

ALEJANDRA G. LEGASPI, COMPLAINANT, VS. HON. GIDEON DE PEDRO, CIRCUIT MUNICIPAL JUDGE OF IBAJAY-NABAS, IBAJAY, AKLAN, RESPONDENT.

Adm. Mat. No. 2040-MJ. July 31, 1981

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a sworn-complaint dated October 21, 1978, Alexandra G. Legaspi charged Judge Gideon De Pedro, Circuit Municipal Judge of Iabajay-Nabas, Iabajay, Aklan with oppression, grave misconduct, abuse of authority and ignorance of the law in ordering the detention of the complainant for twenty-two (22) hours without proper proceedings and in violation of law.[1]

The affidavit of the complainant attached to the complaint as Annex "A"[2] alleged that on August 8, 1978, at about 4:00 o'clock in the afternoon, Deputy Provincial Sheriff Ramon Tejada, together with two (2) policemen, Fernando Amacio and Alejandro Sim, and Pableo Estandarte and Libertad Estandarte arrived at the house of the complainant in Laguinbanwa, Iabajay, Aklan; that upon arrival of the above-named persons, Deputy Provincial Sheriff Ramon Tejada requested the complainant to receive a copy of the writ of execution, but the complainant refused to receive the same, and so the Deputy Provincial Sheriff said that he would leave her the copy thereof; that the complainant told the Deputy Provincial Sheriff that she would not accept the copy of the writ of execution because her lawyer had filed a motion for reconsideration, and as a matter of fact, the Municipal Circuit Court of Iabajay-Nabas, Iabajay, Aklan had given the other party ten (10) days to file an opposition to the said motion for reconsideration; that the complainant further informed the Deputy Sheriff that they better wait first for the resolution of the said motion for reconsideration; that Deputy Provincial Sheriff, Ramon Tejada, told the complainant that he was delivering the possession of the land to Libertad Estandarte; that the complainant said that she could not agree because of her motion for reconsideration; that the Deputy Provincial Sheriff asked the opinion of the two (2) policemen but the latter replied that they were there simply to preserve peace and order; that Patrolman Fernando Amacio offered the advice to Deputy Sheriff Ramon Tejada that it would perhaps be better to wait for ten (10) days for the resolution of the motion for reconsideration; that after the complainant refused anew to accept a copy of the writ of execution, Deputy Sheriff Ramon Tejada, the two (2) policemen, and the spouses Pableo Estandarte and Libertad Estandarte left the place; that after a while at about past 4:30 o'clock in the afternoon of the same date, two (2) policemen again arrived at the house; that the two (2) policemen told the complainant that Judge De Pedro wanted to talk to her about the motion for reconsideration and urged the complainant to hurry, otherwise, said judge would arrest her; that the complainant went with the two (2) policemen, and when they arrived at the Municipal Building of Iabajay, Aklan, she saw Judge De Pedro at the corridor of the building talking to Deputy Provincial Sheriff Ramon Tejada, Pableo Estandarte and Libertad Estandarte, so the complainant proceeded to the Office of said Judge De Pedro; that after about five (5) minutes, Judge De Pedro, together with the spouses Pableo Estandarte and Libertad Estandarte, entered the office and told the complainant to receive the writ of execution and to comply with it; that the complainant informed Judge De

Pedro that she could not receive the writ of execution, much less comply with it, because of her motion for reconsideration and the fact that Judge De Pedro even gave the other party ten (10) days to comment on said motion; that Judge De Pedro told the complainant that her motion for reconsideration referred to damages claimed against the spouses Pableo Estandarte and Libertad Estandarte, and does not concern the writ of execution; that Judge De Pedro also told the complainant that she better promise to vacate the land where she was staying, otherwise, the judge would put her in jail; that Judge De Pedro gave the complainant ten (10) minutes to think over the matter; that after ten (10) minutes, the complainant told Judge De Pedro that she could not change her stand; that after hearing her answer, Judge De Pedro left so the complainant decided also to leave, but Patrolmen Francisco and Montaño prevented her to leave the Municipal Building of Ibajay, Aklan; that Patrolman Francisco sent Patrolman Montaño to Judge De Pedro who was already on his way home to ask him what they should do to the complainant; that upon the return of Patrolman Montaño, he informed the complainant that Judge De Pedro had ordered her detention; and that the complainant was detained in the Municipal Building of Ibajay, Aklan that very day and was released at 3:00 o'clock in the afternoon of the following day, August 9, 1978.

In his comment contained in a 2nd Indorsement dated December 1, 1978,[3] the respondent Judge De Pedro denied the allegations contained in paragraph 1 of the complaint that he had committed oppression, grave misconduct, abuse of authority and ignorance of the law and alleged that a Special Civil Action No. 2732 for certiorari with preliminary injunction had been filed on August 14, 1978 in the Court of First Instance of Aklan by the complainant against the respondent judge, the Deputy Provincial Sheriff, Ramon Tejada of the Court of First Instance of Aklan, and the private respondents, the spouses Pableo Estandarte and Libertad Estandarte, the winning party-plaintiffs in Civil Case No. 46, based on the same facts contained in the complaint and the supporting affidavit, Annex "A"; that the respondent judge attached to his comment copies of documents showing the events that transpired in Civil Case No. 46; and that the open defiance and belligerent attitude of the complainant to the Court and to the respondent judge, not only on August 8, 1978 but also on prior occasions, had constrained the respondent judge "to apply the last and only weapon of the Court to preserve the dignity of the judiciary and its processess"

It can be seen from the comment of the respondent judge that he does not deny having ordered the detention of the complainant for 22 hours from August 8 in the afternoon up to August 9, 1978 at 3:00 o'clock in the afternoon. The alleged defiant acts committed by the complainant constituted indirect contempt which cannot be punished summarily. Under Section 3, Rule 71 of the Rules of Court, indirect contempt can be punished only after a charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel.

The respondent judge erred in punishing the complainant summarily by ordering her detention for about 22 hours without filing a written charge against her and giving her an opportunity to be heard.

The offense of the respondent judge is serious in that he deprived a person of her liberty without due process of law. He should be imposed a fine equivalent to his salary for three (3) months.

WHEREFORE, the respondent Judge is hereby declared guilty

of having ordered the detention of the complainant without due process of law and is imposed a fine equivalent to his salary for three (3) months with the warning that a repetition of the same or similar offense shall be dealt with more severely.

Let this decision be made a part of the personal record of the respondent judge.

SO ORDERED.

Makasiar, Guerrero and Melencio-Herrera, JJ., concur.

Teehankee (Chairman), concurs in the result.

[1] Rollo, p. 1.

[2] Rollo, pp. 2-3.

[3] Rollo, pp. 5-20.

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