

REY BORROMELO, PETITIONER, VS. COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. L-39253. November 24, 1978

Ponente: CASTRO, C.J.

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CASTRO, C.J.:

The Court's resolution of October 16, 1974 required Atty. Enrique HR. Abila, original counsel of the petitioner in G. R. No. L-39253, to show cause why he should not be held guilty of contempt of court for making the following statements in his motion for reconsideration dated October 2, 1974:

"Has the Clerk of Court of the First Division become so caloused over the plight of the innocent that she treats every appellant's petition as one with LACK OF MERIT? Doesn't this Clerk of Court read the plead-ings? And in that regard does the 'division' of this Court submit to its Clerk's whims under the cover of 'lack of merit'?"

"And here's the same application in this case. Yet the Clerk of Court wrote the petitioner that his case lacks merit. Can the Clerk of Court use no other language than that which is abused and over-abused, the 'lack of merit' linggo?"

"It is because of this fact that the undersigned cannot be convinced that the Clerk of Court has ever allowed the Justices to read this petition before the 'lack of merit' resolution was issued out by her. If the Justices have just read the petition undersigned believes that the same will be given due course.";

"How can this happen if the Clerk of Court would routinely issue minute resolutions denying petitions for 'lack of merit'. With the many incidents already afflicting the law practitioners of this country, gives the irreconcilable conclusion that this drastic routine is an internal standard operating procedure handed down to the Clerk to be followed indiscriminately,"; and

"HOW CAN THE HONORABLE SUPREME COURT take this step if it will allow the routinary ruling of 'lack of merit' supersede a review on the merit of the case?"

On October 31, 1974, Atty. Abila submitted his written explanation, the pertinent portions of which read:

". . . , the undersigned is indeed very sorry to the Supreme Court justices if he has offended them. He thought then that that was his best way to attract attention of the Honorable Justices to enable him to display the awful

incidents of the case that they may see how badly the lower courts had mangled the rights of the accused. Undersigned was just emotionally carried in the defense of an innocent man who was wrongly convicted in the court of origin. He had never been known to just stand idly by in the face of injustice. He respectfully and humbly apologizes for those unpleasant statements. There was no malicious intent on his part."

On May 7, 1975, after several postponements, a hearing was held thereon. At the hearing, he again expressed his apologies and admitted that the matters adverted to in his motion for reconsideration, subject-matter of the present contempt proceeding, were merely based on assumptions.

The statements contained in the aforecited motion for reconsideration imputing irregularity in the internal procedures of the Court and laxity in similar matters are unquestionably contemptuous. In fact, Atty. Abila does not deny that they are such, for which he repeatedly expressed his apologies. Obviously, such insinuations and imputations are highly derogatory and disrespectful and serve nothing but to discredit the Court. They are immaterial, and uncalled-for as they are based on mere assumptions, and, if uttered by a member of the bar, constitute serious disrespect. "As an officer of the court, it is his sworn and moral duty to help maintain and not destroy the high esteem and regard towards the courts so essential to the proper administration of justice."

Atty. Abila's central theme in his written explanation is that he acted in good faith and was merely motivated by his duty to defend the interest of his client. His disclaimer of any intentional disrespect is not a ground for exoneration. His intent must be determined by a fair interpretation of the language employed by him. He cannot escape responsibility by claiming that his words did not mean what any reader must have understood them to mean (*Intestate Estate of Rosario Olva, in re Contempt Proc. vs. Antonio Franco*, 67 Phil. 312; *Sison vs. Sandejas*, L-9270, April 29, 1959; *Rheem of the Phil. vs. Ferrer*, L-22979, June 26, 1967, 20 SCRA 441).

Considering that this is the first contempt charge lodged against Atty. Abila in this Court; that soon after he was required to explain why he should not be cited for contempt for such unwarranted statements, he readily admitted his mistakes and repeatedly apologized and asked the forgiveness of this Court; and that he was apparently carried away by his "passion to protect the interests of his client which he believed to be meritorious," the Court sentences Atty. Abila to pay, within fifteen (15) days from notice, a fine of P200.00, with a warning that repetition of the same or similar offense will be dealt with more severely.

Makasiar, Fernandez, and Guerrero, JJ., concur.

Teehankee, J., concurs in a separate opinion.

CONCURRING OPINION

TEEHANKEE, J.:

I concur in the Court's lenient disposition of this incident in view of respondent attorney's ready admission of his grave error and repeated apologies therefor to the Court.

I only wish to stress once more for the benefit of the members of the bar that they should not fall into respondent attorney's gross misconception and error that it is the Clerk of Court who "allow(s) the Justices to read (these) petitions" for review on certiorari of decisions of the lower courts and that this Court or its divisions "submit to (its) Clerk's whims under the cover of 'lack of merit'." (Resolution at page 1).

In *Barrera vs. Barrera*[1], this Court remarked in reprimanding a judge who recklessly made such a baseless allegation that "He did speak with all the valor of ignorance. Nor did he retreat from such an indefensible stand in the face of his being informed that what the Clerk did was solely in accordance with what was previously decided

by this Court, which certainly will not tolerate, anybody else, much less a subordinate, to speak and act for itself. This gross disrespect shown to this Court has no justification."

In the 1970 case of *In re: Almacen*[2], the now Chief Justice again clarified for all concerned the nature of dismissals for petitions for review on certiorari for "lack of merit" thus:

"Six years ago, in *Novino, et al. vs. Court of Appeals, et al.*, L-21098, May 31, 1963 (60 O.G. 8099), this Court through the then Chief Justice Cesar Bengzon, articulated its considered view on this matter. There, the petitioner's counsel urged that a 'lack of merit' resolution violates Section 12 of Article VIII of the Constitution. Said Chief Justice Bengzon:

'In connection with identical short resolutions, the same question has been raised before; and we held that these 'resolutions' are not 'decisions' within the above constitutional requirement. They merely hold that the petition for review should not be entertained in view of the provisions of Rule 46 of the Rules of Court; and even ordinary lawyers have all this time so understood it. It should be remembered that a petition to review the decision of the Court of Appeals is not a matter of right, but of sound judicial discretion; and so there is no need to fully explain the court's denial. For one thing, the facts and the law are already mentioned in the Court of Appeals' opinion.

'By the way, this mode of disposal has -- as intended -- helped the Court in alleviating its heavy docket; it was patterned after the practice of the U.S. Supreme Court, wherein petitions for review are often merely ordered 'dismissed'.'"

Also in *People vs. Catolico*[3], the Court through the writer called attention to "the time-honored usage of the Court that minute resolutions, summons and processes of the Court as well as official actions of the Chief Justice, upon being duly adopted and recorded are transmitted to the interested parties by and upon the signature of the Clerk of Court who is duly authorized to do so. With the thousands of resolutions approved monthly by the Court, it would unduly tax the time and attention of the Chief Justice and members of the Court to the prejudice of the administration of justice if all such papers, other than decisions, could be released only upon their own signatures. The situation is analogous to administrative decisions signed by the Executive Secretary 'by authority of the President,' which decisions are given full faith and credit by our courts as decisions of the President, 'unless disapproved or reprobated by the Chief Executive.'"

[1] 34 SCRA 98, 106 (1970), per Fernando, J.; emphasis supplied. See also *Casilan vs. Chavez*, 4 SCRA 599, 604; Res. of Feb. 5, 1971 in L-32846, *Castillo vs. Court of Appeals*.

[2] Vide *In re Almacen*, 31 SCRA 562, 574 (1970).

[3] 38 SCRA 389, 407.

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