

ALFREDO FERRER AND TRINIDAD FERRER, PLAINTIFFS AND APPELLANTS, VS. ANGELES RODRIGUEZ, ET AL., DEFENDANTS AND APPELLEES.*G.R. No. L-17507. August 06, 1962*

Ponente: LABRADOR, J.

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This is an appeal from an order of the Court of First Instance of Rizal, Pasay City Branch, Hon. Emilio Rilloraza, presiding, dismissing a petition to declare defendants in contempt.

The record discloses the following facts: Prior to 1949, the defendants brothers and sisters, were in the exclusive possession and administration of 60 salt beds in Dilain, Parañaque, Rizal. On August 15, 1949, the Court of Appeals declared plaintiffs owners of an undivided one-fourth and defendants, the undivided three-fourths of the salt beds in question. On March 15, 1952, an agreement was entered into between the parties to the effect that during the collection season of the salt products on the salt beds the following procedure shall be followed in the measurement and storing of the said products: (1) every morning the salt collected will be measured by basket and after measurement will be brought inside the bodega; (2) the bodega will have two padlocks with different keys, one to be held by the plaintiffs and the other by the defendants, provided that the representative of the plaintiffs will be present during the day, from morning until working hours are closed, or that the camarin will remain opened until the close of the day in the afternoon. This agreement was signed by Antonio Rodriguez in representation of the defendants and by plaintiffs Trinidad Ferrer and by defendants Eusebia de Leon, Jose Lara and Josefa Rodriguez. This agreement was approved by the judge.

The above agreement was followed from 1952 to date. According to the motion filed by the plaintiffs to hold the defendants in contempt and to restrain acts of depredation, defendant Jose L. Rodriguez and the other defendants, on December 18, 1956, caused the door of the said bodega to be forced open by cutting off and breaking the chain locking the bodega, without the knowledge of the plaintiffs or their representatives, and caused to be measured and disposed of several hundred sacks of salt without the knowledge or presence of the plaintiffs or their representatives; that in order to carry out their acts of depredation the defendants were aided by one Abelardo Marquez, who is the son of one of the kasamas of the defendants, who acted in conspiracy with the defendants in breaking down the bodega door and disposing of the salt contained therein, together with live other persons, namely, Andres San Agustin, Ernesto Marquez, Fausto Santos, Casiano Sarmiento and Marcial Hernandez; that these acts are in deliberate disobedience of the order of the court and also an unlawful interference with the proceedings of the case; that to insure the success of their nefarious acts in appropriating the salt to the prejudice of the plaintiffs, defendants called the chief of police, Angel Sarmiento, who is the husband of one of the defendants, to help them, and said chief of police sent three policemen, Ricardo Santos, Vicente Cirenidad and Aurelio de Leon, to the salt land to assist defendants in the disposition of the salt; that on December 24, 1956, the defendants, with the help of one Rogel and two policemen again forced open the bodega by breaking the padlock chain of plaintiffs, and again got and carted away several hundred cavanases of salt; that prior to these acts of

depredation, there were about 2,500 cavanese of salt inside the bodega and at the time of the filing of the motion the defendants had already taken away to the prejudice of the plaintiffs, almost all, if not all, these 2,500 cavanese of salt. The prayer of the motion is (1) that all the defendants, their overseer Andres San Agustin and Abelardo Marquez, Ernesto Marquez, Fausto Santos, Casiano Sarmiento and Marcial Hernandez, who aided defendants in their acts of depredation, be declared in contempt of court; (2) that injunction issue against said defendants and their workers prohibited from committing further acts of depredation against plaintiffs and from disposing of the salt of the lands in question.

The above complaint was filed on December 24, 1956, and on January 30, 1957, defendants filed an answer to the complaint alleging that they have honored and observed faithfully the agreement entered into by the parties; that on December 17, 1956 when the buyer Abelardo Marquez went to the house of the defendants, the latter advised Abelardo Marquez and Ponciano Ferrer to see Juanito Ferrer (plaintiffs' representative) so he can be present at the time of the withdrawal of the salt; that when Juanito Ferrer was contacted he replied that he was instructed by plaintiff Trinidad Ferrer not to go to the warehouse, and upon defendants learning of this, invited Trinidad Ferrer to be present so she can see for herself the actual disposal of the salt; that she ignored the invitation and gave as an alibi her plan to consult her lawyer first; that thereupon defendant Jose L. Rodriguez asked the desk sergeant of the Parañaque Police Department to give them two policemen who can witness the withdrawal of 100 cavanese of salt; that on December 23, another salt dealer by the name of Rogelio Mijares informed the defendants of his intention to withdraw the following day 285 cavanese of salt which he had already paid for, and thereupon defendants sent a messenger to notify plaintiffs' representative of the intended disposal of the salt, but the plaintiffs' representative failed to appear on the scheduled time and when plaintiff Trinidad Ferrer herself was notified, neither did she consent to witness the withdrawal of the salt; and that in view of said negligence of plaintiff Trinidad Ferrer the defendants had to request the police department of Parañaque to send policemen to witness the withdrawal of the salt from the camarin.

Upon the above pleadings and other subsequent pleadings containing arguments on points of law, the judge on September 30, 1959, dismissed the case on the ground that the facts and circumstances did not justify the defendants being declared in contempt. Against this order the plaintiffs have prosecuted this appeal.

The reason stated by the court in its order dismissing the case is that Abelardo Marquez, Ernesto Marquez, Fausto Santos, Casiano Sarmiento, Marcial Hernandez, Angel Sarmiento, Ricardo Santos, Vicente Cirenidad and Aurelio de Leon, are not parties to the civil case and are strangers thereto, and neither are they parties to the agreement dated March 15, 1952. Consequently, they cannot be held responsible for the charge of contempt.

In their brief, the plaintiffs-appellants argue that conspiracy between the acquitted defendants and the other respondents was alleged specifically, that the respondent Angel Sarmiento is the husband of defendant Maria Rodriguez, and that the other respondents are policemen under the said chief of police Angel Sarmiento. It is also argued that as the motion for contempt specifically alleged that the non-party respondents acted in conspiracy with the other respondents who were parties to the case, the court erred in dismissing the said case without presentation of evidence.

As a general rule, persons who are not parties to an action or proceeding are not subject to the jurisdiction of a court trying a case, are not supposed to be aware of the court's order and cannot, therefore, be declared guilty of contempt for violating its orders.

In order that a person may be declared guilty of contempt for violating a court's order within the meaning of the following provision of the Rules:

"SEC. 3. * * * *

"(b) Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge;" (Rule 64, Rules of Court.)

the disobedience or resistance must be willful, and there cannot be willfulness without, knowledge of the existence of the order and its provisions. (Narcida vs. Bowen, 22 Phil. 365; People vs. Rivera, 91 Phil., 354).

Nevertheless, persons who are not parties in a proceeding may be declared guilty of contempt for willful violation of an order issued in the case if said persons are guilty of conspiracy with any of the parties in violating the court's order.

"In a proceeding to punish for criminal contempt for willful disobedience of an injunction, the fact that those disobeying the injunction were not parties eo nomine to the action in which it was granted, and were not personally served, is no defense, where the injunction restrains not only the parties, but those who act in connection with the party as attorneys, agents, or employes, and the parties accused, with knowledge of the order and its terms, acting as the employees of a party, willfully violate it." (People ex rel. Stearns, et al. vs. Marr, et al., 74 N.E. 431.)

An examination of the motion to declare defendants in contempt uses the term "in conspiracy" in one of its paragraphs but this is a mere conclusion of law, no facts having been pointed out to show that the defendants knowingly conspired with the defendants in violating the court's order. Without an express allegation that the defendants-appellees, not parties, had knowledge of the existence of the prohibition and its terms, and that they willfully violated the same, in conspiracy with the other defendants, the complaint for contempt cannot stand.

The order dismissing the complaint for contempt against the parties who are not defendants in the action is hereby affirmed, with costs against complainants-appellants. So ordered.

Bengzon, C. J., Padilla, Bautista Angelo, Concepcion, Barrera, Paredes, Dizon, Regala, and Makalintal, JJ., concur.

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