

**PEDRO GAMBOA, PETITIONER, VS. THE HON. JOSE TEODORO, SR.,
JOSE AZCONA, EX-OFFICIO PROVINCIAL SHERIFF OF NEGROS
OCCIDENTAL AND GERONIMO R. FLORES, AS RECEIVER,
RESPONDENTS.**

G.R. No. L-4893. May 13, 1952

Ponente: BENGZON, J.

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BENGZON, J.:

Statement of the case.—For having allegedly interfered with property in the hands of a receiver, Pedro Gamboa was sentenced to jail for contempt of court by Judge Jose Teodoro of Negros Occidental. Wherefore Gamboa instituted this case for "certiorari with injunction with habeas corpus," during the pendency of which this Court authorized his release upon the filing of a bond of P500 and enjoined the execution of the contempt order.

Facts.—In Civil Case No. 1328 of the Court of Negros Occidental instituted by Catalino Galang and Micaela Aggabao against Manuel Uytiepo for the recovery of land plus damages, the respondent judge rendered judgment for plaintiffs on February 6, 1951. On March 10, 1951 upon plaintiff's motion the court appointed Geronimo R. Flores as receiver of the land. On May 19, 1951 the record of appeal submitted by the defendant was duly approved.

On May 31, 1951 the receiver filed a motion in the same case alleging that "Pedro Gamboa, who claims to be a lessee of Manuel Uytiepo cut or caused to be cut the standing sugarcane" on the land under receivership, and asking that said Gamboa be summoned to explain why he should not be punished for contempt. Flores set his motion for hearing on June 2, 1951.

On June 1, 1951, Pedro Gamboa filed an urgent petition for postponement asserting that as secretary-treasurer of the Planters Association of the Central Asucarera del Danao he had to attend the meeting of the association set for June 2, 1951, which could not be postponed without previous notice to the planters; that his attendance was necessary because he was a member of the committee designated to distribute cars to the planters adhered to the sugar Central etc.

On June 2, 1951 the respondent judge, "considering that the non-appearance of Pedro Gamboa constituted contempt," issued an order for his arrest "for contempt of court."

On June 7, 1951, Pedro Gamboa submitted an urgent motion, calling the attention of the court that he was not a party to the litigation, and could not have committed contempt. Judge Eduardo Enriquez, in the absence of respondent Judge Teodoro who had hurriedly left for Manila, allowed Gamboa to file a bond of P500 for his temporary liberty.

On June 12, 1951 the respondent Judge issued another order requiring Pedro Gamboa to appear on June 16, 1951 "to show cause why he should not be punished for contempt of court."

On the appointed day a hearing was held wherein Gamboa submitted his explanations; but the Court rejecting the same, found him guilty of contempt and sentenced him to pay a fine of P200 within 24 hours. His order dated June 25, 1951 furthermore decreed:

"* * * he is hereby directed to pay said amount to the Clerk of Court within 24 hours from the receipt of this order; Pedro Gamboa is hereby ordered to make arrangement with the Central Azucarera del Danao to segregate from the sugar milled and registered in his name within 24 hours from receipt of this order, 60 per cent of 800 piculs of sugar in the form of quedans or warehouse receipts in the name of the receiver, Geromino R. Flores; * *"

On June 27, 1951 Pedro Gamboa filed a notice of appeal from said order to the Court of Appeals.

On June 28, 1951, the receiver filed an urgent motion asserting that Gamboa had not complied with the order of the court on June 25, 1951 and requesting that Gamboa be again booked for contempt.

On June 30, 1951, Gamboa replied that he had appealed the order of June 25, and had asked the court to fix a bond.

On the same day, the respondent ordered Gamboa to appear on July 3, 1951 to give his reasons, if any, why he should not be again disciplined for contempt.

On July 3, 1951 Gamboa appeared and reasoned that having appealed from the order of June 25, 1951 he was excused from complying with it. As to the portion of the order requiring him (Gamboa) to deliver to the receiver the quantity of sugar therein mentioned, Gamboa expostulated arguing he could not comply with it because the sugar had previously been mortgaged to the Central Azucarera del Danao "for financing of said sugar crop," and, without the latter's consent he (Gamboa) could not dispose of the harvest.

Then and there Judge Teodoro issued two orders, one allowing Gamboa to appeal only "from the portion of his order sentencing him to pay a fine of P200" and another of the following tenor:

Finding the explanation given by Pedro Gamboa to the order of this Court dated June 30, 1951, not satisfactory, the Court hereby orders that he be committed to the Provincial Jail until after he has complied with the order of this Court dated June 25, 1951 with respect to the following dispositive part of the order which reads as follows:

"Pedro Gamboa is hereby ordered to make arrangement with the Central Azucarera del Danao to segregate from the sugar milled and registered in his name within 24 hours from receipt of this order, 60 per cent of 800 piculs of sugar in the form of quedans or warehouse receipts in the name of the receiver, Geronimo R. Flores."

Faced with the above orders Gamboa instituted the present proceedings.

Discussion.—It would seem at first glance that the case involves: (1) the order of the court of June 2, 1951 (2) the order of June 25, 1951 and (3) the orders of July 3, 1951.

(a) Although we do not understand how the mere non-appearance of Gamboa on June 2 could have constituted contempt there being no order of the court for him to appear, the point is now moot.

(b) The order of June 25, 1951 is the subject of an appeal to the Court of Appeals. It is not before us.

(c) The petitioner complains that the respondent judge allowed him to appeal only from a part of the order of June 25, 1951. The respondents, however, allege that Judge Teodoro denied petitioner's appeal in so far as the segregation of 60 per cent of the sugar, because that part is merely interlocutory or incidental and is not subject to appeal. But this argument is premised on the proposition that the sugar is property of the receivership, which the

petitioner denies and which is necessarily involved in his appeal from said order of June 25, 1951.

Anyway, supposing that part was not appealable, the petitioner should have been given a reasonable time, after his appeal had been denied, to comply with such portion of the order. In sentencing Gamboa for contempt even as his appeal from that part was turned down, without giving him a chance to make amends for his erroneous belief, the respondent judge committed an abuse of discretion. The man believed he was not duty bound to comply because he had appealed. The court declares that his appeal affected only the first part of the order but not the second part; and in the same breath punishes him for contempt for not having complied with such second part, without giving him an opportunity to rectify his error. Courts should be slow in jailing people for non-compliance with their orders. Only in cases of clear and contumacious refusal to obey should the power be exercised. A bona fide misunderstanding of the terms of the order or of the procedural rules should not immediately cause the institution of contempt proceedings. "The power to punish for contempt of court should be exercised on the preservative and not on the vindictive principle. Only occasionally should the court invoke its inherent power in order to retain that respect without which the administration of justice must falter or fail." [1] Such power being "drastic and extraordinary in its nature * * * should not be resorted to * * unless necessary in the interest of justice." [2]

Judgment.—Wherefore, the two orders of July 3, 1951, are hereby set aside and the injunction heretofore issued is made permanent. Costs against respondent Geromino R. Flores.

Paras, C.J., Feria, Pablo, Tuason, Montemayor, Bautista Angelo, and Labrador, JJ., concur.

[1] Villavicencio vs. Lukban, 39 Phil. 778.

[2] 17 C.J.S., p. 58.

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