

Memo for the Cabinet by the Hon. Minister of Justice

(Mortmain Law - Restoration of property to the Franciscan Minor Conventuals.)

1. In terms of the Mortmain Law any Church or other Pious or Religious Institution acquiring lands or tenements situate in these Islands is obliged to sell or to dispose of such property, definitely and absolutely, within one year of the acquisition. Failure of compliance with such obligation involves ipso facto forfeiture of the property to the Government.
2. Section 9 of the said law, however, mitigates the strict terms above referred to by providing that, where non-compliance with the obligation to sell or dispose within one year of acquisition was unintentional and no undue delay occurs in making an application for the restoration of the property forfeited by reason of such non-compliance, it shall be lawful for the Governor, on the recommendation by resolution of the Legislative Assembly, to order the restoration of the property to the Church or Institution, in which case the obligation to sell shall run from the date of the restoration.
3. The Maltese Province of the Franciscan Minor Conventuals has inherited by title of legacy from the late Carmelo Borg the house at No. 4, Strait Street, Valletta, subject to the obligation of celebrating 120 Masses every year. The acquisition of the said house by the Minor Conventuals took place on the 22nd March, 1959, that is to say, on the day of the death of the said Carmelo Borg, and, consequently, the Minor Conventuals should have sold or disposed of the said house by not later than the 21st March, 1960.
4. The Father Provincial of the Franciscan Minor Conventuals states that he could not sell the said house within the prescribed period because he came to know about the legacy only during the middle of the month of October of the year 1962 and he also states that he actually received the keys of the house on the 10th November, 1962. Consequently, in a petition dated 24th November, 1962, he asks that the said house, forfeited to the Government on account of non-disposal within one year of acquisition, be restored to the Maltese Province of the Franciscan Minor Conventuals.
5. From the facts related above it emerges that non-compliance on the Father Provincial's part with the provisions of the Mortmain Law, as to disposal of the property acquired within one year of acquisition, was quite unintentional and, also, that no undue delay occurred in the making of the requisite application for restoration.
6. Hon. Ministers are, therefore, requested to state whether they agree that the attached Resolution be moved before the Legislative Assembly for the purpose of the restoration of the house mentioned above to the Maltese Province of the Franciscan Minor Conventuals.

25th January, 1963.

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Draft Resolution for submission to the Legislative
Assembly

Whereas in virtue of a will made on the 11th November, 1958, in the records of Notary Dr Francis X. Dingli, Carmelo Borg bequeathed by title of legacy the house at No. 4, Strait Street, Valletta, as subject to the yearly celebration of 120 Masses, to the Maltese Province of the Franciscan Minor Conventuals;

Whereas the said Carmelo Borg died on the 22nd March, 1959, and the said Province of the Franciscan Minor Conventuals unintentionally failed to comply in respect of the said house with the provisions of the Mortmain Law (Chapter 2), but application was made without undue delay for restoration of the same house forfeited by reason of such failure to comply with the aforesaid provisions;

Whereas the following Resolution is requisite to give effect to the provisions of section 9 of the said Mortmain Law, the other conditions precedent whereof have been fulfilled;

Now therefore this Legislative Assembly in terms and for the purposes of section 9 of the Mortmain Law (Chapter 2) resolves to recommend and hereby recommends to the Governor to make an order of restoration of the house at No. 4, Strait Street, Valletta, to the Maltese Province of the Franciscan Minor Conventuals.