

6 Phil. 647

[G.R. No. 2384. November 09, 1906]

IN RE DOMINADOR GOMEZ.

D E C I S I O N

JOHNSON, J.:

On the 1st day of August, 1903, W. J. Rohde, then one of the judges of the Court of First Instance of the city of Manila, sentenced the defendant, Dominador Gomez, to be imprisoned for the period of six months for contempt. From this decision the defendant appealed to this court.

The defendant and appellant presented his brief upon the 17th day of October, 1905. The Attorney-General of the Philippine Islands filed his reply brief on the 24th day of August, 1906. The cause was submitted to this court without argument on the 2d day of October, 1906.

The Insular Government, in the early part of the year 1903, commenced an action against Dominador Gomez, president, Luis Perry, and other members of the association known as "Union Obrera Democratica de Filipinas," for the purpose of dissolving said association, to sell the , property of the same, collect its credits, arid to distribute the proceeds among the persons who were entitled to the same, under sections 5 and 6 of Act No. 701 of the Philippine Commission.

On the 29th of May, 1903, John C. Sweeney, then judge of the Court of First Instance of the city of Manila, after hearing the evidence presented in that cause and acting under the provisions of said Act No. 701, appointed Frank A. Branagan, Insular Treasurer of the Philippine Archipelago, administrator or agent of the said association "Union Obrera Democratica de Filipinas" in order that he might take charge of all the property, books, and documents of said association and liquidate, the business of the same. On the same day the same judge issued an order directed to the said Dominador Gomez as president, and the

other members of the said association, their agents, and functionaries, to desist from collecting and, disposing of the funds of the said association. The defendant and the other members of the association were given due notice, of this order.

On the 6th day of June, 1903, the foregoing order was amplified, by the terms of which Dominador Gomez and the other members of said association were ordered to desist from continuing, directing, promoting, or forming a part of the said association "Union Obrera Democratica de Filipinas" until a new order of the court.

On the 31st day of July, 1903, Gregorio Araneta, representing the plaintiff, presented to the Court of First Instance of the city of Manila, an affidavit in which it was made to appear that, notwithstanding the fact that the said Frank A. Branagan, in compliance with the order of the court, had taken charge of all of the property of said association, including the newspaper "Los Obreros," for the liquidation of the same, the defendant, Dominador Gomez, as president of the said "Union Obrera Democratica de Filipinas," in violation of the orders of the court, had renewed the publication of the said newspaper and had put into circulation thousands of copies of the same as a continuation of "Los Obreros," which was formerly published as the property of the "Union Obrera Democratica de Filipinas," and requested the court to order the immediate appearance of the said Gomez to show why he should not be punished for contempt.

On the same day W. J. Rohde, judge of the Court of First Instance of the city of Manila, issued an order in compliance with the foregoing request, directing the defendant to appear before him as such judge, for the purpose of showing reasons why he should not be punished for contempt for having published the newspaper called "Los Obreros" in violation of the orders of the court. On the same day the defendant appeared before the court and in writing stated the following reasons why he should not be punished for contempt.

First. That he should not be punished for contempt for violating the order of the court in the publication of the newspaper "Los Obreros" because the court in neither of its orders had prohibited the publication of the same.

Second. The defendant was not guilty of contempt of the order of the court in the publication of the newspaper "Los Obreros" for the reason that, even supposing that the court had prohibited the publication of the same as the organ of the "Union Obrera Democratica de Filipinas," the new newspaper is distinct from the former and is not the organ of the "Union Obrera Democratica de Filipinas" and on the contrary was the property

of one Pedro de Jesus.

Third. The defendant was not guilty of contempt of the order of the court for the reason, even supposing that the new newspaper "Los Obreros" was a continuation of "Los Obreros," the organ of the "Union Obrera Democratica de Filipinas," the defendant is simply a salaried employee of the newspaper and in no way an official or member of the "Union Obrera Democratica de Filipinas."

The said Attorney-General denied all of these allegations and gave reasons why the defendant was guilty of contempt of the order of the court and asked that the defendant be punished in accordance with the law.

The defendant offered to present proof in support of his allegations, especially to support the allegation with reference to the ownership of the new newspaper. The court denied the defendant the right to present proof supporting his allegations relating to the ownership of the said newspaper, giving as his reason for such denial that it was not important in the present case to know who was the owner of the said newspaper. Against this ruling of the court the defendant excepted.

After hearing the arguments of the parties, the court sentenced the defendant to be imprisoned for a period of six months, basing his conclusions upon the following facts:

First. That upon the 29th day of May, 1903, the judge of the Court of First Instance of the city of Manila made an order appointing Frank A. Branagan, Insular Treasurer of the Philippine Islands, as administrator or agent of the association called "Union Obrera Democratica de Filipinas," to take charge of all the property and documents of said association, and to liquidate the business of the same, and ordering the defendant and other functionaries, agents, etc., of said association to discontinue collecting and disposing of the funds of the same and notifying the association, the committees, functionaries, agents, and collectors of the existence of said order of the court, ordering them to cease from collecting any sum for the association or to dispose of the same.

Second. That on the 6th day of June, 1903, the court amplified the foregoing order and ordered the defendant to desist from continuing, directing, promoting, and forming a part of the said association "Union Obrera Democratica de Filipinas" until a new order of the court.

Third. That the newspaper "Los Obreros" formed a part of the business and property of the "Union Obrera Democratica de Filipinas," according to the by-laws of the said association,

which, as well as all the other property of the said association, had been put into the hands of the said Branagan as administrator or agent of the said association; that the said Branagan had accepted such appointment and had taken charge of the said property which suspended the publication of the said newspaper "Los Obreros."

The defendant, Dominador Gomez, admitted his cooperation in the publication of the newspaper "Los Obreros" on the 30th of July, 1903, but insisted that he had not been guilty of contempt of the order of the court, for the reason that the newspaper "Los Obreros" of the second "epoch" was not his property, but the property of a third person and that he was simply the director of the said newspaper.

The defendant and appellant alleges that the lower court committed an error in not permitting him to present proof for the purpose of showing that the newspaper "Los Obreros" was not the newspaper "Los Obreros," the organ of the said association "Union Obrera Democratica de Pilipinas." The essence of the charge against the defendant for contempt was that he had published "Los Obreros" in defiance of the order of the court appointing the receiver, thereby interfering with the possession of the property of the said association which had been placed in the hands of the receiver, and thereby impeding and interfering with the liquidation of the assets of said association. The fact that he was publishing it as an employee of a third person or that he was publishing "Los Obreros" as the property of a third person we regard as of no importance, in the face of the fact that he admitted the essential parts of the allegations constituting contempt.

While section 235 of the Code of Procedure in Civil Actions gives the defendant the right when he is charged with contempt in certain cases to introduce proof relating to the acts which constitute the contempt, yet when he admits the acts which in themselves constitute the contempt, he can not complain if the courts refuse him the right to introduce proof upon questions which do not affect the question of contempt.

The newspaper "Los Obreros" according to the rules of the said association, was the organ of the said association and therefore a part of the property of said association, and any use of this property on the part of the defendant after the appointment of the said receiver and during the existence of such receivership was an interference with the possession of such receiver and therefore in effect in violation of the orders of the court. When the court appointed the receiver and ordered him to take possession of the property of such association and he had so taken possession of such property, it was not necessary for the court to continue in his order and say that such possession must not be interfered with. The

courts will not permit an interference with the possession of the property of a receiver, and any act which directly or indirectly, by a third person, impedes or prejudices the administration of such property on the part of the receiver is in direct opposition to the order of the court and such person is guilty of contempt.

Suppose the defendant, instead of using the newspaper "Los Obreros," the organ of the society, as an employee of some third person, had used the name of the association itself in his effort to organize or continue another association, or for any other purpose, would any sound-minded person for a moment believe that the defendant ^was not thereby attempting directly to defeat the orders of the court? There is no difference in effect between the case last supposed and the use of the newspaper, the organ of the society.

Any person who is guilty of any improper conduct which tends directly or indirectly to impede or defeat the administration of justice is in contempt and may be punished by the courts. The defendant, as director of the newspaper "Los Obreros," dated the 30th day of July, 1903, used as the title of the said publication, the same title used by the said association as the title of its organ "Los Obreros," and this fact of itself is sufficient to show that the defendant willfully and maliciously attempted to impede and defeat; the administration of the property of said association on the part of the receiver. If, however, there should be any doubt remaining in the mind of any person of the intention of the defendant in using the title of the organ of said association in his publication of July 30 to defeat the order of the court, the following, which was published upon the second page of the first issue of said publication would seem to be sufficient to show, beyond peradventure of doubt, that this was the real purpose:

"To the press:

"Although we have not said 'goodbye' to our esteemed colleagues, but simply 'Until I see you again/ we do not wish to deprive ourselves of the pleasure of greeting them as though we had not withdrawn from such difficult and honorable work for two months. We are not going to treat in vain of the past when the present is so difficult and the future so uncertain. We enter the fight again with greater vigor than ever, our motto being 'Love for our country and fulfillment of duty. To our brave colleagues who aided us we send an affectionate embrace; to those who were indifferent our respect, and to those who attacked us so bitterly to the extent of disgracing the august robe of the newspaper man, our absolute

forgiveness, since we all, without distinction, should sacrifice ourselves for the prosperity of the Philippines and the welfare of all foreigners, as well as natives, who live under its beautiful sky.”

These quoted statements, taken together with the title “Los Obreros,” show clearly that the defendant himself believed that he was continuing the publication of the organ of the said association and that the phrase “second epoch” was a mere subterfuge, by which he attempted to evade the orders of the court and defeat the administration of the assets of the said association by the receiver. Courts will not permit parties by such subterfuges to defeat their orders.

Receivers when duly appointed are officers of the courts. Property in their possession is in the possession of the court. Courts will not permit interference with the possession of a receiver and will scrutinize carefully the acts of persons interested which in any way interfere with such possession or in any way impede the administration of such property by the receiver.

In the case *In re Woven Tape Skirt Company* (High on Receivers, 3d ed., sec. 174 (a); 12 Hun., N. Y., 111) the court made an order, dissolving a corporation which had been vested with the exclusive right to manufacture certain articles under letters patent, and appointed a receiver to take possession of the property and assets of said corporation. After the appointment of the said receiver, a former officer of the corporation obtained a license from the patentee and engaged in the business of manufacturing the same article, the exclusive right to manufacture which had been vested in the said corporation. The court held that the exclusive right which the said corporation had to manufacture said article, upon the appointment of a receiver, passed to the said receiver and that the manufacture of said article thereafter by a former officer of the corporation under a license from the patentee was an interference with the possession and rights of the receiver and such officer was therefore guilty of contempt. This case is exactly analogous to the one which we are now deciding.

In the case of *Richards vs. The People* (81 111., 551), Richards, after the court had appointed a receiver for the I. B. & W. Rwy. Co., brought an action against said company in another court to recover a sum of money due him. This fact was brought to the attention of the court which had appointed the receiver and Richards was cited to appear and show why he should not be punished for interference with the property in the hands of the receiver.

After hearing the statements of the said Richards, the court found him guilty of contempt and sentenced him to be imprisoned and to pay a fine. From this decision the defendant appealed to the supreme court of the State of Illinois. The supreme court held—

“That he was attempting to deprive the receiver of credits to which he (the receiver) and he only was lawfully entitled, and hence was directly interfering with and impeding the court in its administration of the estate over which it had appointed its receiver.”

To the same effect may be cited the following cases:

Angel vs. Smith, 9 Vese Jr. (Common Law Report), 335; *Ex parte* Cochrane, Law Reports, 20 Equity, 282; Vermont, etc., Railway Co. vs. Vermont Central Company, 46 Vt., 792.

The doctrines hereinbefore set out might be further supported by citations from the jurisprudence of almost every civilized nation.

The judgment of the lower court is hereby affirmed with costs, and Dominador Gomez is hereby sentenced to be imprisoned in the public carcel of Bilibid for a period of six months.

After the expiration of ten days from the date of judgment let the cause be remanded to the lower court for proper procedure. So ordered.

Arellano, C. J., Torres, Carson, Willard, and Tracey, JJ., concur.