

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. LUIS E. TORIO, ET AL., ACCUSED, BRIGIDO G. ESTRADA, APPELLANT.

G.R. No. L-27152. November 02, 1982

Ponente: RELOVA, J.

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RELOVA, J.:

Appeal from the order of the Court of First Instance of Pangasinan (Lingayen Branch), finding Municipal Judge Brigido G. Estrada guilty of contempt of court for having failed to appear at the scheduled time of the hearing of Criminal Case No. 21677, and sentencing him "to pay a fine of P50.00 within twenty-four hours from receipt of the copy of the order."

The statement of facts contained in appellant's brief and accepted by the Solicitor General as correct, is as follows:

"The appellant was the attorney of record for the accused Jose Vinluan, one of the four accused in Criminal Case No. 21677, Branch II of the Court of First Instance of Pangasinan, presided by the Honorable Antonio C. Masaquel. Upon agreement of the parties the continuation of the hearing of said case was set for July 28, 1966, at 2:00 o'clock in the afternoon and the appellant signed the notification in open court. Because the Lower Court held a pre-trial conference of Civil Case No. 14566 also assigned on said date, said Criminal Case No. 21667 was later called at 2:30 in the afternoon (t.s.n., page 1, hearing of July 28, 1966).

"When the case was called for hearing the presiding judge noticed that the accused Jose Vinluan, although present, was not represented by counsel. Accused Vinluan was asked by the Court to look for his lawyer, who was not yet present in court, and so he called the appellant by telephone in his residence but there was no answer. In view of the failure of the appellant, as counsel for accused Vinluan, to appear for the hearing at 2:30 o'clock, the Lower Court ordered the continuation of the trial of said case to August 4, 1966, at 9:00 o'clock in the morning (tsn., page 7, hearing of July 28, 1966).

"However, at 2:45 o'clock in the afternoon or FIFTEEN (15) MINUTES later, the appellant arrived and the Court ordered the resumption of the trial. The appellant appeared for accused Jose Vinluan and announced that he was ready for the hearing. At this juncture, his Honor presiding the Court, asked the appellant why he was not present when the case was called for hearing at 2:30 in spite of the fact that it was scheduled at 2:00 o'clock to which he answered that his 'car stopped while on his way to the Court house' and 'Your Honor, after sometime my car was able to run again, and I immediately proceed here.' His Honor considered the explanation as 'not satisfactory' and right then and there imposed a fine of P50.00 upon the appellant, without any charge in writing nor an opportunity given to be heard by himself or counsel, held him in contempt of court, and further ordered him to pay the fine within 24 hours (tsn., pp. 8-11, hearing of July 28, 1966).

"The hearing of the criminal case proceeded with the appellant assisting his client, until the final termination of the trial."

Appellant alleged that the lower court erred (1) in summarily ordering the appellant to pay a fine of P50.00 without any charge in writing considering that the alleged contemptuous act constitutes indirect contempt; (2) in holding the appellant in contempt of court without the benefit of hearing thus depriving him of an opportunity to

prove his innocence; and (3) in ordering the appellant to pay the fine within twenty-four hours, considering that the order would only become final after the lapse of fifteen days.

We find merit in this appeal. Failure to appear in court for trial is not a direct contempt summarily punishable under Section 1 of Rule 71 of the New Rules of Court, for it is not a misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice. It may, however, constitute an indirect contempt punishable only after written charges and hearing under Section 3, Rule 71 par. (b) (People vs. Gagui, 2 SCRA 752). As aptly stated by the Solicitor General in his brief:

"x x x The contempt of court supposedly committed by the accused is indirect and it is therefore error on the part of the court to have summarily punished him without a formal charge being first preferred against him and a hearing conducted in accordance with law.

"Apart from this consideration, it is apparent from the order of the court that the accused arrived only fifteen minutes late for the hearing of the case which was scheduled at 2:30 p.m. Upon questioning by the court, counsel explained that when he was on his way to the Court building driving his own car, the latter stopped along the way and it was only after sometime that it was able to run again, after which counsel resumed his journey and reached the court building at about 2:45 p.m. The lower court did not consider this explanation satisfactory. However, such unforeseen incident at times do happen, and if the court had wanted to satisfy itself as to whether the explanation was meritorious, or not, it could have caused the filing of the proper complaint for contempt of court and received evidence on the matter. Considering that the accused is a municipal court judge, the Court of First Instance might have accorded him some credence by accepting his explanation at face value and given him a warning that a similar offense would be drastically dealt with. After all appellant was only 15 minutes late."

ACCORDINGLY, upon recommendation of the Solicitor General, We hold that the charge of contempt of court has not been proved beyond reasonable doubt and, therefore, appellant Municipal Judge Brigido G. Estrada is hereby ACQUITTED.

SO ORDERED.

Melencio-Herrera, (Acting Chairman), Plana, Vasquez, and Gutierrez, Jr., JJ., concur.

Teehankee, (Chairman), on official leave.

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