x. (par. X, p. 12 of *Demanda*, CFI Laguna No. 8039).

The complaint of the 56 named plaintiffs was dismissed, and on appeal to the Supreme Court (G.R. No. L-

1736, June 30, 1950) the order of dismissal was affirmed (J. Cesar Bengzon) with the following statements:

The complaint was filed to allege and prove the right of ownership and possession of the fifty-six plaintiffs to the residential lots they were occupying in the municipality of San Pedro Tunasan and to prevent their ejection therefrom as planned and announced by the Rural Progress Administration. The complaint makes assertions from which it would appear that complainants were occupying portions of the Hacienda de San Pedro Tunasan (formerly belonging to the Colegio de San Jose) purchased by the Commonwealth and administered by the Rural Progress Administration. Then it argues that the Colegio de San Jose has no juridical personality nor any right to hold such property and that the sale thereof made by the said Colegio de San Jose to the Commonwealth was null and void, etc.

x x x it is quite probable that after the promulgation of this Court's view in the other case, entitled "*Felipe C. Alviar et al. v. Rev. Leo 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. (Supreme Court decision in G. R. No. L-1736).

The case above-mentioned refers to another action dated June 19, 1947 for civil interdiction filed by the tenants again thru Atty. Juan S. Rustia (CFI Manila Case No. 2889) "para poner en vigor una interdiccion civil", entitled "*Alviar, et al. v. Cullum*", on the theory that the *Pragmatica Sancion* of King Charles III of Spain on April 2, 1767 and the *Real Cedula* of Queen Elizabeth II on October 2, 1852 are still in force.

(1) para que se renueva y se ponga en pleno vigor y cumplimiento aquella Pragmatica Sancion de 3 de Abril 1767 del Rey Carlos III de España, con todas sus

consecuencias, con fuerza de ley; x x x (par. IX (1) p. 6, af Amended Complaint)

(2)—Que, despues de los tramites legales, dicte sentencia declarando subsistente, en pleno vigor y obligando a los demandados a su cumplimiento, de la Pragmatica Sancion del Rey Carlos III de España el 2 de Abril de 1767, y la Real Cedula de 19 de Octubre de 1852 de la Reina Isabel II, ordenando a dichos demandados que deje perpetuamente de inmiscuirse en las posesiones y dominio de los terrenos de San Pedro, Laguna, Filipinas, asi como en los otros terrenos y posesiones de otros municipios de Filipinas que ya las fueron confiscados con motivos de su expulsion; (prayer, p. 7 of Amended Complaint in CFI Manila No. 2889).

The Court of First Instance of Manila (J. Conrado V. Sanchez) after careful study of these Spanish decrees held that they were political in character and were, therefore, abrogated by the change of sovereignty, thereby dismissing the complaint.

There is no question in the mind of the court that the *Pragmatica Sancion*, as amended, is political in character. That it trenches on certain basic principles of our democratic government and the Constitution has heretofore been amply demonstrated.

This Court cannot now, therefore, place its stamp of approval on the *Pragmatica Sancion* in derogation of our present democratic institutions and constitutional principles turn the clock of progress centuries back, and say that the confiscatory powers of a single man—King Charles II of Spain—still has the force of law and that by reason thereof the Jesuits should be divested of and thereafter stopped from the right to own or possess property. For, said *Pragmatica Sancion* has ceased to be a law since the Treaty of Paris of December 10, 1898. What is more, acceptance of the *Pragmatica Sancion* will break open an alarming vista of inroads upon the constitutional guaranties. And this, the court does not propose to do. (CFI Order, pp. 17-18).

On appeal to the Supreme Court (G.R. No. L-2523, April 24, 1950), said decision was affirmed, and the title and ownership of the Colegio de San Jose over the Hacienda de San Pedro Tunasan was confirmed (April 24, 1950, J. Manuel V. Moran; G.R. No. L-2523, 47 O.G. 6142) as follows:

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 shall enter judgment in the said action decreeing to the Roman Catholic Church of the Philippine Islands, as represented by the Archbishop of Manila, the right of possession and absolute title, free from all claims or demands of the Government of the Philippine Islands, to the buildings and other property, real, personal, and mixed, pertaining to and belonging to the College of San Jose, said College to be administered for the specific purposes of its foundation.' 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 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 inconsis-

tent with their attitude in the instant case. (G. R. No. L-2523, 47 O. G. 6142).

In the new complaint filed in the Court of First Instance of Laguna, Civil Case No. 8039, the tenants prayed again that the title of Colegio de San Jose on the property in litigation and the sale in favor of the Commonwealth be declared null and void. The complaint was dismissed, and on appeal to the Supreme Court, G.R. No. L-1855, the Supreme Court (J. Manuel V. Moran) affirmed the dismissal on the ground of *res adjudicata* (June 22, 1949, 46 O.G. 6057).

On May 25, 1935, more than 720 tenants filed an action (Civil Case No. 6663) in the Court of First Instance of Laguna against Colegio de San Jose, praying that defendant be compelled to respect its contract of lease with plaintiffs on some parcels of lands located in San Pedro Tunasan, Laguna. After trial, judgment was rendered declaring that plaintiffs and their privies or agents had no longer any right to continue occupying the property in litigation and they were ordered to vacate and deliver the same to the defendant. On appeal, the judgment was affirmed by the Court of Appeals in a decision promulgated on July 31, 1940.

The property was later purchased by the Commonwealth of the Philippines and came under the direct and exclusive management of the respondent Rural Progress Administration. On October 9, 1946, an action was filed in the Court of First Instance of the same province against the Rural Progress Administration and others by numerous plaintiffs, allegedly the same plaintiffs in the former civil case No. 6663, or their agents or successors in interest. In this new complaint, registered as civil case No. 8039, it is prayed that the title of Colegio de San Jose on the property in litigation and the sale in favor of the Commonwealth of the Philippines be declared null and void. Apparently, this second complaint was dismissed on motion of the Rural Progress Administration on the ground of *res adjudicata* and lack of cause of action, and from the order of dismissal an appeal was taken to this Court. (46 O. G. 6057-6058.)

Subsequently, the tenants intervened in CIR Cases Nos. 3284-R to 3399-R, claiming long possession and title.

The court dismissed that intervention, because otherwise it would reopen judicial pronouncements that are now *res judicata*. Pertinent portion of the decision reads:

With respect to the claim of the intervenors, the Court emphatically declares such claim completely groundless. This Court can not tolerate nor countenance any such claim of ownership that has been dismissed in various appropriate decisions of the courts of justice, including the highest court, because to entertain for a moment such action amounts to reopening judicial pronouncements that are now *res judicata*. To do otherwise would not only be acquiescing to a practice that tantamounts to contempt of the decisions of the highest tribunal, but also to acquiescing to interminable suits, and this is especially so when it is taken into account that the intervention is based merely on the intervenors' *hoja declaratoria*.

This Court is aware of the half-century old agrarian question in San Pedro, Laguna. It is high time that the dispute should come to an end. In order to give peace and to establish order to the parties herein in particular and to the whole community of San Pedro, Laguna in general, this court declares that the kind of intervention put up by the intervenors in these cases is definitely illegal, unfounded, and product only of malicious imagination. Such action is an open defiance of court decisions and a challenge to government authority.

In the meantime, various purchasers applied for, and were granted titles to, portions of the Hacienda de San Pedro Tunasan in various land registration cases. There are still pending in the courts of Laguna many ejectment cases where the occupants are faced with final judicial orders, and writs of execution for their ejectment and demolition of their houses.

From the foregoing, it is apparent that the Hacienda de San Pedro Tunasan has been the object of many judicial actions and decisions of our courts, to wit:

1. 14 Phil. 775, entitled "*Tavera v. Roman Catholic Church*", which approved the agreement between Secretary of War Taft and Archbishop Harty as ratified by Act No. 1724;

2. 53 Phil. 423, entitled "*Government of the Philippines v. Colegio de San Jose*", wherein two parcels of

land on the eastern border along Laguna de Bay were declared to form a part of the Hacienda de San Pedro Tunasan and owned by the claimant Colegio de San Jose, which holds a royal grant (See also *Director of Lands v. Colegio de San Jose*, 53 Phil. 942);

3. 65 Phil. 240, entitled "*Commonwealth of the Philippines v. Colegio de San Jose*", which affirmed the order of the Court of Laguna in appointing commissioners on appraisal for the *expropriation* of portions of the Hacienda de San Pedro Tunasan;

4. 65 Phil. 302, entitled "*Alvarez et al. v. Commonwealth of the Philippines*", which dismissed the interpleader filed by 5,000 tenants on the question of title between the Philippine Government and the Colegio de San Jose;

5. 65 Phil. 318, entitled "*Municipal Council of San Pedro, Laguna v. Colegio de San Jose*", wherein the petition for the *escheat* of the Hacienda de San Pedro Tunasan in favor of the Municipality of San Pedro was dismissed;

6. 67 Phil. 338, entitled "*Amante v. Hilado*", which dismissed the petition for *mandamus* to compel the Solicitor General to institute *quo warranto* proceedings to dissolve Colegio de San Jose as a corporation sole and forfeit its corporate franchise;

7. 70 Phil. 48, entitled "*Guevara et al. v. Young et al.*", declaring that plaintiffs-occupants who claimed *lease agreements* over portions of the Hacienda occupied by them were held not to have any right to the possession of the lands of the Hacienda de San Pedro Tunasan, and affirmed the writ of execution for their eviction;

8. 46 O. G. 4228, entitled "*Ramirez v. Ibañez*", wherein the revival of judgment on CFI Laguna No. 6663, with petition for *receivership*, CFI Laguna No. 9039 was recognized and affirmed (See also *Alvarez v. Ibañez*, 46 O. G. 4233);

9. G. R. No. L-1736, entitled "*Alviar v. Rural Progress Administration*", where the action to *annul the sale* of the homesite by the Colegio de San Jose in favor of the Rural Progress Administration was dismissed;

10. 46 O. G. 6052, entitled "*Alviar et al. v. Pampolina et al.*", wherein the complaint to *declare void the*

title of the Colegio de San Jose and the sale in favor of the Commonwealth of the Philippines was dismissed on the ground of *res judicata*;

11. 47 O. G. 6142, entitled "*Alviar v. Cullum*", wherein the action for *civil interdiction* against the Colegio de San Jose was dismissed and the title of said Colegio over the Hacienda de San Pedro Tunasan was affirmed.

*Title of Colegio de San Jose Over the Hacienda
de San Pedro Tunasan*

The occupants and/or tenants of portions of the Hacienda of San Pedro Tunasan claim that despite the many judicial actions and decisions affecting said Hacienda, there has never been any definite decision on the ownership of or *title* to said Hacienda, and that the judicial decisions have only confirmed the fact and/or right of possession of the Colegio over said Hacienda.

A thorough study of the many judicial proceedings and/or decisions as hereinabove mentioned conclusively prove that the title of the San Pedro Tunasan Estate has been recognized and confirmed to belong to the Colegio de San Jose. Without repeating the many judicial pronouncements referred to, and whose pertinent portions have been copied in this memorandum-report regarding the origin of, and title to the Hacienda de San Pedro Tunasan, the following must be given full faith and credence.

A. *Recognition on the part of the Philippine Commission.*

1. The Philippine Commission passed Act No. 69 creating a Board of Trustees, which filed Supreme Court Case No. G. R. 469; execution of the agreement between Secretary of War Taft and Archbishop Harty, confirmed by Act No. 1724, and approved by the Supreme Court in the decision of 14 Phil. 775.

B. *Recognition on the part of the Government.*

1. On September 12, 1907, the *Titulo Real Posesorio* in favor of Colegio de San Jose over the Hacienda de San

Pedro Tunasan was duly registered as evidence of its title thereto;

2. On August 20, 1918, portions of the Hacienda de San Pedro Tunasan were acquired by the Municipality of San Pedro, Laguna, for the construction of a Municipal Building and a public market;

3. The Commonwealth Government filed an expropriation proceeding against the Colegio de San Jose, CFI of Laguna, No. 6875, 65 Phil. 240, thereby recognizing the ownership of the Colegio over the portion sought to be expropriated as part of the Hacienda de San Pedro Tunasan;

4. On August 31, 1939, the Commonwealth Government thru the Rural Progress Administration acquired by negotiated sale the homesite of San Pedro, which is an integral part of the Hacienda de San Pedro Tunasan;

5. Recently, on August 26, 1954, the Republic of the Philippines thru the National Resettlement and Rehabilitation Administration (NARRA), acquired by purchase 850 hectares, the remaining undisposed agricultural portion of said hacienda.

C. *Judicial pronouncements and decisions of our Courts.*

1. Judge Modesto Castillo's decision in Civil Case No. 6663, CFI of Laguna (See 70 Phil. 48):

El Colegio de San Jose es dueño de la Hacienda llamada 'Tunasan'. Esta hacienda esta ubicada y comprende todo el territorio del municipio de San Pedro, provincia de Laguna. (p. 2)

2. Judge Nicasio Yatco's decision in Civil Case No. 9039, CFI Laguna (See G. R. No. 1736):

To be blunt in the case at bar, this Court is of opinion that the *defendants and their attorney*, have made use of all means and devices to find a hidden flaw in the mass of evidence and decisions of the Supreme Court in the various allied cases already decided about this well known San Pedro Tunasan property of Colegio de San Jose, and yet defendants as well as

attorney of record wanted to flout upon the evidence and final decisions by technicality and all known devices of human ingenuity to defeat the well established right of the plaintiff from time immemorial. x x x

3. Justice Manuel V. Moran's decision in *Alviar v. Cullum*, G. R. No. L-2523, 47 O. G. 6142:

x x x 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, x x x

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.

Atty. Delfin Aprecio of the Office of the Senate prepared a brief memo, entitled "*The Case of the Hacienda de San Pedro Tunasan*," which was forwarded to the undersigned by the Senate President, Hon. Eulogio Rodriguez, Sr., wherein he recommends "cadastral proceedings be instituted to expedite the settlement and adjudication of the Hacienda de San Pedro Tunasan," and quotes a portion of the decision in the above case of *Alviar v. Cullum, supra*, as engendering doubt as to the ownership of said Hacienda.

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. (Moran, 47 O. G. 6142).

The above statement does not detract from the clear and convincing decision penned by Chief Justice Moran in the above case. In fact, the Republic of the Philippines did not claim adverse title to said Hacienda in the interpleader case, CFI Laguna No. 6790,

x x x porque no quiere litigar ni ensarzarse con nadie en un pleito sobre una hacienda cuyo titulo se halla bien definido y reconocido (p. 14 of J. Imperial's decision in G. R. No. 45315, see 65 Phil. 302, at p. 315).

Likewise, the escheat proceeding did not prosper (65 Phil. 318).

El municipio de San Pedro, de la provincia de Laguna, no tenia ningun interes actual en la materia objeto de este litigio, pues su interes dependia del resultado de otro pleito en el cual se pedia que los terrenos que constituyen la referida hacienda de Tunasan se declararan de la propiedad del Commonwealth de Filipinas, pleito que, por cierto, ha sido finalmente decidido por el Tribunal Supremo en contra del referido municipio, x x x (p. 8, J. Briones, in CA-G. R. No. 3739).

Similarly, the title of various occupants who have acquired by purchase from the Colegio de San Jose portions of the Hacienda de San Pedro Tunasan (Land Buyer's Association) have been recognized by the courts, and their titles thereto registered in their respective names in accordance with the Land Registration Law.

In the opinion of the undersigned, the claim of the tenants and/or occupants that the Colegio de San Jose has no valid title—"ningún título genuinamente autentico"—cannot be sustained. There is no other alternative but to recognize, uphold and confirm the title of said Colegio over said Hacienda, which has been consistently recognized by our Government, and confirmed by our courts.

*Long and Continuous Possession of Occupants
And/or Tenants*

The actual occupants and/or tenants, whose association was formerly known as *Oras Na* and likewise known as *Yapak* and *Anak ng Bayan*, through their present counsel, Atty. Alejo F. Candido, emphasize the fact that they have been in actual, continuous and uninterrupted possession of the various portions of the Hacienda de San Pedro Tunasan occupied by them, which with the possession of their predecessors in interest dates to more than 100 years, and that, accordingly, they have acquired title to their respective lands by acquisitive prescription. They support their long possession by assessment records (Exhs. A to A-233) and payment of land taxes. Many of the assessments in favor of the tenants contain the following notation:

This property is already declared x x x in the name of Colegio de San Jose but accepted and declared for taxation upon insistence of the declarant.

Moreover, mere tax declaration does not vest ownership. The Supreme Court (J. Jose P. Laurel) restated the rule thus:

Counsel for the appellants vigorously assert in their brief that the Province of Camarines Sur and the Insular Government had recognized the ownership of the assessment thereof three times by the provincial assessor of Camarines Sur in the name of Jose Aramburo. Assessment alone, however, is of little value as proof of title. Mere tax declaration does not vest ownership of the property in the declarant (*Evangelista v. Tabayuyong*, 7 Phil., 607; *Casimiro v. Fernandez*, 9 Phil. 562; *Elumbaring v. Elumbaring*, 12 Phil. 384). x x x (64 Phil. 613, *Province of Camarines Sur v. Director of Lands*).

The tenants and/or occupants likewise contend that their continuous possession, coupled with their claim that the original grantee from the Spanish crown, Don Esteban Rodriguez de Figueroa died leaving a will which provided for the return of the estate, should his wife and children die without issue, and the *Pragmatica Sancion* of the King

of Spain which expelled the Jesuits from the Philippines and worked a forfeiture of all its temporal properties, should have produced the effect of divesting the Colegio de San Jose of any further claim from the Hacienda, and should in turn confirm their title thereto by prescription. The legal effects of the will of Rodriguez Figueroa for the reversion or *escheat* of the Hacienda de San Pedro Tunasan did not prosper in the case of *Municipal Council of San Pedro v. Colegio de San Jose*, 65 Phil. 318. The attempt to deprive the Colegio de San Jose of its corporate personality to own the estate failed in the *mandamus* case, entitled "*Amante v. Hilado*," 67 Phil. 338. The action to declare the Colegio without civil capacity to own land in view of the *Pragmatica Sancion* and the *Cedula Real* was dismissed in the case of *civil interdiction*, entitled "*Alviar v. Cullum*," 47 O. G. 6142.

On the other hand, the Philippine Commission, the Commonwealth and later the Republic of the Philippines have expressly recognized the title of the Colegio de San Jose over the Hacienda de San Pedro Tunasan. The case of *Tavera v. Roman Catholic Church* (14 Phil. 775), the expropriation case (*Commonwealth of the Philippines v. Colegio de San Jose*, 65 Phil. 240), the refusal to annul the sale of the homesite acquired by the Commonwealth Government (*Alviar v. Rural Progress Administration, G. R. No. L-1736*) have confirmed and at least have impliedly admitted the title of the Colegio de San Jose. Most significant of all, the occupants-tenants themselves or their predecessors in interest recognized that their occupancy was not in the concept of an owner but as mere occupants and/or tenants, when they filed in the Court of First Instance of Laguna, Civil Case No. 6663, entitled "*Guevara et al. v. Young et al.*," praying that their alleged agreements of lease be respected, so as to prevent their ejection from the portions respectively occupied by them. It is fundamental that tenants are not civil possessors for their possession is not in the concept of an owner (Art. 540; *Laureta v. Mauricio*, CA 37 O. G. 1286; *Cumagun v. Allingay*, 19 Phil. 415). Even their right as tenants was not recognized by the Court of First Instance of Laguna (Case No. 6663), the Court of Appeals (CA—G. R. No. 3739;

CA—G. R. No. 3301), and the Supreme Court (G. R. No. 46698, 70 Phil. 48), for these courts did not only dismiss their claim to the right of possession but sanctioned their ejectment therefrom, thereby confirming the valid title and right of possession of the Colegio de San Jose over the Hacienda de San Pedro Tunasan.

Location of Hacienda

During the interview with the tenants and/or occupants in the presence of the municipal officials of San Pedro and their counsel, they raised before the undersigned Solicitor General the fact that the real Hacienda de San Pedro Tunasan which was covered by the *Titulo Real Posesorio* in favor of the Colegio de San Jose refers to a portion of land located at Muntinglupa, Rizal, and not in San Pedro, Laguna. The memorandum submitted by Atty. Candido invites attention to the fact that the dividing line which separates the Hacienda de Tunasan (Tunasan Estate) located at Muntinglupa, from the Municipality of San Pedro is the San Pedro River—"el río de San Pedro." This river, presently known as San Pedro River, was formerly known as "Majayjay River," which is mentioned as boundary of the Hacienda in the *titulo real posesorio*.

The plans marked Annexes "I" and "M" to Atty. Candido's memorandum, which are "not for registration purposes" do not establish that said Hacienda is on the western side of Muntinglupa, Rizal, and not on the eastern side of San Pedro, Laguna. Moreover, the *Titulo Real* did not only cover the Hacienda de San Pedro Tunasan but also what was known as *Potrecillo*. From time immemorial, the Hacienda de San Pedro Tunasan was unmistakably accepted as the land situated in the municipality of San Pedro, Laguna. The location of the Hacienda at San Pedro, Laguna, cannot be further doubted in view of the following facts:

1. *Action by the Government:*

- (a) On August 20, 1918, two lots from the Tunasan

Estate were segregated for the purpose of constructing a municipal building and a public market in the municipality of San Pedro, Laguna. (See marginal note to *Titulo Real Posesorio, supra.*)

(b) The Commonwealth of the Philippines sought to expropriate portions of the Hacienda for the homesite of the municipality of San Pedro, Laguna. (65 Phil. 240.)

(c) On August 31, 1939, the Commonwealth Government acquired by purchase a portion of the said Hacienda as the homesite of said municipality. (See *Escritura de Venta, Exh. "A"* to complaint in CFI 8039, the action to annul said sale.)

(d) The Municipal Council of San Pedro, Laguna, sought the declaration of escheat or *reversion* against the Colegio de San Jose for its property in San Pedro, Laguna. (65 Phil. 318.)

2. *The decisions of our various courts:*

(a) Decision in *Government of the Philippines v. Colegio de San Jose*, 53 Phil. 423, wherein the two parcels of land bordering the Laguna de Bay were held to form an integral part of the Hacienda de San Pedro Tunasan owned by the Colegio de San Jose and located in the municipality of San Pedro, Laguna;

(b) The decision of the Court of First Instance of Laguna in Civil Case No. 6663, dated April 12, 1938, which categorically stated

El Colegio de San Jose es dueño de la Hacienda llamada "Tunasan". Esta hacienda esta ubicada y comprende todo el territorio del municipio de San Pedro de Laguna. x x x (p. 2 of CFI decision.)

(c) The decision of the Court of First Instance of Manila in Civil Case No. 2889, dated August 1, 1948, which expressly made reference to the Municipality of San Pedro:

It will be recalled that plaintiff's claim to be owners of certain urban and agricultural lands within the jurisdiction of the *municipality of San Pedro Laguna*, and that they were being disturbed in their possession by the Jesuits, their agents and others under them. (p. 18 of CFI decision.)

x x x *The storm center of their controversy is the Municipality of San Pedro Laguna.* (p. 19 of CFI decision.)

3. *The judicial complaints filed by the occupants and/or tenants themselves:*

(a) The complaint in CFI Laguna No. 6663, dated May 25, 1935, expressly describes the lands comprising the Hacienda de San Pedro Tunasan as located within the municipality of San Pedro, Province of Laguna.

3.—Que dichos terrenos estan *comprendidos* en la Hacienda llamada de Tunasan, que se halla en fideicomiso a favor del Colegio de San Jose, una corporacion unipersonal de la Orden de la Compania de Jesus, en Filipinas, que se describe asi:

“Una finca rustica denominada Hacienda de San Pedro de Tunasan de la comprension del *municipio de San Pedro de Tunasan* (hoy San Pedro) de la provincia de Laguna que mide una superficie total de dos mil cincuenta hectareas aproximadamente y linda al Norte con el *rio antiguamente llamado de Majayjay*, despues de San Pedro y actualmente de Tunasancillo, que separa dicha Hacienda de la Muntinglupa de la jurisdiccion de la provincia de Rizal y que pertenece al presente a los señores Barry Baldwin, Carlos Young y Newland Baldwin, al Este con la Laguna de Bay, al sur con el rio de San Ysidro, y con los terminos municipales de Imus, Carmona y Biñan de la jurisdiccion de las provincias de Cavite y Laguna respectivamente y al Oeste con el expresado rio llamado antiguamente de Majayjay, despues de San Pedro y al presente de Tunasancillo que separa la expresada Hacienda de la de Imus que pertenecio a los Padres Recoletos y en la actualidad al Gobierno Insular.” (par. 3, 6-7 of *Demanda*.)

(b) The petition for escheat or *reversion* in CFI Laguna Case No. 3052 alleged that:

2.—Que dentro de la comprension y jurisdiccion territorial del *municipio San Pedro*, se halla enclavada la Hacienda llamada de San Pedro Tunasan que mide aproximadamente una superficie de *dos mil trescientos hectareas*, cuyo linderos conocidos comunmente son:

“Linda al Norte con el rio antiguamente llamado de Majayjay, despues de San Pedro y actualmente de Tunasancillo, que *separa dicha Hacienda de la de Muntinglupa, de la provincia de Rizal*; al Este con la de Laguna

de Bay; al Sur con el rio de San Isidro y con los terminos municipales de Imus, Carmona y Biñan, de las provincias de Cavite y Laguna, respectivamente, y al Oeste con el mencionado rio llamado de Majayjay, despues de San Pedro y el presente de Tunasancillo que separa la Hacienda de la de Imus; existiendo enclavadas en la comprension de dicha Hacienda una casa Hacienda, varias presas y otras mejoras de valor.”

3.—Que dicha extension de terreno o Hacienda se halla ocupada y poseida actualmente por los habitantes del *municipio de San Pedro, Laguna*, x x x (pars. 2 and 3 of petition for escheat.)

x x x en beneficio del municipio de San Pedro, Laguna, donde radica dicha propiedad. (par. 15 of petition.)

(c) The complaint in CFI Laguna Case No. 8039 to annul the sale of the homesite gave location thereof:

x x x documento de venta de ciertas porciones de terreno *comprendidas dentro de la jurisdiccion territorial de San Pedro, Laguna*, x x x. (par. V of complaint.)

1. El Colegio de San Jose es dueño en pleno y absoluto dominio de las parcelas de terreno conocidas en conjunto con el nombre de Hacienda de San Pedro Tunasan, *ubicadas en el Municipio del mismo nombre* de la provincia de Laguna, una porcion de cuya hacienda aparece ya titulada de acuerdo con la Ley del Registro de la Propiedad a nombre del Colegio de San Jose. (p. 1, *Escritura de Venta*, Exh. “A” annexed to said complaint.)

(d) The complaint in CFI Laguna No. 6790 for interpleading which identified the plaintiffs as:

Que esta reunion de familias y ciudadanos ha constituido la division politica civil conocida por el municipio de San Pedro, Laguna, x x x (par. IV of *Solicitud*.)

It is clear from the foregoing that the Philippine Government, the courts and even the occupants and/or tenants themselves have identified the Hacienda de San Pedro Tunasan as located within the Municipality of San Pedro, Province of Laguna.

Conclusion

In view of the foregoing, the undersigned has come to no other possible conclusion than the following:

(1) The Colegio de San Jose was granted by royal decree a *titulo real posesorio* which covers the Hacienda de San Pedro Tunasan;

(2) The Philippine Commission has expressly recognized the ownership and right of possession of the Colegio de San Jose over said Hacienda de San Pedro Tunasan;

(3) The Philippine Government by direct purchase of two portions thereof for the municipal building and the public market, by negotiated sale of the residential portion thereof as homesite of San Pedro (G. R. No. L-1736); and by its attempts to expropriate portions of the aforesaid Hacienda (65 Phil. 240) has expressly recognized the title of the Colegio de San Jose over the Hacienda de San Pedro Tunasan;

(4) The various decisions of our courts—Court of First Instance of Laguna, Court of Appeals and Supreme Court—have invariably sustained the absolute title and right of possession of the Colegio de San Jose over the Hacienda de San Pedro Tunasan (See judicial actions involving said Hacienda, *supra*);

(5) The occupants and/or tenants themselves, while they have consistently disputed the title or possession of the Colegio over the Hacienda, have expressly admitted that said Hacienda is located within the municipality of San Pedro, Province of Laguna;

(6) The occupants and/or tenants have traced their long possession of the portions occupied by them through the possession of their predecessors in interest to many years of actual possession, but such possession did not confer upon them any title or legal right thereto by acquisitive prescription.

Recommendation

In view of the foregoing, the undersigned Solicitor General must recommend a course of action consistent with the Executive, Legislative and Judicial acts of the Government in recognizing and confirming the title and right of possession of the Colegio de San Jose over the Hacienda de San Pedro Tunasan.

He is fully aware that this Hacienda has been the fertile source of agrarian problems for almost 50 years and the people therein have been made to erroneously believe by their local leaders and legal consultants, particularly the late Juan S. Rustia, that their fight for the possession of the lands occupied by them as their heritage would be secure in law.

The decisions of our courts and the official acts of our Government must not only be given full faith and credence, but also due respect and recognition.

There is no other alternative but to support the government venture in offering the newly acquired 850 hectares of agricultural land of the Hacienda as a place for the resettlement of the occupants and/or tenants who have not acquired right to the portions occupied by them by purchase and/or other voluntary transaction with the former owner, Colegio de San Jose, so that they may be given in this government project a piece of land which they may thereafter cultivate and own as their own property, without the vicissitudes and expenses of the long series of litigations that have afflicted the poor residents of the Hacienda of San Pedro Tunasan in San Pedro, Laguna.*

* The original (and two copies) of the foregoing Memorandum-Report of the Solicitor General, upon its submittal to the President, was accompanied by the following documents and papers:

1. Original letter of Congressman Jacobo Gonzales, dated September 7, 1954;
2. *Memorandum de los vecinos de San Pedro, Laguna*, dated October 28, 1954;
3. Memorandum of Attys. Reyes and Luison, dated September 18, 1954;
4. Letter of Colonel Sixto Carlos with its enclosures, including the Memo of Atty. Aprecio re: "*The Case of the Hacienda de San Pedro Tunasan*";
5. Envelope containing the exhibits referred to in the Memo (Encl. No. 2) of Atty. Alejo F. Candido.
6. Mimeographed pleadings and decisions referred to in this Memorandum Report, with pertinent portions underlined in red pencil, to wit:
 - (a) Agreement between the Secretary of War and Archbishop Harty;
 - (b) Act No. 1724 of the Philippine Commission;
 - (c) Supreme Court decision in G. R. No. 469, 14 Phil. 775;

- (d) Supreme Court decision in 53 Phil. 423 and 53 Phil. 942;
 - (e) Proceedings in CFI Laguna Case No. 6663, entitled *Guevara et al. v. Young et al. Sobre Cumplimiento, de Contrato e Interdicto Mandatorio* appealed to the Court of Appeals, CA—G. R. No. 3739, CA—G. R. No. 3301; and to the Supreme Court, G. R. No. 46698, 70 Phil. 48;
 - (f) Proceedings in CFI Laguna No. 6790, entitled *Alvarez et al. v. Commonwealth et al.*, re interpleading, appealed to Supreme Court, G. R. No. 45315, 65 Phil. 302;
 - (g) Proceedings in CFI Laguna No. 3052, entitled *Municipal Council of San Pedro v. Colegio de San Jose* re escheat or reversion, appealed to the Supreme Court as G. R. No. 45460, 65 Phil. 318;
 - (h) Decision of Supreme Court in G. R. No. 45713, entitled *Municipality of San Pedro v. Castillo et al.*, 65 Phil. 240;
 - (i) Proceedings in CFI Laguna No. 9039, entitled *Colegio de San Jose v. Guevara et al.*, for revival of judgment with petition for receivership;
 - (j) Proceedings in CFI Laguna No. 8039, entitled *Alviar et al. v. Rural Progress Administration*, re action to annul sale of homestead, appealed to Supreme Court as G. R. No. L-1736;
 - (k) Proceedings in CFI Manila No. 2889, entitled *Alviar et al. v. Cullum "Para Poner En Vigor Una Interdición Civil,"* appealed to Supreme Court as G. R. No. L-2523, 47 O. G. 142.
7. Excerpts from Spanish Title of the Hacienda de San Pedro Tunasan.

COMMENT

TWO POINTS ON PERSONS:

I. THE CLASSIFICATION OF CHILDREN

II. WHOSE CONSENT IS NEEDED FOR
VOLUNTARY RECOGNITION OF
NATURAL CHILDREN?

by EDGARDO L. PARAS*

I. THE CLASSIFICATION OF CHILDREN

Kinds of Children

All opinions to the contrary notwithstanding, there are only two kinds of children which the law recognizes, namely, *legitimate*¹ and *illegitimate*.² Of course there also exists the "adopted" child, who is granted *as a rule*,³ all the rights of legitimate children,⁴ but then he is really, insofar as his parents by consanguinity are concerned, either a legitimate or an illegitimate child. Then we have the so-called "legitimated" child, but this child again is really an illegitimate child who, upon the fulfillment of certain

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¹ See Arts. 255, 256, 258, 264 (new Civil Code).

² See Arts. 257, 287 (new C. C.); also the whole of Chapter 4 (Illegitimate children involving Arts. 276-289).

³ That an adopted child has the same rights and duties of a legitimate child is only the general rule (see Art. 341, new C. C.). One exception is illustrated in Art. 343 which states that "If the adopter is survived by legitimate parents or ascendants and by an adopted person, the latter shall not have more successional rights than an acknowledged natural child."

⁴ Art. 341 (new C. C.).