

AGUSTIN DAYOAN, PETITIONER, VS. MANUEL BLANCO, JUDGE OF THE COURT OF FIRST INSTANCE OF ILOCOS SUR, AND SEGUNDO DAYOAN, RESPONDENTS.

G.R. No. L-736. October 31, 1946

Ponente: BENGZON, J.

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BENGZON, J.:

Confined in the provincial jail of Ilocos Sur, for contempt of court, Agustin Dayoan in his several successive petitions requests principally (1) that, during the pendency of this proceeding, he be released upon such bail as we may determine; (2) that respondent Judge Manuel Blanco (or his successor Judge Ceferino de los Santos) be required to fix the amount of bail he must file for provisional release during his appeal from the sentence for contempt; (3) that his appeal from such sentence be given due course; (4) that he be finally liberated upon a finding that such sentence was null and void; and (5) that the other respondent Segundo Dayoan be mulcted in damages.

The first request was denied by our resolution of September 14, 1946, The remaining four will presently be taken up.

Chronologically stated, the pertinent facts, as gleaned from the pleadings and documents attached, thereto, are the following:

1. On January 15, 1946, the plaintiff Segundo Dayoan in Civil Case No. 2817 of Ilocos Sur charged the defendant Agustin Dayoan (herein petitioner) with contempt of court for having disobeyed a judicial order entered therein;
2. After hearing the parties on May 18, 1946, the Honorable Manuel Blanco, Judge, rendered a judgment of the following tenor:

“Se trata del incidente de desacato promovido contra Agustin Dayoan y Marianito Ipalari por el demandante Segundo Dayoan en su mocion de 15 de enero de este año.

"De las pruebas practicadas el Juzgado encuentra establecido que los recurridos Agustin Dayoan y Marianito Ipalari, en sus respectivas calidades de depositario el primero y administrador especial el segundo, administraban 42 de los terrenos objeto de este asunto, los cuales les produjeron el año 1945 un canon, equivalentes a ochenta yones de palem para el dueño de los terrenos, que en la proporción de 1/6 parte en algunos de ellos y 5/12 partes en otros que ostenta el demandante según la decisión final y firmes en este asunto, le corresponderían trece (13) yones de palem, los cuales recurridos Dayoan e Ipalari retienen y no han entregado al demandante, en contravención de la orden de este Juzgado de 25 de octubre de 1944 y de los requerimientos que por escrito les ha hecho aquel.

"Hechos, los arriba expuestos, establecidos por la declaracion del demandante Dayoan y sus Exhibits A, B, C y D, no refutados por prueba en contrario de los recurridos, es mas, admitidos por uno de ellos, Marianito Ipalari, que declarando en este incidente a ha diolio que tiens en su casa parte de pal ay que corresponde al demandante y que si hasta a ahora no lo iis entregado ai alamo es, poroue espera que su coreeurrido Agustin Jayoan ha ga lo propio respecto al pa lay del demandante que retiene en su poder, done so pretexto que demuestra la actitud del culpable cue prsteu de librarse de responsabilidad echandole la culpa al compañero, Agustin Dayoan, que en este incidente ni siquiera ha usado sentarsa en la silla testifical para nsgar el indudable jus to aserto de su hermano el aqui demandante y recurrente Segundo Jayoan.

"Los hechos arriba expuestos son, sn sen tir del que provee, constitutivos de un desa cato a este Juzgado, previsto en si inciso (b) del "articulo 5 y pen ado en el articulo 7, siabos de la Regla Judicial No. 64.

"POR TANTO, se ordena el arresto y re elusion de Agustin Jayoan y Marianito Ipalari hasta que entreguen al demandante Segundo Da yoan los treoe (15) uyones de palay arriba mencionados."

3. On June 8, 1946, Agustin Dayoan was duly and fully informed of the above terms of the judgment, he having been apprehended and jailed several days before;
4. On June 12, 1945, he moved for permission to go out on bail, averring that he wanted to ask for new trial and engage counsel;
5. On objection of Segundo Dayoan, the court denied the request on June 15, 1946;
6. On July 3, 1946, Agustin Dayoan submitted a notice of appeal dated June 3, 1946;
7. On July 25, 1946, the Provincial Fiscal, in the absence of the Judge of first instance, fixed the amount of P500.00 as the bond for the prisoner's release during the appeal;
8. On August 5, 1946, Agastin Dayoan moved that his bond for P500,00 be approved, and that his record on appeal be certified and coursed;
9. Segundo Dayoan made objection to the last motion, asserting that the appeal had not been perfected in due time;
10. By his order of August 22, 1946, the Honorable Ceferino de los Santos, Judge, declined to approve both, the bond aid the record, explaining that,

"Obra en autos que el demandado Agustin Dayoan Abella fue notificado de la sentencia del incidents de desacato el 8 de junio de 1946, aunque ingreso en la earcel provincial tres (3) dias antes, o sea, el 5 de junio del mismo afio; y iablendo ya trascurrido mas de quince {15} dias descle que el fue notificado de la sentencia hasta la fecha de la presentacion de sus dos mocion.es arriba raencionadas, este Juzgado ya carece de Jurisdiccion. (Art. 10 Regla 64 y Art. 6 Regla 118 de los Reglamentos Judiciales)."

Of course, there is no dispute that the commitment order was appealable. (Section 10, Rule 64). It appears, however, that Agustin Dayoan's notice of appeal was late, for, as pointed out by the trial judge, it should have been submitted fifteen days after advice of the commitment order which was done on June 8, 1946. (Sec. 10, Rule 64 In connection with Sec. 6, Rule 116)

As to the petitioner's request for fixing his bail, it is clear that the Fiscal's action, squarely met it. Anyway, his right to appeal having fizzled out, there is no occasion for any appeal bond. Needless to add, his other requests

have no factual nor legal basis.

He contends, however, that he may not properly be kept indefinitely in prison for failure to deliver unto Segundo Dayoan thirteen (13) uyonos of palay, for the reason that, he having disposed of the cereal, his situation does not fall within the scope of section 7 of Rule 64 providing that "when the contempt consists in the omission to do an act which is yet in the power of the accused to perform, he may be imprisoned x x x until he performs it."

On this point our opinion is that his ability or inability to perform was undoubtedly estimated by the committing judicial officer; and petitioner having neglected to take the indispensable steps to bring up his case for review, this Court is not in a position to revise the question of fact involved, and must yield to the presumption of validity of the order. And although it must be conceded, as he argues, that he may be discharged from custody "when it appears that public interest will not suffer thereby" (Section 9, Rule 64) still, such deliverance does not rest in the discretion of this Supreme Bench but in the power of the lower court, that undoubtedly could now validly exercise its discretion in his favor considering; first, the time he has served, second, the rule was technical that deprived him of a review, and third, the circumstance that substantial compliance with the directive he has disobeyed may perhaps be obtained by a writ of execution.

The petitions will be denied. No costs.

Moran, Paras, Feria, Padilla, and Tuason, JJ., concur.

Dissenting Opinion

Perfecto, J.:

In Civil Case No. 2817 of the Court of First Instance of Ilocos Sur, Judge Simeon Ramos issued on October 25, 1944, an order the dispositive part of which is as follows:

POR TODO LO EXPUESTO, el Juzgado ordena que Agustin Dayoan oese en su cargo de depositario y que presente la cuenta final de su cargo, cuenta que debiera ser clara y detallada, con los comprobantes necesarios.

SE ORDENA ADEMÁS que el demandante puede ya tomar parte en la administración de los terrenos y percibir los frutos de los mismos en la porción indicada en la decisión, previniéndose a los demandados no impidan al demandante a tomar parte en la administración y percibir frutos que le correspondan.

On January 15, 1946, a complaint was filed against petitioner for contempt in alleged violation of the above order.

On May 18, 1946, respondent Judge Manuel Blanco rendered a judgment the pertinent parts of which we quote:

De las pruebas practicadas el Juzgado encuentra establecido que los recurridos Agustin Dayoan y Marianito Ipelari, en sus respectivas calidades de depositario el primero y administrador especial el segundo, administraban 42 de los terrenos objeto de este asunto, los cuales produjeron el año 1945 un canon equivalente a ochenta uyonos de palay para el dueño de los terrenos, que en la proporción de 1/6 parte en algunos de ellos y 5/12 en otras partes en otros que ostenta el demandante según la decisión final y firme en este asunto, le corresponderían trece (13) uyonos de palay, los cuales los recurridos Dayoan e Ipelari retienen y no han entregado al demandante, en contravención de la orden de este Juzgado de 25 de octubre de 1944 y de los requerimientos que por escrito les ha hecho aquel."

.....

Los hechos arriba expuestos son, en sentir del que provee, constitutivos de tin desacato a este Juzgado, previsto en el inciso (b) del Artículo 3 y penado en el Artículo 7, ambos de la Regla Judicial No. 64.

POR TANTO, se ordena el arresto y reclusion de Agustin Dayoan y Marianito Ipalari hasta que entreguen al demandante Segundo Dayoan los trece (13) uyones de palay arriba mencionadas.

There is nothing to show, upon the facts delcared proved in the judgment, that petitioner had violated the order of October 25, 1944, wherein any order to the effect that Agustin Dayoan should, jointly with Marianito Ipalari, deliver 13 uyones of palay to Segundo Dayoan does not appear.

On June 12, 1946, petitioner, who by virtue of the judgment was confined in the provincial Jail of Ilocos Sur, filed a petition to be bailed in order that he may secure the services of an attorney. On June 16, 1946, sustaining the opposition of the adverse party, Judge Blanco denied the petition.

On June 3, 1945, petitioner filed a pleading appealing against the judgment.

Petitioner complains that he has been under arrest since June 5, 1946, but on said date he could not get any information as to the contents of the judgment, notwithstanding his insistent desire to read it, the record cleric alleging that the record was in the possession of the judge. It was only on June 8, 1946, that he was notified of the judgment.

Petitioner alleges that he has consumed all the small amount of palay (part only of the 13 uyones in question) he is ordered in the judgment to deliver and, therefore, he is not in a position to perform the delivery.

The petitioner appears to be one of those unfortunate victims of self-delusion who, because of a smattering or superficial knowledge of law, believe themselves fully competent to handle their own case without the assistance of a lawyer, with the result that they bungle miserably their own case. To this must be added the handicap that petitioner was held in prison even before he filed the petition and did not enjoy the freedom to handle his own case the best way he can or to appear before us and submit all the papers needed in support of his petition.

The situation imposes upon our own sense of justice the exertion of an especial endeavor to understand and to do justice.

From the pleadings of both petitioner and respondents and the annexes submitted by the latter, we can glean that petitioner appears to have been adjudged guilty of contempt for alleged disobedience in the performance of a duty not specifically enjoined upon him; that he appealed and his right of appeal was denied; that he prayed to be bailed in order to look for an attorney to handle his case, and his prayer was denied; that he is being kept in jail until he delivers part of the 13 uyones of palay which had been in his possession but which he can not deliver anymore because he had consumed them all. There are various evidence or, at least, strong indications that petitioner is a victim of a miscarriage of justice; and, there is nothing to justify us in closing our eyes and giving deaf ears to the complaints coming from the provincial jail of Ilocos Sur.

We are of opinion, and so vote, that petitioner must immediately be released in order to enable him to properly handle his case or, at least, that he be granted provisional release on bail in the amount of P100.00, and that the record of Civil Case No. 2817, of the Court of First Instance of Ilocos Sur, be ordered forwarded to this Court so we may do what justice demands.

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