

ATTY. MARCIAL A. EDILLON, PETITIONER, VS. HON. PIO B. FERANDOS, PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF CEBU, BRANCH IX, RESPONDENT.

G.R. No. L-31255. May 31, 1982

Ponente: ABAD SANTOS, J.

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ABAD SANTOS, J.:

In this special civil action for certiorari and prohibition which was filed with this Court on November 26, 1969, petitioner Marcial A. Edillon, a practicing lawyer, prays for the annulment of the orders dated October 14, 1969, and October 27, 1969, which were issued by Hon. Pio B. Ferandos (as Presiding Judge of the Court of First Instance of Cebu, Branch IX) in Civil Case No. 204-T and Administrative Case No. 6-T, respectively. The petitioner further prays that the respondent Judge be enjoined from further proceeding with said Administrative Case No. 6-T. In the first assailed order the respondent Judge declared the petitioner guilty of direct contempt of court and imposed upon him the penalty of fine of P150.00 or subsidiary imprisonment of 8 days for making statements in the memorandum he filed as counsel in Civil Case No. 204-T (entitled "Atlas Consolidated Mining and Development Corporation vs. Jesus Trocio, et al.") which the respondent Judge considered as highly derogatory and contemptuous. In the second assailed order, the respondent Judge denied petitioner's motion seeking the dismissal or amendment of the complaint in Administrative Case No. 6-T -- a proceeding initiated by said respondent Judge for the suspension of the petitioner from the practice of law.

The respondent Judge seeks the dismissal of this petition. He alleges that the first assailed order which declared the petitioner guilty of direct contempt of court and imposed upon him a penalty of fine of P150.00 or subsidiary imprisonment of 8 days had already been executed with petitioner serving the penalty of imprisonment. Hence, the matter is a "fait accompli" and not subject to review on certiorari because it has become moot and academic. As regards the second assailed order, the respondent Judge alleges that Administrative Case No. 6-T had likewise been terminated with the issuance on November 24, 1969 (2 days before the filing of the present petition) of an order suspending the petitioner from the practice of law for a period of one year and the transmittal of said order and of all records of the proceedings to this Court for review pursuant to Sec. 29, Rule 138 of the Rules of Court. It is contended that prohibition will not lie against respondent Judge since there are no further proceedings to be enjoined and what remains to be done is for this Court to review the petitioner's suspension from the practice of law pursuant to the aforesaid provisions of the Rules of Court.

Finding the allegations of the respondent Judge to be well-founded, this petition for certiorari and prohibition is hereby **DISMISSED** for having become moot and academic. No costs.

SO ORDERED.

Barredo, (Chairman), Aquino, Guerrero, De Castro, and Escolin, JJ., concur.
Concepcion, Jr., J., on leave.

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