

HERMENEGILDO MAKAPAGAL AND MARIA FIGUEROA, PETITIONERS, VS. FRANCISCO SANTAMARIA, ACTING JUDGE OF COURT OF FIRST INSTANCE OF MANILA, PEDRO DE LA PENA AND MARIA DE LA CRUZ, RESPO...

G.R. No. L-34616. December 15, 1930

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

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This is a certiorari proceeding instituted in this court by Hermenegildo Makapagal and Maria Figueroa against Judge Francisco Santamaria, temporarily presiding over the sixth branch of the Court of First Instance of Manila, together with Pedro de la Pena and Maria de la Cruz, asking that the judgment rendered by said judge on August 29, 1930, in the habeas corpus proceedings instituted in said court by the petitioner Hermenegildo Makapagal be vacated and set aside in so far as it sentences the latter to pay the costs, on the ground that such judgment is beyond the jurisdiction of the respondent judge, since the petitioners aforesaid obtained judgment.

The respondent judge in his answer denies each and every one of the allegations of the complaint and by way of special defense contends that the judgment for costs against the petitioners herein, rendered in civil case No. 37919 of the Court of First Instance of Manila, is authorized by Act No. 1586, paragraphs (b) and (c) and that the said petitioners acquiesced in and did not appeal from said judgment.

The only question, then, to be decided in these proceedings is whether, after deciding the habeas corpus proceedings in favor of the petitioners herein, who had instituted them against the respondents Pedro de la Peña and Maria de la Cruz, the respondent judge had jurisdiction to order them to pay the costs.

As a general rule, the imposition of costs in special proceedings, such as a petition for habeas corpus, is provided by the law, but section 550 of the Code of Civil Procedure, while containing a provision to that effect, does not include cases in which a person is unlawfully deprived of liberty by another who is not a public official nor by virtue of proceedings had in a criminal or civil suit. In the absence of a special provision on the point, the general law regarding the imposition of costs in ordinary actions must be applied (29 Corpus Juris, 181, section 206).

The general law providing for the imposition of costs in ordinary actions is contained in section 487 of the afore-mentioned Code, which reads as follows:

"Sec. 487. Costs ordinarily follow result of suit.—Costs shall ordinarily be allowed to the prevailing party as a matter of course, but the court shall have power, for special reasons, to adjudge that either party shall pay the costs of an action, or that the same be divided, as may be equitable."

It will be seen, then, that costs shall, ordinarily, be allowed to the prevailing party but, when special reasons exist therefor, the court shall have power to adjudge that either party shall pay the costs of an action.

Now then; Does the instant case show special reasons for making the prevailing instead of the defeated party pay the costs?

In adjudging the costs against the petitioner Hermenegildo Makapagal, the court below said:

"The petitioner having violated the truth in falsely stating in his sworn petition that the respondents were unlawfully detaining the petitioner's child, Amado Makapagal, said petitioner must be sentenced to pay the costs."

The special reason, then, upon which the respondent judge relies in adjudging costs against the petitioner Hermenegildo Makapagal, is that the latter "violated the truth in falsely stating in his sworn petition that the respondents were unlawfully detaining the petitioner's child, Amado Makapagal."

But the same decision of the respondent judge contains the following:

"The respondents being now willing to deliver the boy Amado Makapagal to the petitioner upon being reimbursed for the expenses of maintaining the child at the rate of P15 a month from the time the lad was 11 months old to the present day, they pray the court to be absolved from the complaint with costs against the petitioner, or else that the petitioner be sentenced to pay the respondents the expenses incurred by the latter in the care and maintenance of said child at the rate of P15 monthly."

The reason, then, why the respondents in the habeas corpus proceedings refused to deliver" to the petitioner therein the latter's son, Amado Makapagal, is that said petitioner would not agree to reimburse them for their expenses in maintaining the child, and they stood upon this refusal in court, demanding such reimbursement. Every free citizen has the constitutional right to enjoy his liberty and he shall not be deprived of it without due process of law or by reason of debt. (Sec. 3, Act of Congress of August 29, 1916.) If it be unlawful to imprison a person for debt, even by a judicial order, it is still more so to deprive him of his liberty for debt and without due process of law. Since the detention of the child, Amado Makapagal, was made on the ground of debt, it was unlawful, and the petitioner committed no falsehood in alleging in his petition that his son was unlawfully detained.

Inasmuch as the basis of the court's jurisdiction to adjudge the costs against the prevailing party instead of the defeated party, according to section 487 of the Code of Civil Procedure mentioned above, must be some special reason, and there being none, the respondent judge lacked jurisdiction to sentence the prevailing party to pay the costs.

In imposing the costs on the petitioners, the respondent judge also relied upon section 785 of the Code of Civil Procedure, as amended by Act No. 1586, which reads as follows:

"Sec. 785. * * * * * . * *

"(6) If a person so admitted be guilty of any improper conduct or of any unjustifiable delay in the prosecution of such action or special proceeding, as the case may be, or it be made to appear that the allegation of poverty is untrue, or if the court be satisfied that the alleged cause of action is frivolous or malicious, the court shall annul such order and such party shall thereafter be deprived of all benefit of the order admitting him to prosecute or defend as herein provided, and such person shall be deemed to be guilty of contempt of court and shall be punished by a fine of not more than one hundred pesos, or by imprisonment for not more than thirty days, or both, in the discretion of the court.

"(c) In the cases herein provided for, judgment may be rendered for fees and costs at the conclusion of such

action or special proceeding as in other cases.

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Paragraph (b) of section 785 of the Code of Civil Procedure as amended by Act No. 1586 punishes for contempt any person who, alleging under oath that he is a pauper in order to avoid the payment of court costs, should turn out not to be one; and paragraph (c) provides that the person thus committing a falsehood by pretending to be a pauper must pay the proper court costs.

The herein petitioner Hermenegildo Makapagal committed no falsehood in claiming to be a pauper, for he really was and is so; consequently, the respondent judge erred in imposing costs on him for a falsehood of which he was not guilty.

The second question to be decided is whether the petitioners are precluded from instituting this certiorari proceeding due to the fact that they failed to appeal from the decision in so far as they were sentenced to pay the costs.

In view of their poverty, appeal would not have been the speediest and most adequate means of protecting their rights and preventing the issuance of execution for costs against them, for they would not have been able to furnish the bond required to stay such execution, and the remedy of certiorari which they applied for was the speediest and most adequate means in the matter.

For the foregoing considerations, we are of opinion, and so hold, that when a court, without special reason, sentences the prevailing party to pay the costs of an action, it exceeds its jurisdiction.

By virtue whereof, the decision, which is the subject matter of the instant proceeding, is hereby reversed in so far as it sentences the petitioners to pay the costs in the habeas corpus proceedings instituted by them against the respondents Pedro de la Pena and Maria de la Cruz, decided in their favor, without special pronouncement of costs. So ordered.

Avanceña, C. J., Johnson, Street, Villamor, Ostrand and Johns, JJ., concur.

Malcolm, J., concurs in the result.

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