

ATTY. REXEL M. PACURIBOT, COMPLAINANT, VS. JUDGE RODRIGO F. LIM, JR., RESPONDENT.*A.M. No. RTJ-97-1382 (Formerly OCA IPI No. 95-22-RTJ). July 17, 1997*

Ponente: FRANCISCO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/1dfa8b6c0b91/>**FRANCISCO, J.:**

This is an administrative complaint against Judge Rodrigo F. Lim, Jr., of Branch 21, Regional Trial Court of Misamis Oriental, Cagayan de Oro City, for gross ignorance of the law, misconduct and oppression filed by Atty. Rexel M. Pacuribot, counsel for the District Office of the Public Attorney's Office in Cagayan de Oro City and officially assigned to Branches 17 and 21 of the RTC of Misamis Oriental, Cagayan de Oro City.

The complaint stemmed from the Orders issued by respondent judge, dated November 23, 1994, citing complaint in contempt of court and ordering him to pay a fine of P200.00 for failure to appear as counsel de oficio for the accused in Criminal Case No. 94-822 at the scheduled arraignment on said date, and subsequently on December 1, 1994, reiterating that complainant pay the fine imposed on him in the previous order within one day from receipt thereof or face graver sanctions. Complainant refused to comply with the aforesaid orders and instead filed a Manifestation alleging that he is not a privy to the aforesaid criminal case as he is not he counsel of any of the accused and assailed the order for being illegal, arbitrary, despotic and not in accordance with Rule 71 of the Rules of Court. Thereafter, complainant proceeded to file the instant administrative complaint arguing that respondent judge acted arbitrarily in citing him for contempt for the following reasons: 1) the order was issued without affording him due process because he was not given an opportunity to show cause why he should not be cited for contempt; 2) he was not privy to the case as he was not the counsel of any of the accused, and 3) none of the grounds provided in Rule 71 for direct and indirect contempt are present.

In answer to the complaint, respondent judge filed his Comment and countered that complainant misled the trial court into believing that he was the counsel for the accused. According to respondent, complainant himself admitted that he is officially assigned to Branch 21 of the RTC of Cagayan de Oro City, respondent judge's sala. The accused in Criminal Case No. 94-822 being detention prisoners, the Notice of Hearing was, as a matter of procedure, sent to the public prosecutor assigned to Branch 21, one of them being herein complainant. Upon receipt of the Notice of Hearing on November 10, 1994, complainant even wrote a request on the return of the notice that the case be called at 10 A.M. because he has other cases already scheduled.[1] At the scheduled hearing however, complainant failed to appear at all despite accommodating his request. Respondent judge therefore considered this as an affront to the court's dignity as it made a mockery of the proceedings and thus led him to issue the order of November 23, 1994, citing complainant in contempt of court outright and ordering him to pay a fine of P200.00 for failing to appear at the scheduled hearing. Nevertheless, respondent judge contends that even assuming that he committed an error in issuing the aforesaid order, the same was not enforced despite the absence of any motion for reconsideration on complainant's part because the court, *motu proprio*, desisted from imposing the sanctions contained therein. Moreover respondent judge maintains that he could not be entirely faulted for issuing the assailed order of November 23, 1994 because he was misled into believing that

complainant was indeed the counsel for the accused in Criminal Case No. 94-822 as borne by the notations of complainant on the return of the notice of hearing, coupled with the latter's failure to inform the court that he is not privy to the case despite receiving the notice of hearing as early as November 10, 1994. Thus, according to respondent judge, this suit may actually be categorized as "damnum absque injuria". Finally respondent judge alleged that the filing of this complaint was intended purely and plainly for purposes of harassment and resentment on the part of complainant owing to the fact that on previous occasions the latter has been rebuffed by the court in several cases pending before it where he appeared as counsel. Hence, respondent judge prays for the dismissal of this complaint.

It is well-settled that the power to punish for contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the due administration of justice.[2] Judges, however, should exercise their contempt powers judiciously and sparingly, with utmost restraint, and with the end in view of utilizing their contempt powers for correction and preservation, not retaliation or vindication.[3]

Failure to attend a scheduled hearing without a valid cause can be a ground for indirect contempt under Section 3 of Rule 71. However, the following requisites must be present: 1) a complaint in writing which may either be a motion for contempt filed by a party or an order issued by the court requiring a person to appear and explain his conduct, and 2) an opportunity for the person charged to appear and explain his conduct.[4]

In the instant suit, the assailed order of respondent judge dated November 23, 1994 citing complainant in contempt of court was issued outright without affording the complainant any opportunity to appear and explain his conduct. This was clearly an error on respondent's part. Respondent's claim that the court, *motu proprio*, desisted from enforcing the sanctions contained in the order dated November 23, 1994 despite the absence of a motion for reconsideration is unavailing considering that another order was in fact immediately issued by the respondent judge on December 1, 1994, reiterating compliance with the previous order within one day from receipt or face stiffer sanctions.[5]

Nonetheless, the Court agrees with respondent that complainant is not entirely blameless because he misled respondent judge into believing that he was the counsel *de officio* for the accused in Criminal Case No. 94-822. Complainant's denial of being privy to the case is belied by the return of the notice of hearing which contained his signature and written notations requesting that the case be called at 10 A.M. because he had other cases already scheduled for that day. Complainant failed to deny or refute this in his Reply to respondent's Comment, perforce, he must be bound by the same.

From the foregoing, it is evident that both the complainant and respondent were guilty of negligence in the performance of their duties as officers of the court and their actuations must therefore be censured.

ACCORDINGLY, both parties are hereby REPRIMANDED and ordered to pay a fine of One thousand Pesos (P1,000.00) each, with a stern warning that a repetition of the same acts will be severely dealt with in the future.

SO ORDERED

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Panganiban, JJ., concur.

[1] Annex 1, Comment.

[2] *Castanos vs. Escano, Jr.*, 251 SCRA 174, 197 (1995) citing *Halili vs. Court of Industrial Relations*, 136 SCRA 112, 135 (1985); *Slade Perkins vs. Director of Prisons*, 58 Phil. 271; *In re Kelly* 35 Phil. 944; *Commissioner of Immigration vs. Cloribel*, 20 SCRA 1241; *Montalban vs. Canonoy*, 38 SCRA 1.

[3] Ibid., citing *De Guia vs. Guerrero, Jr.*, 234 SCRA 625, 630 (1994); *Baja vs. Macandong*, 158 SCRA 391, 398 (1988).

[4] *Kalilid Wood Industries Corporation vs. Court of Appeals*, 197 SCRA 735, 745 (1991) citing *Geronimo vs. Ramos*, 136 SCRA 435, 443 (1985).

[5] Annex E, Complaint.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.