

**MIGUEL OCAMPO, PETITIONER, VS. LIBERATO S. DOMINGO,
VICENTE E. GALANOG, CITY JUDGE OF DAVAO CITY AND ATTY.
ALFREDO ABEJA, CHIEF, DEPUTY SHERIFF OF QUEZON CITY,
RESPONDENTS.**

G.R. No. L-27632. February 28, 1972

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Pending resolution by the Court are the contempt citations issued by it against petitioner and his counsel in its decision on the merits promulgated on March 27, 1971.

The Court had noted in its decision that "(O)n petitioner's verified allegations that 'petitioner was very much surprised upon receipt of the said writ of execution for the reason that he was not served any summons or a copy of the complaint filed against him nor a copy of the decision and therefore, the respondent judge, has acted without or in excess of his jurisdiction or with grave abuse of discretion,' * * * the Court required respondents to answer the petition and issued a restraining order against enforcement of the questioned writ of execution."

The Court noted further that "when the Quezon City sheriff served on petitioner on May 20, 1967, the writ of execution, petitioner requested deferment thereof until June 10, 1967, promising to vacate the premises as well as to pay all rentals due to respondent by said date, which promise he wrote down on the reverse side of the writ of execution." Such undertaking to the sheriff to vacate the premise and to pay all rentals due by June 10, 1967 was expressly made by petitioner since May 20, 1967 - more than two weeks before he filed on June 7, 1967 his sham petition with this Court.

The Court therefore stressed that "the facts of record make out the petition to be a sham petition whereby petitioner flagrantly misled the Court into acting on his petition and issuing a restraining order on the basis of his false representation that he had not been summoned and was completely unaware of the respondent court's judgment against him. Petitioner should reflect on the grave consequences of his contumacious act and on the criminal liability that he may incur for willful commission of falsehood. Petitioner's counsel, too, has failed to live up to his exacting responsibility as an officer of the court to exert the utmost diligence that the petition prepared by him state the facts truthfully and accurately, as well as to deal with the courts in all good faith and candor (see *BLTB Co. vs. Cadia*, 22 SCRA 987 [March 12, 1968] and *Cruz vs. GSIS*, 27 SCRA 174 [February 28, 1969], in that he failed, upon receipt of respondent's documented answer, to file the necessary rectification of the false allegations in his petition and enable the Court to dismiss forthwith the petition. The Court cannot but express severe condemnation, as it has in the past. [*Uyjuangco vs. Equitable Bank*, 27 SCRA 127] [April 30, 1969] and *Pajares vs. Abad Santos*, 30 SCRA 748, [November 29, 1969] for such deceptive tactics which delay due execution of a just and lawful verdict and waste the time that the courts need for the study and resolution of meritorious cases."

In dismissing the petition with treble costs, the Court further required petitioner and his counsel. Atty. Tomas S.

Macasaet, "to show cause within ten (10) days from receipt hereof why they should not be punished for contempt of court for having filed a sham petition, and his counsel is required within the same period to show cause why disciplinary action should not be taken against him."

Atty. Macasaet, in his explanation of April 7, 1971, stated that he filed the petition "after conferring with his client, Miguel Ocampo, and that said petition was verified by the petitioner;" that on June 14, 1967, the brand new car which he bought on installment basis was stolen, "so that he became confused and neglected to attend to his cases as he was very busy trying to locate his car for several months after June 14, 1967 and even got sick of 'hypertension' as a result thereof;" and that he could not attend the hearing scheduled on August 30, 1967 due to his "hypertension and cardiac insufficiency," as per the medical certificate then submitted by him, and he asked petitioner to get a new lawyer; that he "regrets very much that he failed to file his notice of withdrawal of appearance in the case at bar as he neglected the same due to his illness; and finally, that "he has no intent to do any injustice to the respondents nor to mislead and waste the time of the Honorable members of this Honorable Tribunal, but he has filed the petition in good faith and without any malice."

Petitioner, in turn, with the assistance of new counsel, filed his "urgent ex-parte motion" of April 10, 1971, praying to be given a period of "sixty (60) days from approval hereof within which to vacate the premises" (in addition to the almost four years that he had been illegally detaining the property by virtue of his sham petition) and submitted therewith his "explanation" to the effect that he "did not have the slightest idea of misleading this Honorable Supreme Court" and "praying the kind understanding and consideration of this Honorable Supreme Court to give him a chance to rectify whatever was committed by him against the good name and precious time of the Honorable Supreme Court."

The Court, per its resolution of May 4, 1971, denied his motion for lack of merit.

Atty. Macasaet asked for and obtained several extensions of time to locate petitioner and be enabled to show that he too "was misled by the petitioner." [1] He finally submitted on July 20, 1971 his "motion for clarification * * * and second motion for reconsideration" of the same date, manifesting his failure to locate petitioner despite all efforts to do so and reiterating his good faith in the filling of the petition.

Petitioner's perfunctory "explanation" consisting of empty phrases inconsistent with his so-called urgent motion for an additional sixty days to continue illegally detaining the property - which obviously was the objective of his causing this sham petition to be filed under his false oath and false representations that he had not been summoned and was completely unaware of respondent court's judgment against him and whereby he was able to continue his unlawful occupancy for almost four years - shows no mitigation for his contumacious conduct. He is adjudged guilty of contempt of court for his improper conduct which has tended to degrade the administration of justice.

The Court finds some mitigation in Atty. Macasaet's explanation that he was misled by his client into making the false allegations in the petition as verified by petitioner. He has failed, however, to explain satisfactorily to the Court his failure to live up to his exacting responsibility as an officer of the Court and to deal with it in all good faith and candor in that he did not, upon receipt of respondent's documented answer, verify the same with his client and file the necessary rectification of the false allegations in the petition filed with his signature and thus enable the Court to dismiss the sham petition. The Court finds him guilty of contempt, but taking note of the mitigating circumstances cited by him and of his untarnished personal record so far, will take no further disciplinary action other than an admonition to proceed in the future with utmost care that the allegations in any petition or complaint prepared and signed by him state the facts truthfully and accurately, with warning of more severe action in case of future misconduct.

WHEREFORE , the Court finds petitioner guilty of contempt of court and fines him in the sum of P500.00 and sentences him to thirty (30) days imprisonment. The Court likewise finds his counsel, Atty. Tomas S. Macasaet, guilty of contempt of court and fines him in the sum of P100.00 and admonishes him with warning, to discharge his duties as an attorney and an officer of the court with utmost care, as stated in the preceding paragraph. Both fines shall be paid within fifteen (15) days from notice hereof. Let this resolution be noted in the personal record of said attorney.

SO ORDERED.

Concepcion, C.J., Reyes, J.B.L., Makalintal, Zaldivar, Castro, Fernando, Barredo, Villamor, and Makasiar, JJ., concur.

[1] Rollo, page 60.

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