

JORGE P. ROYECA, PETITIONER, VS. HONORABLE PEDRO SAMSON ANIMAS, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF SOUTH COTABATO, BRANCH I AND THE HEIRS OF ADAN DE LAS MARIAS, R...*G.R. No. L-39584. May 03, 1976*

Ponente: FERNANDO, Acting C.J.

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FERNANDO, Acting C.J.:

The grievance alleged by petitioner, who was adjudged guilty of direct contempt by respondent Judge, is the grave abuse of such inherent judicial power compounded by the order assailed containing choice and colorful epithets derogatory to his person. The citation to show cause was triggered by allegations contained in a motion for the inhibition of respondent Judge filed on July 26, 1974 in a pending civil case where petitioner was the plaintiff. He and his lawyer were required to appear on August 9, 1974 and to explain why they should not be subjected to disciplinary action. It was set forth in the petition that they did so with an apology being offered by petitioner. Nonetheless, respondent Judge was not appeased, and in the challenged order issued on September 6, 1974, there was a finding of direct contempt, the sentence being imprisonment for ten days and a fine of P200.00. It is now contended that there was a flagrant misuse of the contempt power, there being nothing in the motion for inhibition offensive to the dignity of the court. The paragraphs referred to spoke of petitioner, plaintiff in a pending case, being left with "no choice except to doubt [its] actuation,"[1] and more than hinted at its failure to dispense justice "in accordance with the time-honored principle that all [are] equal in the eyes of the law * * *." [2] While it is understandable then for a man on the bench to feel offended by any imputation of partiality and to resort to his prerogative to punish contemptuous pleadings which manifest disrespect and thus obstruct the administration of justice, the motion for inhibition, if objectively appraised, should not have been visited with a contempt citation. So the argument runs. There is likewise a vigorous objection to what petitioner characterized as "character assassination" when he was referred to in the assailed order as possessed of a "polluted and stupid mind," and as a "self-anointed local tyrant," and one who has "assumed the posture of a crocodile which, while displaying tears, will grab through any victim within his reach without questions asked." [3]

Respondent Judge, when asked to comment, would exculpate himself by the plea that he had "no cause to assassinate the character of petitioner except perhaps to defend himself. On the contrary, it was petitioner himself who provoked the incident by filing a false and malicious Motion for Inhibition. Indeed, the present petition does not contain any denial that they were not so. In fact, petitioner's counsel himself in an Explanation and Motion to Withdraw Statements in Motion for Inhibition filed on August 8, 1974, admitted that the Motion for Inhibition tended 'to degrade and assault the integrity of the Honorable Presiding Judge.' * * * And it would have been unnecessary to ask for an apology if, in the first place, he had not libeled the Court and its Presiding Judge." [4] He had in mind not only the innuendoes already referred to but also paragraph 10 of the Motion for Inhibition: "That during the pre-trial, the plaintiff expected that due to the evidence which is unquestionable, the Honorable Court as in all other cases will ask the parties to just vacate if they have no right to be in said land, but surprisingly,

however, the Honorable Court suggested an amicable settlement where at this stage, an amicable settlement is already impossible." [5] Why he was unable to contain his ire was explained by respondent Judge in this wise: "Our order dated June 21, 1974 belied any such suggestion by the Court. We quote: 'Upon agreement of the parties, amicable settlement being impossible, set the hearing of this case on August 5, 6, 7, and 8, 1974 at 8:00 o'clock in the morning. Parties are notified in open Court. [So ordered].' * * * Thus, after accusing the Court of being prejudiced and predisposed, respondent, displaying arrogance, like any dictator, demanded that without trial, the Court has to order his adversaries to vacate the premises titled in his name. Emphasis should be made of the fact that the same property was the subject matter of a previous litigation between the same parties in Civil Cases No. 1080, 1194, 1195, 1196 and 1198. In a decision rendered on July 20, 1973, this Court, in dismissing the complaints, in part, held: 'Considering the neutrality of the Chairman of the Commission of Surveyors, his being a surveyor-employee of the Bureau of Lands, bound by the oath of his office, the concurrence of his finding by Commissioner Rodrigo Ortiz, based on the technical descriptions secured from no less than the Bureau of Lands, Manila, and that defendants as actual possessors of the land who made valuable improvements thereon claimed by them have in their favor a disputable presumption of ownership (Art. 433, Civil Code), these actions have to topple down like the proverbial house of cards. Coming to fore is the peremptory mandate of the law that in an action to recover, the property must be identified, and plaintiff must rely on the strength of his title and not on the weakness of the defendants' claim (Art. 434, Civil Code).'" [6] It is respondent Judge's plea then that the offending words be not lifted out of context: "With that as a judicial background and having in mind that this case was instituted under the aegis of the New Society where no less than His Excellency, the President of the Philippines, had categorically and eloquently emphasized that today, '* * * the Bill of Rights in this country stands revered in theory and in practice as it was at the dawn of the immortal Magna Carta,' no tribunal could have abdicated its sworn duty to apply the law to the facts of the case after hearing only to give way to the personal whims and caprices of a self-anointed local tyrant. Such a mandate can come only from a polluted and stupid mind, arrogantly crying for justice as long as it serves his own personal interest, denying to others what is due them and enriching himself at their expense. Calling a spade a spade, respondent assumed the posture of a crocodile which, while displaying tears, will grab though any victim within his reach without questions asked: With democracy still a living ideology in this country, such an attitude and mentality can deserve only judicial condemnation. Educated in the science of medicine, an Ex-Mayor of General Santos, Cotabato, and now an incumbent City Councilor, he is expected to be the last man to make such malicious accusation of partiality but simultaneously demanding a court order on the merits of his complaint, favorably to him without benefit of a trial.'" [7]

Even with due and full recognition that respondent Judge was motivated by what he sincerely believed to be the appropriate response whenever there is an affront to the Court, we cannot lend our approval to the mode in which in this instance the contempt power had been exercised. He appeared to have been unduly sensitive to the nuances that may lurk in phrases that from a more objective perspective could be considered as clumsy efforts to indicate apprehension at the possible outcome of a litigation. There were hints, it must be admitted, that respondent Judge was unsympathetic. That ought not to have produced such a high state of indignation. He would attribute it to petitioner's unjustified insistence on a court lending aid to his scheme to obtain possession of a parcel of land contrary to law. That he would not countenance. That attitude on the part of a judge certainly merits approval. Nonetheless, in reproving petitioner for what from his standpoint was an abuse of property rights, he need not have resorted to intemperate and insulting language. A judge, mindful of his high calling and his mission as an impartial and dispassionate arbiter ought to have refrained from such inflammatory and excessive rhetoric. The contempt power ought not to be utilized for the purpose of merely satisfying what is admittedly a natural inclination to strike back at a party who had shown less than full respect for the dignity of the Court. We have to grant certiorari.

1. The law governing the subject was stated recently in *People vs. Estenzo*.^[8] A relevant excerpt from the opinion therein rendered follows: "It is not open to dispute that implied in the judicial power vested in courts under the Constitution is the inherent power to punish for contempt. Ever since the establishment of the present judicial system, such a prerogative has been exercised with the approval of the Court. There are a number of decisions dealing with direct contempt. It cannot be denied either that unless exercised with restraint and judiciousness, this power lends itself to manifestations of whim, caprice, and arbitrariness. There is a compelling and exigent need therefore for judges to take the utmost care lest prejudice, innate or covert hostility to personality of counsel, or previous incidents lead them to characterize conduct susceptible of innocent explanation as slights on the dignity of the court. It is ever timely to remember how easy it is to overstep the dividing line that should separate the prosecutor from the judge, when both roles are merged in the same person. The infusion of personal element may go unnoticed. Even if such were not the case, objectively viewed, such an impression may be difficult to avoid by laymen. That is a consideration that cannot be overlooked. It is important that public confidence in judicial impartiality and fairness be not impaired. It is not so much for the sake of the judge alone then, but much more so for vindicating the popular belief in court proceedings being marked by calmness and dignity, that there should be a curb on the otherwise human failing of detecting disrespect in conduct or statements from counsel that cannot satisfy the highest standard of politeness or courtesy. When an occurrence of such character presents itself, an admonition or warning should suffice. There must be caution and hesitancy on the part of judges against the exercise of this awesome prerogative under such circumstances. 'The power to punish for contempt,' as was pointed out by Justice Malcolm in *Villavicencio vs. Lukban*, '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.'"^[9]

2. That same approach is reflected in decisions of the United States Supreme Court. In one of the early leading cases, *Ex parte Terry*,^[10] the opinion being penned by the first Justice Harlan, he was quite categorical in declaring that there could not be "any dispute to the power of a Circuit Court of the United States to punish contempts of its authority."^[11] In this 1888 decision, reference was made to the first case in point, *United States vs. Hudson*,^[12] that dates back to 1812, where the United States Supreme Court affirmed that the judiciary, from the very nature of its institution, possesses the power to fine for contempt, imprison for contumacy and enforce the observance of its order. His namesake and grandson, the second Justice John M. Harlan, had occasion in a leading decision, *Green vs. United States*,^[13] promulgated seventy years later, to emphasize that the power to punish for contempt received support from both historical and policy considerations. Nonetheless, he added these words of caution: "We take this occasion to reiterate our view that in the areas where Congress has not seen fit to impose limitations on the sentencing power for contempts the district courts have a special duty to exercise such an extraordinary power with the utmost sense of responsibility and circumspection." He continued: "Appellate courts have here a special responsibility for determining that the power is not abused, to be exercised if necessary by revising themselves the sentences imposed."^[15] For him those who see in the contempt power a potential instrument of oppression can be reassured by its careful use and supervision that can be exercised on the appellate level. That was not enough for Justice Black who dissented vigorously, joined by the then Chief Justice Warren and Justice Douglas. Thus: "The power of a judge to inflict punishment for criminal contempt by means of a summary proceeding stands as an anomaly in the law. In my judgment the time has come for a fundamental and searching reconsideration of the validity of this power which has aptly been characterized by a State Supreme Court as, 'perhaps, nearest akin to despotic power of any power existing under our form of government.' Even though this extraordinary authority first slipped into the law as a very limited and insignificant thing, it has relentlessly swollen, at the hands of not unwilling judges, until it has become a drastic and pervasive model of administering criminal justice usurping our regular constitutional methods of trying those charged with offenses against society. Therefore to me this case involves basic questions of the highest importance far transcending its

particular facts. But the specific facts do provide a striking example of how the great procedural safeguards erected by the Bill of Rights are now easily evaded by the everready and boundless expedients of a judicial decree and a summary contempt proceeding." [16] The dissent apparently had struck responsive chord. In the latest case in point, *Codispoti vs. Pennsylvania*, [17] decided two years ago, the United States Supreme Court held that defendants, in direct criminal contempt cases, enjoy the benefit of trial by jury. The implicit recognition of such a right in the 1966 case of *Cheff vs. Schnackenberg* [18] was made explicit. It is not too much to say, therefore, that the abuse to which this power lends itself calls for the utmost caution and circumspection on the part of the judge who may feel himself aggrieved by conduct or language deemed offensive to the dignity of the court.

3. It is well to affirm finally that this Court was not unmindful of the fact that whether rightly or wrongly, respondent Judge was laboring under the sense of having been affronted not only by the motion for inhibition but by previous incidents, there being obviously personality differences. He must have been strengthened in the belief that he had the right to feel offended with the admission by petitioner and counsel that such motion contained language that did cast reflection on his integrity. Had there been adherence, however, to the standard announced in *Azucena vs. Muñoz*, [19] of a judge being a cerebral man "who deliberately holds in check the tug and pull of purely personal preferences and prejudices," [20] perhaps he could have disposed of the whole matter with an admonition. Moreover, from the standpoint of the conduct and demeanor expected of a judge, he could have avoided resort to intemperate language which only revealed his emotional state. He did seek to impress on this Court that the words complained of in the challenged order, on their face vitriolic and scurrilous, were lifted out of context. There is some plausibility to such a view. Nonetheless, respondent Judge is well-advised to refrain in the future from resort to the language of vilification. He may not be fully aware of it, but to do so only detracts from the respect due a member of the judiciary.

Wherefore, the writ of certiorari is granted and the order of September 6, 1974 finding petitioner guilty of direct contempt is nullified and set aside.

Antonio and Martin, JJ., concur.

Barredo, (Acting Chairman), J., concurs in separate opinion.

Aquino, J., concurs in the result.

Concepcion Jr., J., is on leave.

[1] Petition, par. XI, citing par. 4 of Motion for Inhibition.

[2] *Ibid*, citing par. 7

[3] *Ibid*, par. IX.

[4] Comment, par. 2(d).

[5] Petition, Annex A.

[6] *Ibid*, Annex C.

[7] *Ibid*.

[8] L-24522, May 29, 1975, 64 SCRA 211.

[9] *Ibid*, 213-215. *Villavicencio v. Lukban* is reported in 39 Phil. 778 (1919). Direct contempt cases, in addition to *Villavicencio v. Lukban*, follow: *In re Aguas*, 1 Phil. 1 (1901); *U.S. v. Ney*, 8 Phil. 146 (1907); *Jones v. Harding*,

9 Phil. 279 (1907); *Narcida v. Bowen*, 22 Phil. 365 (1912); *Carag v. Warden of the Jail of Cagayan*, 53 Phil. 85 (1929); *Lualhati v. Albert*, 57 Phil. 86 (1932); *Salcedo v. Hernandez*, 61 Phil. 724 (1935); *Medina v. Rivera*, 66 Phil. 151 (1938); *Rivera v. Arellano*, 83 Phil. 744 (1949); *Torres v. Teodoro, Sr.*, 101 Phil. 422 (1957); *Matutina v. Buslon*, 109 Phil. 140 (1960); *Malolos v. Reyes*, L-16135, Feb. 25, 1961, 1 SCRA 559; *Dizon v. de Borja*, AC No. 163-J, Jan. 28, 1971, 37 SCRA 46; *Ocampo v. Domingo*, L-27632, Feb. 28, 1972, 43 SCRA 286; *Gardones v. Delgado*, AM No. 120-MJ, July 23, 1974, 58 SCRA 58. The latest case of direct contempt against a judge is *Fontelera v. Amores*, L-41361, March 8, 1976.

[10] 128 US 297 (1888).

[11] *Ibid*, 302. Cf. *Anderson v. Dunn*, 6 Wheaton 204 (1821); *Ex parte Robinson*, 19 Wall. 505 (1873).

[12] 7 Cranch 34.

[13] 356 US 165 (1958).

[14] *Ibid*, 188.

[15] *Ibid*.

[16] *Ibid*, 193-194.

[17] 418 US 506.

[18] 384 US 373.

[19] Adm. Case No. 130-J, June 30, 1970, 33 SCRA 722.

[20] *Ibid.*, 723.

CONCURRING OPINION

BARREDO, J.:

I vote to grant the petition. As judgments of superior courts on direct contempt, of which petitioner has been found guilty by respondent judge, shall not be appealable pursuant to Section 2 of Rule 71, the remedy of the supposed contemnor is certiorari in cases where, as in the instant case, the finding of contempt has no clear and proper basis.

The recital of facts in the main opinion suffices to justify the judgment annulling the impugned order. But personally, I find in the record more facts supporting such conclusion. In fact, I sense from all the facts I have come across that there is more than meets the eye in this case. I have gone over the motion for inhibition that appears to have caused respondent judge to feel outraged and villified, but I cannot find anything in it that an equanimous magistrate should be overly concerned about. All that I can gather from the allegations in paragraphs 4 to 8 and 10 thereof are petitioner's expressions of hope that justice would be administered equally to him and to the opposing parties and that, because petitioner felt that his cause was quite clear, he was surprised that the judge had suggested at all for the parties to compromise, ignoring undoubtedly that His Honor was plainly within his prerogatives in granting ex-parte the adverse parties' motion for extension of time to file their answer and that it is, in fact, the court's duty under Rule 20 to first advise the parties to try to settle their differences amicably, but this is because petitioner, who signed the motion, is not a lawyer, and, from all that appears in the record, he was

not properly assisted by competent counsel. I simply cannot get out of the impression that something subconscious might have contributed to the uncalled for reaction of respondent judge.

In any event, it is quite apparent from the attitude of respondent reflected in the language of the order in question and the maximum penalty imposed therein upon petitioner that proper restraint was not exercised by him to keep the use of the power to punish for contempt within the bounds marked in existing applicable jurisprudence – for as the majority opinion aptly postulates, the "contempt power ought not to be utilized for the purpose of merely satisfying what is admittedly a natural inclination to strike back at a party who had shown less than full respect for the dignity of the Court." To succumb or yield to such inclination is to commit grave abuse of discretion.

Considering that respondent judge is also facing an administrative complaint relative to the order We are here setting aside, I reserve further discussion as to whether or not the tone and tenor of said order deserves any corresponding sanction from this Court.

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