

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
BOANERJES M. VENTURANZA, ET AL., DEFENDANTS.***G.R. No. L-7974. January 20, 1956*

Ponente: LABRADOR, J.

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Respondent Atty. Jose Y. Torres appeals against two orders of the Court of First Instance of Capiz, Judge Luis N. de Leon, presiding, finding him guilty of contempt of court and sentencing him in one case to 10 days imprisonment and in another, to 30 days imprisonment. The acta of respondent for which he is sentenced for contempt took place in relation to criminal case No. 512-K of the Court of First Instance of Capiz, People vs. Venturanza and W. Villagrancia, for adultery, in which case respondent appeared as counsel for accused Villagrancia.

In the first case, respondent is charged with the following acts: charging the judge with arbitrariness; inducing and encouraging his client not to appear in court for trial and to disobey its orders, thus obstructing the speedy course of the administration of justice; uttering disparaging remarks against the judge in his actuations before the public; and instituting an action for moral damages without lawful cause or reason. In connection with the first charge, the record discloses that during the trial of the case on September 21, 1953, the judge ordered the taking of the testimony of a government witness, who was going to leave for the United States, without previously fixing the date for continuance. This was done against the protest of the respondent, who tried to insist that the judge should first fix a date for the future trial. As the judge stood pat on his order, respondent, evidently addressing the public in the court room said, "I appeal to the public." Explaining his conduct as thus pointed out, respondent explains that he appealed to the audience "to serve as a witness of the arbitrariness and abusive attitude of the judge toward the accused and her lawyer."

As to the charge that respondent had been disparaging the judge, respondent admits that he told his audience after the session was over, that the judge was arbitrary, and that he believes him to be so, and for such belief he is willing and ready to suffer all consequences. He also states that he had told his friends that he is not afraid of any judge and he is ready to challenge any arbitrary act of his within the limits of the law. The record further discloses that when the sheriff tried to serve an order upon him, he told the sheriff that the judge does not know the law. In answering the charge the respondent states "in fact and in truth Attorney Torres does not know whether the presiding judge really knows or does not know the law at all."

As to the charge that respondent had induced his clients to disobey the order of the court for them to appear, respondent claims that the said charge is immaterial and has omitted to deny the same. The record discloses that when the case was called for hearing on September 24, 1953, neither the accused Villagrancia nor respondent appeared. Thereupon the court entered an order confiscating the bond of the accused and ordering their immediate arrest; but his order for their arrest could not be executed as the accused were not in town. It was reported that Villagrancia, the client of Torres, had gone to Iloilo, so the court wired the chief of police of Iloilo City requesting enforcement of the order of arrest, but the accused could not be located in Iloilo either. The judge also cabled the

provincial commander of Capiz and Northern Zamboanga to arrest the accused but their arrest could not be effected as evidently the accused could not be located. Before the scheduled hearing on September 23, respondent had filed a petition for postponement, but he also failed to appear at the hearing in the same manner as his client and the other accused. As the accused failed to appear and could not be found either in Capiz or in Iloilo, this must have been due to the desire of respondent to frustrate the scheduled trial.

The charge that the respondent instituted an action for moral damages without lawful cause or reason is evidenced by the civil complaint in case No. V—904 against presiding judge Luis N. de Leon by Winifreda Villagracia, client of Torres. The complaint alleges that the order of the judge transferring the trial to September 21, 1953, is "arrogant, arbitrary, despotic, inhuman, willful, felonious, unjust, malicious, and threatening and knowingly, purposely and maliciously issued to oppress, harass and persecute unjustifiably the herein plaintiff." The said complaint is signed by respondent himself.

In connection with the second order of contempt the record discloses that respondent questioned the validity of the order of September 30 in a motion to quash, and when the motion was denied, the court ordered that respondent be arrested, to insure his appearance at the hearing of the charges but permitting him to file a bond for his appearance on October 31. On this later date, however, he again failed to appear, so the court on December 1 ordered the confiscation of respondent's bond as well as his arrest. The respondent could not be arrested, so the court in an order of December 14 again ordered respondent to show cause why he should not be adjudged guilty of contempt as well as his arrest. Instead of appearing respondent sent a telegram to Judge De Leon couched in the following language:

"COLLECT JUDGE DE LEON

CALIBO

"REQUEST SET ASIDE YOUR ORDERS CONFISCATION BOND AND MY ARREST BEING VINDICTIVE ABUSE OF POWERS UNJUST MALICIOUS AS YOU ARE THE OFFENDED PARTY OTHERWISE "WILL CHARGE YOU CRIMINALLY CIVILLY AND ADMINISTRATIVELY" "ATTY. TORRES"

On receipt of the said telegram, the court cited Attorney Torres to appear in court at 9:00 a.m. on December 21, to show cause why he should not be dealt with for contempt and not be suspended from the practice of law. The court also wired him informing him of the promulgation of the decision on December 18, but Torres asked another attorney to ask for postponement because he had stomach trouble. The court denied the motion and ordered the bondsmen of Torres to produce him in court in the morning of December 19. This order was supplemented by a telegram to Atty. Torres, but the latter instead wired the clerk of court to subpoena Judge De Leon for the hearing of the criminal case against him. When Attorney Torres did not appear on December 19, the court wired him that the promulgation of the decision and the trial of the criminal case were set on the morning of December 21. However, this wire was not received by Torres as he had left for Manila in the morning of December 19. As Torres failed to appear, the court issued another order requesting to appear on December 29. Torres, however, again failed to appear on that date, but he sent a notice on December 25, asking that he be allowed 15 days to file a written answer to said order and that with respect to the first judgment finding him guilty of contempt that the promulgation of the decision be postponed to January, 1954. The court found that Torres left for Manila on December 28 from a telegram sent by the Philippine Constabulary of Capiz. So the court rendered the second judgment finding him guilty of contempt of court and sentencing him to imprisonment of 1 month and suspending him from the practice of law.

With respect to the first order dated September 30, charging respondent Torres with various acts in relation to the court, respondent contends that the supposed acts with which he is charged are criminal in nature and that

proceedings against him should have been begun by the filing of an information by the fiscal, because were the proceedings allowed to be instituted by the court or the judge, who is supposed to be offended by the acts of respondent, the judge becomes in fact the accuser and the judge—an anomaly. We find no merit in this contention. In the first place, the proceedings against the respondent arose in the course of a civil action and the offensive conduct subject of the proceeding is not being prosecuted as an offense under the Revised Penal Code but under the Rules of Court. Under the Rules (Rule 64) contempt of court may be proceeded against "after a charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel" (section 3). The power or duty of the court to institute a charge for contempt against itself, without the intervention of the fiscal or prosecuting officer, is essential to the preservation of its dignity and of the respect due it from litigants, lawyers and the public. Were the intervention of the prosecuting officer required and judges obliged to file complaints for contempts against them before the prosecuting officer, in order to bring the guilty to justice, courts would be inferior to prosecuting officers and impotent to perform their functions with dispatch and absolute independence. The institution of charges by the prosecuting officer is not necessary to hold persons guilty of civil or criminal contempt amenable to trial and punishment by the court. All that the law requires is that there be a charge in writing duly filed in court and an opportunity to the person charged to be heard by himself or counsel. The charge may be made by the fiscal, by the judge, or even by a private person. The above requirements were complied with by the filing of the order of September 30, and the giving of full opportunity to the respondent to appear and defend himself. The contention that formal information filed by the prosecuting officer is necessary to begin proceedings must be overruled.

Insofar as the first order finding respondent guilty of contempt of court is concerned, we find that the respondent has been guilty of inducing or instigating his clients not to appear on the day specified for the trial and to hide from arrest, of uttering disparaging remarks against the judge in reprisal for denial by the judge of his attempt to secure continuance of trials, and of filing an unjust accusation against the judge in the form of a complaint where insulting language is used against the judge, violating the rule that no lawyer should sign a complaint without just cause. The order finding defendant guilty of contempt as charged in the order of the court of September 30, 1953 is, therefore, found to be fully justified by the record.

In connection with the other order, which sentences him to 30 days imprisonment, respondent does not deny that he sent the telegram which we have quoted above. The telegram, on its face, is a threat couched in a language unbecoming a lawyer in violation of the lawyers' oath. Respondent does not even deny this fact. The order finding him guilty of contempt for having sent said telegram is also affirmed.

Considering that both acts of contempt made by the lawyer are so closely connected to each other that one may be considered a consequence and a result of the other, and that said acts have arisen in connection with one case pending before the respondent judge; and it appearing further that this is the first time that charges of this kind have been filed against the respondent and that he has been suspended from the practice of law from December 14, 1953, the date of the order finding him guilty of the second contempt, this Court hereby sets aside both orders appealed from and renders one single judgment sentencing him for all his acts to pay a fine of P500 within a period of 15 days from the date this judgment becomes final, and in case of failure to make said payment within the time specified, to suffer imprisonment for a period of 30 days. Costs should also be adjudged against the respondent.

Judgment modified.

Parás, C J., Padilla, Reyes, A., Bautista Angelo, Concepcion, Reyes, J. B. L., and Endeneia, JJ., concur.

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