

**SALVADOR SISON, COMPLAINANT, VS. JUDGE JOSE F. CAOIBES, JR.,
PRESIDING JUDGE, AND TEODORO S. ALVAREZ, SHERIFF IV,
REGIONAL TRIAL COURT, LAS PIÑAS CITY, BRANCH 253,
RESPONDENTS.**

A.M. No. RTJ-03-1771 (Formerly A.M. OCA- IPI No. 99-842-RTJ). May 27, 2004

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PER CURIAM:

The instant administrative complaint arose when Salvador Sison, a Metropolitan Manila Development Authority (MMDA) traffic enforcer, filed a verified Complaint[1] dated October 12, 1999, charging Judge Jose F. Caoibes, Jr. and Sheriff Teodoro Alvarez of the Regional Trial Court of Las Piñas City, Branch 253, with grave abuse of authority.

In turn, the complaint stemmed from an Order[2] dated September 15, 1999 in Criminal Case No. 99-002[3] which the respondent judge issued, requiring the complainant to appear before him to explain a traffic incident involving his son and the complainant. The said Order reads, thus:

Per information from the authorized driver of the Presiding Judge of this Court on September 8, 1999, at about 3:00 o'clock in the afternoon of said date, said authorized driver, while on board the official car of the undersigned on an official errand was flagged by the accused along the Epifanio delos Santos Avenue while he was positioning the car he was driving to the right lane as he was then to make a right turn; that after he stopped, he was told by the accused that swerving to the right lane was prohibited when it appeared that the sign therefore was still far off and not readily visible to the naked eye; that nonetheless, he introduced himself as the authorized driver of the undersigned, his son in fact, and showed to the accused the calling card of the undersigned with a notation in (sic) the dorsal portion thereof introducing the bearer of the card and requesting for assistance from law enforcers, and accordingly begged that he be allowed to proceed on his way considering that there was no danger to limb, life and property occasioned by his alleged traffic violation; that notwithstanding such introduction and plea, the accused confiscated the driver's license of the authorized driver, even bragging in the process that he did the same to somebody who introduced himself as a lawyer the day before.

The aforementioned actuation of the accused, if true, is not only indicative of his arrogance and deliberate disregard of the usual respect, courtesy and accommodation accorded to a court of law and/or its representative but is one constitutive of indirect contempt under Section 3, paragraphs (c) and (d) of Rule 71 of the Rules of Court, specially considering that the authorized driver of the Presiding Judge of this Court was then on official errand.

WHEREFORE, within a non-extendible period of twenty-four (24) hours from receipt hereof, the accused is ordered to show cause why he should not be cited as in contempt of court and dealt with accordingly. The Branch Sheriff of this Court is authorized and ordered to serve a copy of this Order upon the accused immediately and to make a return of his proceedings thereon. After receipt of this Order, the accused is ordered to personally file his comment in Court, within the period allowed him herein.

SO ORDERED.[4]

Because of the complainant's failure to appear before the respondent judge as directed, the latter, after verifying that the said order was duly served on the complainant, issued another Order[5] dated September 22, 1999 for the complainant's arrest and commitment, and for the latter to appear for hearing before his sala on September 29, 1999. The respondent sheriff then served the order on the complainant. On the scheduled hearing, the complainant appeared and executed an affidavit[6] admitting to the court that he made a mistake and that it was all a misunderstanding. The respondent judge, thereafter, lifted the September 22, 1999 Order.[7]

In his complaint, the complainant alleged inter alia the following:

6. That on September 28, 1999, at around 6:00 P.M., the undersigned complainant was greatly surprised when respondent TEODORO ALVAREZ came and arrested him without any warrant of arrest, only on orders of the respondent Judge, and he was ordered to board a motor vehicle and was brought to the respondent Judge in Las Piñas City who ordered him detained in the Las Piñas City Jail. When he was arrested, he was not able to call his family to inform them where he was because he failed to return home in the evening;

7. That the next day, September 29, 1999, respondent Teodoro Alvarez informed him that there will be a hearing of his indirect contempt charge before the sala of the respondent Judge in Las Piñas City. During the hearing, the complainant was made to admit by the respondent Judge that he made a mistake in apprehending his driver-son[,] conscious that he committed the gravest abuse of his authority, and perhaps in anticipation of the legal action the undersigned complainant may take against him after he is discharged from detention. Thus, after the complainant admitted his mistakes under duress, and upon appeal by his counsel assuring the respondent Judge that the same incident may not be repeated, the complainant was ordered discharged from detention at around 3:30 P.M. on September 29, 1999;

8. That the undersigned complainant did not know of any offense he had committed, except for his issuing a traffic violation receipt to the driver-son of the respondent Judge which he is tasked by law to do so for those found violating traffic rules and regulations;

9. That if the act of issuing a traffic violation receipt for a traffic violation within the city limits of Mandaluyong City by the complainant is considered by the respondents as an offense, then complainant should be tried for the said offense in Mandaluyong City, and not in Las Piñas City where the respondent judge has no jurisdiction;

10. That to the ordinary and lowly understanding of the undersigned complainant, the acts of respondents in arresting him without any warrant of arrest before a charge of indirect contempt is heard constitute the gravest ABUSE OF AUTHORITY ever committed by the respondents; and

11. That the manner the respondents are administering justice in Las Piñas City is despotic and barbaric in the sense that they take the law into their own hands without due regard for the rights of the others.[8]

The complainant, thus, prayed that the respondents be summarily dismissed from the service.

In his comment, the respondent judge vehemently denied the accusations against him, contending that he was merely preserving the dignity and honor due to the courts of law. The respondent narrated that on September 8, 1999, he ordered his son, Jose R. Caoibes III, to go to the Pasig City Regional Trial Court to secure certain records. While on his way there, he was flagged down by the complainant for an alleged traffic violation. Caoibes III explained to the complainant that he was on an errand for his father, the respondent judge, to which the complainant reportedly uttered, "Walang Judge, Judge Caoibes sa akin; kahapon nga, abogado ang hinuli ko."

The respondent judge also alleged that he initiated the complaint for contempt pursuant to the following provisions of the Revised Rules of Court: a) Section 3(d) and Section 4 of Rule 71; b) Section 5(c) of Rule 135;

and, c) the last paragraph of Section 3 of Rule 71.

According to the respondent judge, the complainant's allegation that he failed to contact any relative is belied by the fact that during the hearing of September 29, 1999, the complainant was assisted by Atty. Eduardo P. Flores of the MMDA, as evidenced by the transcript of stenographic notes[9] taken during the proceedings. The respondent prayed that the instant complaint be dismissed for lack of legal or factual basis.

For his part, the respondent sheriff admitted that he personally served copies of the respondent judge's orders on the complainant, but averred that he was merely performing his duties as deputy sheriff of the court. As such, he did not commit grave abuse of authority in the performance of his functions.[10]

Thereafter, the complainant executed a Sinumpaang Salaysay ng Pagbawi ng Reklamo dated November 26, 2002, where he indicated that he was no longer interested in pursuing the administrative complaint against the respondent judge. The complainant recanted his earlier claim, averring that the respondent judge's son did not in fact enter a one-way street and that he was standing by the September 29, 1999 Affidavit he executed during the hearing. He then requested that his complaint be duly withdrawn.[11]

Pursuant to the recommendation[12] of the Court Administrator, the Court, in a Resolution[13] dated April 2, 2003, resolved to (a) dismiss the instant administrative complaint against Sheriff Teodoro Alvarez for lack of merit; and (b) refer the matter against respondent Judge Caoibes, Jr. to the Presiding Justice of the Court of Appeals for raffle among the Associate Justices of the Court, and for investigation, report and recommendation. The case was raffled to Associate Justice Lucas P. Bersamin. The Investigating Justice, thereafter, submitted his Sealed Report dated February 26, 2004.

According to the Investigating Justice, although the complainant never appeared to prove the charges against the respondent judge, the facts averred in the complaint appear to be substantially correct and true. Thus, the respondent judge abused his authority to charge and punish any person for indirect contempt under Rule 71 of the Rules of Civil Procedure.[14] The Investigating Justice recommended that the respondent be admonished and warned, pursuant to Section 10(1), Rule 140 of the Rules of Court, and Section 11(c) of the same rule.

The respondent judge anchors the justification of his acts against the complainant on Section 3, Rule 71 of the Rules of Civil Procedure, viz.:

Sec. 3. Indirect contempt to be punished after charge and hearing. – After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

Thus, the power to declare a person in contempt of court and in dealing with him accordingly is an inherent power lodged in courts of justice, to be used as a means to protect and preserve the dignity of the court, the solemnity of the proceedings therein, and the administration of justice from callous misbehavior, offensive personalities, and contumacious refusal to comply with court orders.[15] Indeed, the power of contempt is power assumed by a court or judge to coerce cooperation and punish disobedience, disrespect or interference with the court's orderly process by exacting summary punishment. The contempt power was given to the courts in trust for the public, by tradition and necessity, in as much as respect for the courts, which are ordained to administer the laws which are necessary to the good order of society, is as necessary as respect for the laws themselves.[16] And, as in all other powers of the court, the contempt power, however plenary it may seem, must be exercised judiciously and sparingly.[17] A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties.[18]

At first blush, it would seem that the respondent judge was justified in holding the complainant for contempt, due to the latter's refusal to comply with the judge's Order of September 15, 1999. However, it is not lost upon this Court that the complainant was not a party to any of the cases pending before the RTC, Branch 253. What triggered the contempt charge was, in fact, the traffic violation incident involving the respondent judge's son. Furthermore, the record shows that when the complainant filed his reply to the charge as required by the respondent judge, the same was refused by some staff member in the latter's sala.[19]

In *Cortes v. Bangalan*,[20] we held that a judge may not hold a party in contempt of court for expressing concern on the judge's impartiality through a motion for voluntary inhibition, even if the latter may have felt insulted therein. The Court also declared, thus:

...[W]hile the power to punish in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold due administration of justice, 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 for retaliation and vindication.[21]

We agree with the Investigating Justice when he opined that the respondent judge should have refrained from ordering the arrest and detention of the complainant, since the incident involved his own son, and the matter was very personal to him. The fact that the respondent judge insisted that the complainant personally file his comment in court gives rise to doubts as to the motive behind it; as the Investigating Justice puts it, the requirement of personal filing was deliberately inserted so that the respondent could confront and harass the complainant.[22]

We also agree with the following ruminations of Justice Bersamin:

...[T]he respondent judge obviously resented the refusal of Sison to let off Caoibes III from the traffic violation apprehension. The refusal of Sison was apparently aggravated by the son's reporting to the father that Sison had supposedly made the remarks of Walang judge, judge Caoibes sa akin; Kahapon nga, abogado ang hinuli ko. ...
...

The respondent Judge was not justified to so consider the act and remarks of Sison as thereby displaying arrogance towards and deliberate disregard of the usual respect, courtesy and accommodation due to a court of

law and its representative. First of all, the refusal of Sison and the supposed remarks should not cause resentment on the part of the respondent Judge (whom Sison most likely did not yet know at the time) because he knew, as a public official himself, that Sison was only doing his duty of enforcing evenly the particular traffic regulation against swerving into a one-way street from the wrong direction, regardless of the office or position of the violator's father. Secondly, the respondent Judge should have had the circumspection expected of him as a judge to realize that the remarks of Sison were invited by Caoibes III's attempt to bluff his way out of the apprehension because he was the son of an RTC judge. Hence, the respondent Judge would have no grounds to cite Sison for contempt of court. And, thirdly, the respondent Judge and his son should have challenged the issuance of the traffic violation receipt pursuant to the pertinent rules if they did not agree with the basis of the apprehension and also administratively charged Sison for any unwarranted act committed. Since neither was done by them, but, on the contrary, both ultimately accepted the validity of the apprehension, as borne out by the retrieval of the driver's license after September 29, 1999 by paying the fines corresponding to the traffic violation, then it follows that the respondent Judge had the consciousness that his son was at fault, instead of Sison.

...[T]he respondent Judge claimed at the hearing that his son "was at that time working with (sic) me as my personal driver;" and that his errand was to secure some papers from the Regional Trial Court in Pasig City involved in a "personal case" which the respondent Judge had "filed against a bank for specific performance and damages, and since I just suffered a mild stroke at that time, specifically on June 10, 1999, and the incident took place (sic) September, I could not at that time personally go to Pasig to secure the documents I needed for the next hearing of the case so I had to send my son."

The foregoing renders clear that the respondent Judge had no legitimate basis by which to consider Sison's apprehension of his son as indirect contempt. As indicated earlier, the act complained against must be any of those specified in Sec. 3, Rule 71, 1997 Rules of Civil Procedure; otherwise, there is no contempt of court, which requires that the person obstructed should be performing a duty connected with judicial functions. As such, the respondent Judge acted oppressively and vindictively.

Parenthetically, it is odd that the respondent Judge would even propose herein that Caoibes III, already 25 years at the time of the apprehension, was serving his father as the latter's personal driver, albeit not officially employed in the Judiciary. Most likely, therefore, Caoibes III might not be doing anything for his father at the time of his apprehension but was in the place for his own purposes.[23]

The act of a judge in citing a person in contempt of court in a manner which smacks of retaliation, as in the case at bar, is appalling and violative of Rule 2.01 of the Code of Judicial Conduct which mandates that "a judge should so behave at all times to promote public confidence in the integrity and impartiality of the judiciary." [24] The very delicate function of administering justice demands that a judge should conduct himself at all times in a manner which would reasonably merit the respect and confidence of the people, for he is the visible representation of the law.[25] The irresponsible or improper conduct of judges erodes public confidence in the judiciary; as such, a judge must avoid all impropriety and the appearance thereof.[26]

We do not agree, however, that the respondent judge should be merely reprimanded for his actuations. The Court has not been blind to the improper use by judges of the erstwhile inherent power of contempt which, in fine, amounts to grave abuse of authority. The penalty imposed by the Court in such cases ranges from a fine of P2,500;[27] one month's salary;[28] suspension from the service without pay for a period of three months;[29] and even the ultimate penalty of dismissal from the service.[30]

Furthermore, we take judicial notice that the respondent judge was previously sanctioned by the Court for violating Canon 2 of the Code of Judicial Conduct, where he was meted a fine of P20,000.[31] He was found guilty of serious impropriety unbecoming a judge, for delivering fistic blows on a complainant judge. To our mind, the instant case falls under "similar conduct," which the Court avowed would be dealt with more severely if

repeated, and of which the respondent was duly warned. The respondent was, likewise, found guilty of gross ignorance of procedural law and unreasonable delay in the issuance of an order of execution, where he was meted a fine of P30,000;[32] and delay in resolving a motion to dismiss in a civil case pending before his sala where he was, likewise, fined P40,000.[33]

WHEREFORE, the Court finds respondent Judge Jose F. Caoibes, Jr., Regional Trial Court of Las Piñas City, Branch 253, GUILTY of serious impropriety unbecoming a judge for violating Canon 2 of the Code of Judicial Conduct, and is hereby DISMISSED from the service with forfeiture of all retirement benefits except accrued leave credits, with prejudice to re-employment in any branch of the government or any of its instrumentalities including government-owned and controlled corporations.

This decision is immediately executory. The respondent is ORDERED to cease and desist from discharging the functions of his Office. Let a copy of this Decision be entered in the respondent's personnel records.

SO ORDERED.

Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.
Davide, Jr., C.J., and Puno, J., on official leave.

[1] Rollo, pp. 1-4.

[2] Id. at 35.

[3] Entitled People of the Philippines v. Traffic Enforcer Salvador Sison, for contempt of court.

[4] Id. at 35-36.

[5] Id. at 37.

[6] Id. at 24.

[7] Order dated September 29, 1999, Rollo, p. 25.

[8] Rollo, pp. 2-3.

[9] Id. at 26.

[10] Id. at 34.

[11] Id. at 50.

[12] Id. at 52-54.

[13] Id. at 58.

[14] Report and Recommendation, p. 10.

[15] De Guia v. Guerrero, Jr., 234 SCRA 625 (1994).

[16] Castaños v. Escaño, 251 SCRA 174 (1995).

[17] De Guia v. Guerrero, Jr., supra.

[18] Baja v. Macandog, 158 SCRA 391 (1988).

[19] TSN, 29 September 1999, p. 2; Report and Recommendation, p. 13.

[20] 322 SCRA 249 (2000).

[21] Id. at 253.

[22] Report and Recommendation, p. 14.

[23] Id. at 11-12.

[24] Castaños v. Escaño, *supra*.

[25] Chan v. Agcaoili, 233 SCRA 331 (1994).

[26] Padilla v. Zantua, Jr., 237 SCRA 670 (1994).

[27] De Guia v. Guerrero, Jr., *supra*.

[28] Cortes v. Bangalan, *supra*.

[29] Rodriguez v. Bonifacio, 344 SCRA 519 (2000).

[30] Castaños v. Escaño, *supra*.

[31] Alumbres v. Caoibes, Jr., 374 SCRA 255 (2002).

[32] Monterola v. Caoibes, Jr., 379 SCRA 334 (2002).

[33] Unitrust Development Bank v. Judge Jose F. Caoibes Jr., et al., A.M. No. RTJ-03-1745, August 20, 2003.

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