

IN RE HERACLIO ABISTADO, EDITOR OF THE "UNION";

. December 10, 1932

Ponente: VICKERS, J.

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VICKERS, J.:

These proceedings were instituted in this court by the Attorney-General to punish the respondent Heraclio Abistado, editor of the newspaper, the "Union", for contempt of court. The facts which gave rise to these proceedings are as follows:

On October 20, 1932, Paz Luzan filed in this court charges of malpractice against Attorney Ramon Sotelo, and attached to her complaint thirteen exhibits.

On October 22, the court ordered Attorney Sotelo to answer the charges within ten days.

On October 27th Ramon Sotelo called the attention of the court to the fact that there had been published in the weekly newspaper, the "Union", on October 24th, a statement as to the filing of the charges, with the notice that in subsequent issues the complete charges and the exhibits attached thereto would be published. Sotelo requested the court to take action against the newspaper or the person who caused the article to be published, on the ground that it was contrary to a resolution of this court providing that administrative charges against attorneys and judges of first instance should be confidential until finally disposed of.

The article referred to reads as follows:

"ACUSACIONES CONTRA R. SOTELO

"Acusamos recibo de la copia de la sensacional queja formulada por Dona Paz Luzan contra el abogado Ramon Sotelo y Matti, ante la Corte Suprema de Filipinas, juntamente con las copias de todos los exhibitos presentados. Por falta de espacio, sin embargo, aplazamos la reproduccion de tan sensacionales documentos para otro dia, ya que, por otro lado, segun nuestros informes, el Alto Tribunal ha endosado la denuncia a la Fiscalia General para la correspondiente investigation."

It appears that on October 26th, Ramon Sotelo, accompanied by Alberto Kauffman, went to the office of the "Union" and asked for the editor, and was shown to the office of the respondent Abistado. Sotelo informed the respondent personally of the resolution of this court of January 26, 1922, regarding the investigation of charges against attorneys and judges of first instance and told him that he was committing contempt of court in publishing the article.

On October 28th, the motion of Attorney Sotelo, by resolution of the court, was referred to the Attorney-General for proper action, and on October 29, 1932, the clerk sent to the editor of the "Union" a copy of said resolution and of the resolution of January 26, 1922, which reads as follows:

"Resolved: That all proceedings looking to the suspension or disbarment of lawyers, and all proceedings looking to the suspension or removal of judges of first instance, shall be considered confidential in nature until the final disposition of the matter."

Notwithstanding the resolution of this court and the fact that Sotelo had brought the matter personally to the attention of the respondent, who is also an attorney, the respondent published in the issue of October 31st the charges under the heading, "Una Dama Acusa al Abogado Ramon Sotelo; Texto integro de la Queja presentada a la Corte Suprema". In this same issue under the heading "Secretos a Voces" occurs the following:

"El ex-representante Manuel Escudero es el abogado de Dona Paz Luzan en el asunto de supuestas malas practicas contra el abogado Ramon Sotelo. Escudero y Sotelo son 'amigos intimos'", when as a matter of fact Attorney Escudero never appeared in that case.

On November 8th the Attorney-General filed a petition in this court setting forth the above-mentioned publications of October 24th and 31st, and prayed that the respondent be cited to show cause, if any he have, why he should not be punished for contempt. The order prayed for was granted on November 9th.

On November 18th the respondent filed as "explanation", wherein he stated that he assumed the duties of editor of the "Union" on November 1st, and had nothing to do with the articles in question published prior to that date; that the publication of the news referred to does not constitute contempt against this court, if freedom of the press, as provided for in our Constitution, is to be recognized; that he never intended to commit contempt against this court; that he published the documents concerning Attorney Ramon Sotelo honestly believing that he was rendering service to the public and to the courts of justice; that none of the documents referred to came from the offices of the Supreme Court, but were merely copies of documents filed in this court, and their publication does not constitute a violation or revelation of the proceedings of the Supreme Court; that the resolution of the Supreme Court, dated January 26,, 1932 (1922) has never been published in the Official Gazette or any local newspaper, and that the respondent, as well as the public, did not have any notice of such resolution ; that he did not receive any order from this court with respect to the case of Sotelo, except the resolution of November 10, 1932; that he has not incurred in either direct or constructive contempt, as defined by this court in the case of Narcida vs. Bowen (22 Phil., 365), or obstructed directly or indirectly the administration of justice by the publication of official documents coming from the Court of First Instance of Manila, the Bureau of Customs, the Office of the Governor-General, and other government agencies, in as much as such documents do not constitute proceedings of this court in the disbarment case of Attorney Ramon Sotelo or any other case pending before this court; that the cases of "El Debate" and other local newspapers, which were punished for contempt, were different from the case at bar; that while in those cases the said newspapers published news referring to judgments or proceedings of this court before promulgation, in the present case the "Union" published documents coming from the public and from public ecclesiastical and private archives, all of which are privileged in character; not confidential, and are at the disposal of the public; that if such documents have been used as exhibits by a complainant against an attorney, this fact does not change the character of the said public and privileged documents.

In the meantime the respondent continued the publication of the exhibits. On November 7th, under the heading, "Pruebas Documentales Contra El Abogado Ram6n Sotelo; Otra Demanda y Otra Queja", the respondent published Exhibits A, B, C, D', and E, which formed part of the com- plaint presented by Paz Luzan against Attorney Sotelo;' and on November 14th the respondent published the remainder of the exhibits of Paz Luzan under the heading, "Mas Pruebas Documentales Contra el Abogado Ramon Sotelo; Nueva Demanda y Nueva Queja".

On November 19th the Attorney-General filed another petition stating that the respondent had published on November 7th the exhibits as hereinabove stated, and that notwithstanding the fact that the respondent had received a copy of the resolution of this court of November 9, 1932, citing him to show cause why he should not be punished for contempt, he had persisted in publishing other exhibits on November 14th, in violation of the

resolution of January 26, 1922. The Attorney-General prayed that the respondent be cited to show cause why he should not be punished for contempt in connection with said publications.

The order prayed for was granted, and the respondent reproduced his answer or "explanation" of November 19, 1932.

The case was set for hearing on December 3d, and on that date the respondent appeared in his own behalf. Attorney Francisco Astilla of the firm of Sotto and Astilla also appeared for the respondent. A representative of the Attorney-General appeared in support of his petitions.

Copies of the newspaper, the "Union", attached to the record, show that the respondent was the editor of said paper on October 31st and during the subsequent issues in question, and it appears from the affidavits of Ramon Sotelo and Alberto Kauffman that the respondent was already the editor of said paper when the first announcement of the charges against Sotelo was published on October 24th.

We find no merit in the respondent's answer to the petitions of the Attorney-General and the orders to show cause why he should not be punished for contempt. The evidence shows that the resolution of this court of January 26, 1922, providing that all proceedings looking to the suspension or disbarment of lawyers, and all proceedings looking to the suspension or removal of judges of first instance, shall be considered confidential in nature until the final disposition of the matter was published in "La Vanguardia", "El Ideal", and the "Manila Times" on January 27, 1922, and in the "Manila Daily Bulletin" on January 28, 1922. There can be no question as to the right of this court to adopt such a resolution and to punish violations of it by contempt proceedings. The matter was carefully considered in the case of *In re Lozano and Quevedo* (54 Phil.,v 801), promulgated July 24, 1930. In the decision of that case it was held that newspaper publications tending to impede, obstruct, embarrass, or influence the courts in administering justice in a pending suit or proceeding constitute criminal contempt which is summarily punishable by the courts; that the rule is otherwise after the cause is ended;

That the constitutional guaranty of freedom of speech and press must be protected in its fullest extent, but license or abuse of liberty of the press and of the citizen should not be confused with liberty in its true sense; that as important as is the maintenance of an unmuzzled press and the free exercise of the rights of the citizen is the maintenance of the independence of the judiciary;

That the courts must be permitted to proceed with the disposition of their business in an orderly manner free from outside interference obstructive of their constitutional functions. (*U. S. vs. Sullens* [1929], 36 Fed. [2d], 230.)

The purpose of the rule is not only to enable this court to make its investigations free from any extraneous influence or interference, but also to protect the personal and professional reputation of attorneys and judges from the baseless charges of disgruntled, vindictive, and irresponsible clients and litigants. The present charges are a case in point. It was falsely stated in the issue of the "Union" for October 24th that the charges against Attorney Sotelo had been referred to the Attorney-General for investigation. The truth is that after considering the charges and the respondent's answer thereto, and the various exhibits, and finding that there was apparently no merit therein, and that the complainant had no interest in said charges and was actuated by the vindictiveness of a defeated litigant, the court dismissed the charges.

The distinguishing features of the present case are: First, that the respondent is an attorney-at-law, and as a member of the bar it was peculiarly incumbent upon him to respect and obey the rules and resolutions of this court; secondly, the respondent did not try to purge himself of his contempt, but sought to justify his contemptuous conduct; thirdly, the respondent was contumacious, and in open and utter disregard of the action of this court persisted in publishing the charges and the exhibits in question after he had been cited for contempt.

We find the respondent Heraelio Abistado guilty of contempt of court in both cases, and in the first case he is ordered to pay a fine of P100 within fifteen days, and the second case to suffer imprisonment for one month.

Street, Malcolm, Villamor, Villa-Real, Abad Santos, Imperial, and Butte, JJ., concur.

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