

**ELISEO M. BLANCAFLOR, PETITIONER, VS. HON. ALFREDO C. LAYA,
HON. RAMON M. DURANO, RESPONDENTS.***G.R. No. L-31399. March 17, 1978*

Ponente: FERNANDO, J.

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In this certiorari and prohibition proceeding, petitioner, then of the legal staff of the Commission on Elections, would have this Tribunal nullify a contempt citation against him by respondent Judge Alfredo C. Laya of the Court of First Instance of Cebu[1] for disobedience to a court order in an election case that was elevated to his sala from the city court.[2] The petition was premised on the ground that there could be no appeal from a decision by such court in an action for the infusion of voters. Lack of jurisdiction was thus invoked, but it was further alleged that assuming the contrary, there was a grave abuse of discretion. He would justify what for the court a quo was contumacious conduct by relying on such jurisdictional infirmity, aggravated, according to him, by what he considered the ill will and animosity of respondent Judge against him due to previous certain incidents, where harsh words were exchanged in a telephone conversation. Accordingly, this Court issued a restraining order. The answer of respondents premised the correctness of such citation for contempt on the ground that there was willful defiance, disobedience and resistance to a valid court order. The jurisdictional point raised was discussed in some detail to indicate that on the specific question of who should be allowed to vote, the pending action in the sala of respondent Judge was only one of three analogous cases, the other two having been passed upon in two other salas of the Court of First Instance of Cebu. The memoranda of both parties discussed the matter at issue in greater detail. With such further clarification, the conclusion that emerged was adverse to the claim of petitioner. A careful study of all the relevant pleadings discloses that the petition lacks sufficiency for the grant of the writs prayed for.

The challenged order issued on December 8, 1969 was a response to a supplemental motion to declare certain parties in contempt of court filed by the Cebu Nacionalista Party through its Chairman, private respondent Ramon M. Durano. It was alleged therein that the order was issued in an election case pending before respondent Judge and had reached the stage of finality but that there was a deliberate and malicious defiance, disobedience and resistance by the respondents, one of whom is petitioner Eliseo M. Blancaflor. The result, according to such motion, was to enable 7,018 voters excluded by respondent Judge to cast illegal votes. The prayer was for citing the parties named, including petitioner, for contempt.[3] Accordingly, in the order now sought to be nullified, petitioner Blancaflor, along with two other respondents,[4] was "ordered to appear before this Court on Saturday, January 3, 1970, at 8:30 A.M., to show cause why they should not be declared in contempt of court." [5] Such an order was issued on December 8, 1969. Without even bothering to seek a reconsideration from respondent Judge, petitioner filed this petition on December 26, 1969.

The petition, as noted at the outset, is insufficient for the grant of the relief sought.

1. Whatever plausibility could have been imparted by petitioner's assertion in the most emphatic and vigorous manner as to the alleged lack of jurisdiction of respondent Judge in the appealed election case, the order of the

City Court of Cebu on the matter of the inclusion of voters being final, executory and unappealable under the Election Code[6] no longer exists in view of the fact that since the filing of this petition there had been two new basic electoral laws, the Election Code of 1971[7] and the 1978 Election Code.[8] Petitioner's contention then is at the most impressed with academic significance. No ruling on that point coming from this Court would have any prospective effect in view of such subsequent developments. Tersely put, that issue has become moot.

2. Reference is made in the above paragraph to the vigorous manner in which petitioner would seek to impress on this Court that respondent Judge lacked jurisdiction to entertain the pending election case in his sala. Unfortunately, that was all there was to it, a mere assertion. Instead of attempting to prove his point, he was satisfied with what for him was a logical inference from the wording of the statutory provision, which he did not even cite. It could have been a realization on his part that at the most, the words employed were ambiguous and equivocal. That would explain why, in his own petition, he would also impute a grave abuse of discretion on the part of respondent Judge, conscious as he must have been of the probability that his allegation as to the lack of jurisdiction would be considered untenable. At any rate, on the question of jurisdiction, the answer of respondents, as noted, discussed the matter more concretely with reference to two other pending election cases of the same nature and was thus more persuasive. Its first paragraph alleged that there was a final order by the then Judge Guillermo P. Villazor, likewise of the Court of First Instance of Cebu, in Election Case No. 11 involving the inclusion proceedings of 23,000 voter-applicants.[9] In the next paragraph, reference was made that in the pending Election Case No. 12 before respondent Judge, there was an exclusion of 7,018 applicants of persons claiming the right to vote, such denial being based on a jurisdictional ground.[10] Then there was a specific mention of Judge Villazor in the case heard by him actually excluding the same number of voters.[11] From which the answer could conclude: "That the final orders of said two Courts therefore, were to exclude 7,018 and the five categories of voter-applicants from the 23,000 proposed for inclusion * * *"[12] Moreover, it was pointed out that petitioner was personally served the final orders issued by the above judges.[13] After which came the allegation that despite such "clear mandate of said final orders and with full knowledge thereof, petitioner in utter disregard, disobedience, and defiance of said orders as well as the order of the Commission on Elections [Annex A of his own petition] for him to implement the said final order of Judge Villazor, [he] broke into the local Comelec Office in Cebu City on election day with LP partisans led by Mayor Eulogio Borres of Cebu City, and ransacked by force the files of said Office and extracted therefrom all the lists and voters' application forms indiscriminately and ordered them distributed to the different precincts of Cebu City, thus allowing [the casting of illegal votes]."[14] Further than that, there was reference in the answer to his having admitted in an oral argument a case before this Tribunal that he in fact allowed such voters to exercise the right of suffrage.[15] As to petitioner's claim of the finality of a decision of the City Court, it was pointed out in the answer that such judgment "was annulled for patent lack of jurisdiction and considered remanded to the Court of First Instance of Cebu in a decision issued October 31, 1969 by the Honorable Executive Judge Francisco Tantuico, Jr. of the Court of First Instance of Cebu under a certiorari proceeding denominated as Civil Case No. 11440 entitled The Nacionalista Party, et al vs. Judge Cipriano Villordon,* * *"[16] Thus was the question of jurisdiction spelled out with the explicitness lacking in the petition.

3. There is no justification then for the dogmatic and categorical tone employed in the petition as to the utter lack of jurisdiction of respondent Judge. At the most, it can be said that there is lurking some doubt as to his power to act in the premises, given the lack of certitude in the wording of the statute as to appeal in inclusion cases. Under such circumstance, it would be to encourage lack of respect for court orders and processes if on the belief of a party affected that the judge were devoid of competence, he could treat a court order as a mere scrap of paper. Such behavior on the part of a member of the bar cannot be tolerated. The dignity of the court condemns such a practice. If, as was alleged in the motion to cite petitioner for contempt before respondent Judge, there were such

a wanton disregard and disobedience of a court order, it follows that the appropriate response would be to require from petitioner an explanation for such misconduct attributed to him. That was all that respondent Judge did in the challenged citation for contempt. Petitioner was notified that he would, as he should, be heard on the matter. The date was set for the hearing. He could have asked for more time. He could even have asked that the complaint be made more specific or that it should be quashed. He did neither. Instead, he went directly to this Court and filed this certiorari and prohibition proceeding. That, to say the least, was premature. The petition, to repeat, lacks merit.

4. Nonetheless, it is understandable if petitioner were under a sense of apprehension and misgiving, considering that according to his petition he did conduct himself in a rather abrasive manner in a conversation with the respondent Judge and thus must have aroused his resentment. Petitioner's fears on that score should be stilled. For one thing, with the time that had elapsed, it is not likely that the memory of that unpleasant incident still lingers on. Then, too, petitioner would have all the opportunity in the hearing for indirect contempt to prove his assertion that there was no willful disobedience to or defiance of a court order. He was quite emphatic in his petition that all he did was merely to comply with the tenor of a directive received by him from the Commission on Elections. That should be a sufficient guarantee that he would be dealt with justly and fairly.

5. With all that, it may not be amiss to quote this relevant excerpt from *People v. Estenzo*:^[17] "It cannot be denied either that unless exercised with restraint and judiciousness, this power [to punish for contempt] lends itself to manifestations of whim, caprice, and arbitrariness. There is a compelling and exigent need therefore for judges to take the utmost care lest prejudice, innate or covert hostility o personality of counsel, or previous incidents lead them to characterize conduct susceptible of innocent explanation as slights on the dignity of the court. It is ever timely to remember how easy it is to overstep the dividing line that should separate the prosecutor from the judge, when both roles are merged in the same person. The infusion of personal element may go unnoticed. Even if such were not the case, objectively viewed, such an impression may be difficult to overlook by laymen. That is a consideration that cannot be overlooked. It is important that public confidence in judicial impartiality and fairness be not impaired. It is not so much for the sake of the judge alone then, but much more so for vindicating the popular belief in court proceedings being marked by calmness and dignity, that there should be a curb on the other human failing of detecting disrespect in conduct or statements from counsel that could not satisfy the highest standard of politeness or courtesy. When an occurrence of such character presents itself, an admonition or warning should suffice. There must be caution and hesitancy on the part of judges against the exercise of this awesome prerogative under such circumstances."^[18] It is to be admitted that the offense imputed to petitioner is of much greater gravity. Nonetheless, such an approach commends itself. It is ever timely to reiterate what was pointed out by Justice Malcolm in *Villavicencio v. Lukban*:^[19] "The power to punish for contempt should be exercised on the preservative and not on the vindictive principle."^[20] In two recent decisions of this Court, such a principle was reiterated.^[21]

WHEREFORE, this petition is dismissed. The restraining order is hereby lifted. No costs.

Barredo, Antonio, Aquino, Concepcion, Jr., and Santos, JJ., concur.

[1] Private respondent is the Honorable Ramon M. Durano.

[2] Election Case No. 12.

[3] Petition, Annex C.

[4] Ibid, Annex D.

- [5] The other respondents are Mayor Eulogio E. Borres of Cebu City and a certain Natalio Bacalso.
- [6] Petition, pars. 9 and 10, citing Republic Act No. 3588 (1963). Petitioner could have been more specific by explicitly setting forth the second paragraph of Section 7 of Republic Act No. 3588 (1963) which became Section 10 of Republic Act No. 4730 (1966).
- [7] Republic Act No. 6388 (1971).
- [8] Presidential Decree No. 1296 (1978).
- [9] Joint Answer, par. 1.
- [10] Ibid, par. 2.
- [11] Ibid, par. 3.
- [12] Ibid, par. 4.
- [13] Ibid, par. 5.
- [14] Ibid, par. 6.
- [15] Ibid, par. 7.
- [16] Ibid, par. 11.
- [17] L-24522, May 29, 1975, 64 SCRA 211.
- [18] Ibid, 214-215.
- [19] 39 Phil. 778 (1919).
- [20] Ibid, 798.
- [21] Yangson v. Salandanan, Adm. Case No. 1347, November 12, 1975, 68 SCRA 42 and Fontelera v. Amores, L-41361, March 8, 1976, 70 SCRA 37.

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