

IN RE SEVERINO LOZANO AND ANASTASIO QUEVEDO.*IN RE SEVERINO. July 24, 1930*

Ponente: MALCOLM, J.

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body { font-family: Verdana, Geneva, Arial, helvetica, sans-serif; font-size:80%; background-color:#FFFFFF; margin:0 2% 0 2%; text-align: justify; } h1 { font-family:times; } h2 { background-color:#cccccc; padding:10px 0 10px 0; font-weight: bold; text-align: center; } h3 { font-weight: bold; text-transform: uppercase; text-align: center; } div#footer { font-size:9px; }

The novel question here presented relates to the power of the Supreme Court to punish for contempt, the editor and the reporter of a newspaper, for publishing an inaccurate account of the investigation of a Judge of First Instance notwithstanding the investigation was conducted behind closed doors, and notwithstanding a resolution of this court which makes such proceedings confidential in nature. The question arises on the petition of the Attorney-General praying the court, to require the editor and the reporter to show cause, if any they have, why they should not be punished for contempt. The answer of the editor pleads good faith, while the answer of the reporter relies on no less than ten reasons, some material and some puerile, why the petition should be dismissed.

Sometime ago, the complaint of an attorney against a Judge of First Instance was by resolution of this court referred to the Attorney-General for investigation, report, and recommendation. The Solicitor-General was designated to conduct the investigation of the charges, and pursuant to said designation, proceeded to the municipality of Capiz, Province of Capiz, to take the testimony of certain witnesses. The investigation was conducted secretly, as is customary in cases of this character. Notwithstanding, on April 29, 1930, El Pueblo, a newspaper published in Iloilo and edited by Severino Lozano, printed an account of the investigation written by Anastasio Quevedo, said to be an employee in the office of the Judge under investigation. The opening portion of this article, as translated from Spanish into English, reads:

"Notes from Capiz

"Investigation of the charges against judge garduno

"Capiz, April 25, 1930

"The announced investigation of the administrative charges filed in the Supreme Court by ex-attorney Jose Y. Torres against Judge Garduno was commenced on the 22nd instant in the Court of First Instance of Capiz. The Solicitor-General, Alexander Reyes, was designated to investigate the charges on behalf of. the Attorney-General, to whom they were indorsed for investigation.

"It appears that it was some three months ago that the investigation was begun in the office of the Solicitor-General in Manila, and that, therefore, the proceedings taken here were but its continuation. The hearing was held behind closed doors, notwithstanding my desire to attend the same in order to. take notes and-send them, for publication, to the newspaper El Pueblo, which I represent as correspondent.

"However, behind the screen which shut the door of the investigation room, something could be heard of what transpired within, and to this circumstance, together with the comments offered gratis et amore in social circles, are due the present notes of the hearing."

The remaining portion of the article purports to give an account of the evidence of the different witnesses. Regarding this account, the complainant attorney alleges that the facts therein contained are "false, malicious, and untrue" and that "said report took sides with the respondent judge * * * and expressed an opinion as to the merits of the same, with the object undoubtedly, to influence the action of the investigator and the public in general and to obstruct, embarrass or impede the course of the present investigation." In the same connection, the Attorney-General states that the newspaper report "does not contain a fair and true account of the facts disclosed at the investigation, * * * creating a wrong impression in the mind of the public and tending to influence improperly the action of this court in the said pending matter.' Under the circumstances, the observations of the Attorney-General must necessarily be accepted as true.

At the time of publication of the aforementioned article, there was in force a resolution of this court dated January 27, 1922, which provided "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." In so far as this resolution relates to the suspension or removal of Judges of First Instance, it finds support in section 173 of the Administrative Code, authorizing the Supreme Court to conduct inquiries into the conduct of Judges of First Instance "and to adopt such rules of procedure in that regard as it may deem proper." The reason for the adoption of such a rule is readily explainable and consists in the practice of litigants and others making vindictive and malicious charges against lawyers and Judges of First Instance, which are ruinous to the reputations of the respondent lawyers and judges. It was accordingly thought best to keep such matters secret for the good of the administration of justice until the final outcome of the proceedings could be ascertained.

We come now to a determination of the right of the court to take action in a case of this character. It has previously been expressly held that the power to punish for contempt is inherent in the Supreme Court (In re Kelly [1916], 35 Phil., 944). That this power extends to administrative proceedings as well as to suits at law cannot be doubted. It is as necessary to maintain respect for the courts, indeed to safeguard their very existence, in administrative cases concerning the removal and suspension of judges as it is in any other class of judicial proceedings.

The rule is well established 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. The rule is otherwise after the cause is ended. It is also regarded as an interference with the work of the courts to publish any matters which their policy requires should be kept private, as for example the secrets of the jury room, or proceedings in camera (6 R. C. L., pp. 508-515).

An examination of the authorities discloses that little attention has been directed to facts like those before us, and that in the few cases which have given consideration to the question there exist divergence of opinions. The English courts are more stringent in prohibiting the publication of their proceedings than are the American courts. Thus where the petitioner and her solicitor published a copy of the transcript of the official shorthand notes in a case of a very delicate and private character in contravention of an order directing that the cause be heard in camera, the presiding judge in England found the petitioner and her solicitor in contempt of court but accepted their excuses and apologies (Scott vs. Scott [1912], Am. Ann. Cas., 1912-B, 540). A decision of the Supreme Court of Iowa inclines to the same view, for in this case it was said that if by general or special rule the publication of testimony pending an investigation has been prohibited, a willful violation of such rule might

amount to a contempt, especially if the rule itself declared the act to be a contempt (State of Iowa vs. Dunham [1858], 6 Iowa, 245). But in a California divorce case, although the trial court ordered that no public report of the testimony should be made, and thereafter punished the editor of a newspaper for publishing a report of the trial, on certiorari the Supreme Court of California annulled the proceedings of the court under review. As explanatory of this judgment, it should be said that a fair and true report of the testimony was published and that the result was influenced by the phraseology of the California law (Re Shortridge [1895], 99 Cal., 526; 21 L. R. A., 755). Along similar lines is the case of Ex parte Foster ([1903], 60 L. R. A., 631), coming from the Texas Court of Criminal Appeals, and holding that merely publishing a true statement of the testimony adduced from the witnesses in the course of a public trial in the courts of justice does not authorize a finding of contempt. To conclude our review of the pertinent decisions, we desire to quote from the decision of the Supreme Court of Wisconsin in Burns vs. State ([1911], 145 Wis., 373; 140 Am. St. Rep., 1081), where, in referring to the commendation meted out to the courts of England, it was said: "Judicial proceedings, in a case which the law requires to be conducted in secret for the proper administration of justice, should never be, while the case is on trial, given publicity by the press."

With reference to the applicability of the above authorities, it should be remarked first of all that this court is not bound to accept any of them absolutely and unqualifiedly. What is best for the maintenance of the Judiciary in the Philippines should be the criterion. Here, in contrast to other jurisdictions, we need not be overly sensitive because of the sting of newspaper articles, for there are no juries to be kept free from outside influence. Here also we are not restrained by regulatory law. The only law, and that judge made, which is at all applicable to the situation, is the resolution adopted by this court. That the respondents were ignorant of this resolution is no excuse, for the very article published by them indicates that the hearing was held behind closed doors and that the information of the reporter was obtained from outside the screen and from comments in social circles. Then in writing up the investigation, it came about that the testimony was mutilated and that the report reflected upon the action of the complainant to his possible disadvantage.

The Organic Act wisely guarantees freedom of speech and press. This constitutional right must be protected in its fullest extent. The court has heretofore given evidence of its tolerant regard for charges under the Libel Law which come dangerously close to its violation. We shall continue in this chosen path. The liberty of the citizen must be preserved in all of its completeness. But license or abuse of liberty of the press and of the citizen should not be confused with liberty in its true sense. 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. Respect for the Judiciary cannot be had if persons are privileged to scorn a resolution of the court adopted for good purposes, and if such persons are to be permitted by subterranean means to diffuse inaccurate accounts of confidential proceedings to the embarrassment of the parties and the courts.

In a recent Federal case (U. S. vs. Sullens [1929], 36 Fed. [2d], 230, 238, 239), Judge Holmes very appropriately said:

"The administration of justice and the freedom of the press, though separate and distinct, are equally sacred, and neither should be violated by the other. The press and the courts have correlative rights and duties and should cooperate to uphold the principles of the Constitution and laws, from which the former receives its prerogative and the latter its jurisdiction. The right of legitimate publicity must be scrupulously recognized and care taken at all times to avoid impinging upon it. In a clear case where it is necessary, in order to dispose of judicial business unhampered by publications which reasonably tend to impair the impartiality of verdicts, or otherwise obstruct the administration of justice, this court will not hesitate to exercise its undoubted power to punish for contempt. * * *.

* * * * *

"This court must be permitted to proceed with the disposition of its business in an orderly manner free from outside interference obstructive of its constitutional functions. This right will be insisted upon as vital to an impartial court, and, as a last resort, as an individual exercises the right of self-defense, it will act to preserve its existence as an unprejudiced tribunal. * * *."

As has been remarked, the parties plead ignorance in extenuation of their offense. We accept as certain this defense. It is made known also that other newspapers, particularly in the metropolis, have been guilty of similar acts. That likewise is undoubtedly true, but does not purge the respondents of their contempt. All facts considered, we desire on the one hand to proceed on the corrective and not on the retaliatory idea of punishment, while on the other giving due notice that practices of which the respondents are guilty must stop.

It is the holding of the court that the respondents Severino Lozano and Anastasio Quevedo are guilty of contempt of court, and it is the order of the court that they be punished for such contempt by the payment of a nominal sum by each of them in the amount of twenty pesos (P20), to be turned into the office of the clerk of court within a period of fifteen days from receipt of notice, with the admonition that if they fail to comply, further and more drastic action by the court will be necessary.

Avanceña, C. J., Ostrand, Johns, Romualdez and Villa-Real, JJ., concur.

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