

**THE INSURANCE COMMISSIONER, PETITIONER-APPELLANT, VS.
GLOBE ASSURANCE CO., INC., DEFENDANT, RAMON E. SAURA,
RESPONDENT-APPELLEE.***G.R. No. L-27874. January 30, 1982*

Ponente: FERNANDO, C.J.

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The validity of an order of a lower court denying a petition to punish respondent for contempt is before this Court. As noted therein, it was "filed by the petitioner, the Insurance Commissioner, against Ramon E. Saura, president of the respondent Globe Assurance Co., Inc., for failure of the latter to deliver to the former all the properties and records of said respondent corporation. It appears that in [the appealed order], this Court gave said Ramon E. Saura, upon petition of his counsel, sixty (60) days within which to submit or turn over said properties and records to the petitioner and because of his failure to do so, the petitioner now asks that he be punished for contempt." [1]

What calls for the affirmance of the order complained of is the finding of there being "no evidence that Ramon E. Saura is in actual custody of other books, papers, titles and other documents belonging to the respondent corporation, the production of which is being required by the petitioner from Ramon E. Saura. Consequently, in the opinion of the Court it is rather unfair and unjust that Ramon E. Saura should be obliged to produce something which is not in his possession and more so to punish him for contempt for his failure to do so." [2] Nor did the order stop there. Thus: "The Court notes that when the petitioner, through his authorized agents, examined the records and transactions of the respondent corporation, all of its books, records and documents were intact in its office and the Court wonders why petitioner or his authorized agents did not take immediate possession of said books, records and documents. The claim of the petitioner that he could not have legally done so until after the decision of this Court authorizing said petitioner to liquidate the business and affairs of respondent corporation shall have become final, especially when said decision of the Court was appealed to the Supreme Court is not plausible. Had the petitioner immediately taken possession of said books, records and documents, their disappearance would have been averted. But the Court feels that Ramon E. Saura cannot be punished for contempt for his failure to produce all the records, books and documents of the respondent corporation for it has not been shown that the same are in his possession." [3]

The dispositive portion is the denial of such petition to punish Ramon E. Saura for contempt. It is quite clear on the merits, a finding of contempt is by no means justified and what was done by the lower court can stand the test of the most careful scrutiny.

It is not the sole reason for dismissing this appeal. In the leading case of *In re Mison, Jr. v. Subido*, [4] it was stressed by Justice J. B. L. Reyes as ponente, that the contempt proceeding far from being a civil action is "of a criminal nature and of summary character in which the court exercises but limited jurisdiction." [5] It was then explicitly held: "Hence, as in criminal proceedings, an appeal would not lie from the order of dismissal of, or an exoneration from, a charge of contempt of court." [6] Such a doctrine is traceable to an opinion by Justice Street in

Lee Yick Hon v. Collector of Customs.[7] A later decision is that of Pajao v. Provincial Board of Canvassers of Leyte.[8] Justice Alex Reyes, speaking for the Court, pointed out that with contempt proceedings being "in their nature penal," its denial "after trial amounts to a virtual acquittal from which an appeal would not lie. (II Moran's Comments on the Rules of Court, 3rd ed. 125)."[9] There is this qualification in a ponencia of Justice J. B. L. Reyes in Amoren v. Pineda:[10] "Likewise, the ruling that an acquittal from a contempt charge is not appealable, like an acquittal in a criminal case (Pajao v. Board of Canvassers, 88 Phil. 588) does not apply to the case before us, since there has been no adjudication on the merits of the charge, but a ruling upon a motion to dismiss on jurisdictional ground." [11]

WHEREFORE, the lower court decision under review is affirmed. No costs.

Aquino, Concepcion, Jr., Abad Santos, De Castro, and Escolin, JJ., concur. Ericta, J., concurs because there is no evidence showing that respondent is guilty of contempt. Barredo, J., no part.

[1] Record on Appeal, 14.

[2] Ibid, 16.

[3] Ibid, 16-17.

[4] L-27704, May 28, 1970, 33 SCRA 30.

[5] Ibid, 33.

[6] Ibid.

[7] 41 Phil. 548 (1921). Cf. Slade Perkins v. Director of Prisons, 58 Phil. 271 (1933); Villanueva v. Lim, 69 Phil. 654 (1940).

[8] 88 Phil. 588 (1951). Cf. Benedicto v. Cañada, L-20292, November 27, 1967, 21 SCRA 1066.

[9] Ibid, 591.

[10] L-23666, September 29, 1967, 21 SCRA 324.

[11] Ibid, 327.

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