JOHN PANALIGAN, COMPLAINANT, VS. JUDGE FRANCISCO B. IBAY, REGIONAL TRIAL COURT, BRANCH 135, MAKATI CITY, RESPONDENT.

A.M. NO. RTJ-06-1972 (FORMERLY OCA IPI NO. 05-2247-RTJ). June 21, 2006

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Complainant John Panaligan charges Judge Francisco B. Ibay, Regional Trial Court (RTC), Branch 135, Makati City, with Grave Abuse of Authority, for citing him in contempt of court and ordering his detention.

Complainant is a Building Management System (BMS) Operator assigned at the Task Force Building and Facilities Maintenance Office of the City Government of Makati. As such, it was his duty to monitor the different offices located at the Makati City Hall from 3:00 to 11:00 p.m.

On 11 April 2005, at around 9:00 p.m., complainant made his usual rounds to see to it that all lights and appliances had been turned off. He found the lights at the staff room of Branch 134 located at the 12[th] floor of the building still on. In accordance with the standard operating procedure, complainant went to the Monitoring Room at the basement of the building to ask for help to switch off the lights. Thereafter, he again proceeded upstairs with one of the security guards of the building. Since they had no key to open the court or staff office, complainant was compelled to switch off the circuit breaker of the south wing of the 12[th] floor in order to turn off the lights at the staff room of Branch 134. Complainant duly noted the incident in their logbook. In addition, he posted his report at their bulletin board to ensure that the relieving employee will turn on the circuit breaker to restore the lights.

On 12 April 2005, complainant received a show cause order[1] from the respondent Judge directing him to explain why he should not be cited for contempt of court for switching off the electric power of Branch 135. Complainant's superior officer, Edgardo Gundran, earlier received a similar order.[2]

At the hearing on 13 April 2005, complainant explained why he switched off the electric currents in the 12[th] floor. Finding the same unsatisfactory, respondent Judge cited[3] complainant for contempt of court with a penalty of imprisonment for two days. Thus, he was brought to the City Jail at Fort Bonifacio. However, at around 5:00 p.m. of the same day, he was released as respondent Judge set aside[4] his previous order reducing the penalty to the number of hours he was detained.

Aggrieved by the order of contempt and the subsequent order of imprisonment, complainant initiated the instant complaint.

On 10 May 2005, Court Administrator Presbitero Velasco[5] ordered respondent Judge to submit his comment within 10 days from receipt.[6]

In his Comment[7] dated 10 June 2005, respondent Judge relates that on 12 April 2005, he reported to his office at around 7:00 a.m. He found out that "the lights were off and the electrical outlets were dead." He ordered Gundran to appear before him at 2:00 p.m. to explain why he should not be cited for contempt of court for delaying the

administration of justice. Gundran appeared and explained that he did not order the complainant to switch off all the electrical outlets of Branch 135. Respondent Judge found this explanation satisfactory; thus, he directed the complainant instead to appear at 10:00 a.m. the following day.

Complainant submitted his written explanation dated 13 April 2005, but respondent Judge found it unsatisfactory. Complainant admitted he indeed switched off the circuit breaker, and since Branches 134 and 135 have a common circuit breaker, the power supply of the respondent Judge's court was also disengaged. Respondent Judge points out that complainant did not explain why "he switched off all the outlets when it was only the lights which should have been switched off." Thereafter, respondent Judge cited the complainant for contempt of court for delaying the administration of justice, especially in the writing of the decision in Criminal Cases Nos. 03-032, 03-033 and 03-035 entitled, People of the Philippines v. Michael Reyes. Thereupon, he ordered that complainant be detained; however, he ordered his release on the same day and considered the penalty reduced to the numbers of hours he has been in detention.

Respondent Judge claims he made it his deep concern to dispose the cases assigned to him within the prescribed period. To accomplish this, he comes to court at 7:00 a.m. everyday. He works not only at his chambers but also at home. Consequently, he was able to dispose 349 cases leaving only 171 cases pending as of 31 December 2004. He points out that he was able to further reduce his docket to 23 civil cases and 29 criminal cases as of 31 May 2005. Thus, he ranked 3[rd] among judges in Makati RTC with respect to disposition of cases.

Respondent Judge further alleged that in the course of the performance of his duty, petty disturbances such as the subject of the instant administrative complaint prove annoying to him. Be that as it may, he did not lose his objectivity, probity, equanimity, integrity and impartiality. While he was annoyed by the incident, he reacted thereto within the limits and boundaries of the law and justice.

On 7 October 2005, the Office of the Court Administrator (OCA) submitted its report recommending that:

> In view of the foregoing, it is respectfully submitted to the Honorable Court our recommendations that this administrative case be REDOCKETED as a regular administrative matter and that Judge Francisco B. Ibay, Regional Trial Court, Branch 135, Makati City, be FINED in the amount of Five Thousand Pesos (P5,000.00) with a STERN WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.[8]

The Court finds no cogent reason to depart from the above evaluation of the OCA.

The core issue to be resolved in this case is: whether or not respondent Judge Francisco B. Ibay abused his authority in citing the complainant in contempt of court for switching off the circuit breaker to turn off the lights left on in one of the courts after office hours?

We are not persuaded by the ratiocinations of respondent Judge as to the correctness of his actions. On the contrary, we question entirely the logic behind his immediate resort to a contempt citation.

Contempt of court involves the doing of an act, or the failure to do an act, in such manner as to create an affront to the court and the sovereign dignity with which it is clothed. It is defined as "disobedience to the court by acting in opposition to its authority, justice and dignity."

The Rules of Court penalizes two types of contempt, namely, direct contempt and indirect contempt. Direct contempt is committed in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, and includes disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so.[9]

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On the other hand, Section 3 of Rule 71 of the Rules of Court enumerates particular acts which constitute indirect contempt, thus:

> (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
>
> (b) Disobedience of or resistance to a lawful writ, process, order or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
>
> (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;
>
> (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
>
> (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
>
> (f) Failure to obey a subpoena duly served;
>
> (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

Guided by the above quoted provisions of the Rules of Court on contempt, complainant's act does not fall under any of the enumerated contumacious acts. We fail to see any contumacious attitude on the part of the complainant to delay the proceedings of the court. Neither does it constitute disrespect to the dignity of the court. As BMS Operator, it is his duty to maintain the safety of the building. It must be emphasized that complainant had no key to the staff room of Branch 134 as it is a usual practice that key to the court rooms are kept and maintained by the staff of the Judge. Complainant is not provided with one, considering the confidential nature of the papers and documents found therein. Thus, the only way complainant could turn off the lights left on at Branch 134 and to maintain the safety of the building was to disengage the circuit breaker that serves the south wing of the 12[th] floor of the building. To ensure that the light will be restored, complainant annotated the incident in the Log Book and posted the information in the bulletin board to notify the employee assigned to the next shift so that the latter may, in due time, switch on the circuit breaker and restore the lights. Clearly, complainant merely did his job with all diligence of a good father of a family as he prevented the obvious danger posed to the safety of the building by leaving lights turned on for a long time. Verily, the court's power to cite for contempt was not appropriately exercised under the given circumstances.

Notwithstanding the complaint of respondent Judge that he was unduly inconvenienced by the action complained of, records show that electricity was restored within 30 minutes from the time it was brought to the attention of Edgardo O. Gundaran, Officer-in-Charge of the Task Force Building Facilities and Equipment Maintenance Office of the City Government of Makati. Moreover, the restoration was made clearly before office hours. If at all, the alleged undue inconvenience suffered by respondent Judge was very minimal. Under the circumstances, it is clear that the negligible nature of the inconvenience cannot be made the proper subject of a contempt.

It is well-settled that the power to declare a person in contempt is inherent in all courts so as to preserve order in judicial proceedings and to uphold the administration of justice. Judges, however, are enjoined to exercise such power judiciously and sparingly, with utmost restraint, and with the end view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindication.[10] The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the

corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that are impersonal, because the power is intended as a safeguard not for the judges as persons but for the functions that they exercise.[11] Only occasionally should the court invoke the inherent power in order to retain that respect without which the administration of justice must falter or fail.[12]

Likewise, it is settled that an act to be considered contemptuous must be clearly contrary or prohibited by the order of the court. "A person cannot, for disobedience, be punished for contempt unless the act which is forbidden or required to be done is clearly and exactly defined, so that there can be no reasonable doubt or uncertainty as to what specific act or thing is forbidden or required.[13] The acts of complainant in the case at bar is not contrary or clearly prohibited by the order of the court.

The integrity of the judiciary rests not only upon the fact that it is able to administer justice but also upon the perception and confidence of the community that the people who run the system have done justice.[14] The assumption of office by a judge places upon him duties and restrictions peculiar to his exalted position. He is the visible representation of law and justice. He must be perceived, not as a repository of arbitrary power, but as one who dispenses justice under the sanction of the rule of law.[15] The behavior and conduct of judges must reaffirm the people's faith in the integrity of the judiciary. Justice must not merely be done but must also be seen to be done.[16] In the present case, respondent Judge may not have been urged by ulterior motives in citing complainant in contempt and in subsequently sending him to jail for putting off the lights in the 12[th] floor including his sala; nevertheless, his actuation can easily be perceived as being a repository of arbitrary power. His actuation must never serve to fuel suspicion over a misuse of the prestige of his office to enhance his personal interest.

We cannot simply shrug off respondent Judge's failure to exercise that degree of care and temperance required of a judge in the correct and prompt administration of justice; more so in this case where the exercise of the power of contempt resulted in complainant's detention and deprivation of liberty. Respondent Judge's conduct amounts to grave abuse of authority.

We have repeatedly reminded members of the judiciary to be irreproachable in conduct and to be free from any appearance of impropriety in their personal behavior, not only in the discharge of their official duties, but also in their daily life. For no position exacts a greater demand for moral righteousness and uprightness of an individual than a seat in the judiciary.[17] The imperative and sacred duty of each and everyone in the judiciary is to maintain its good name and standing as a temple of justice. The Court condemns and would never countenance any conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability or tend to diminish the faith of the people in the judiciary,[18] like in the case at bar.

Squarely applicable is the case of Teodora A. Ruiz v. Judge Rolando G. How.[19] In this case, respondent Judge Rolando G. How cited complainant Ruiz who was an employee of the court, in direct contempt of court for alleged willful display of abusive and disrespectful language hurled by the latter. This Court disagreed with the respondent Judge in finding that the actuations of Ruiz constitute direct contempt inasmuch as when the derogatory words were uttered by complainant no proceedings were being held nor was it shown that respondent Judge was performing judicial function. Thus, respondent Judge was declared guilty of grave abuse of authority for injudiciously ordering the detention of complainant without sufficient legal ground, and was fined in the amount of P5,000.00 with a stern warning that the same or similar act shall be dealt with more severely.

upon the respondent Judge, with a WHEREFORE, for improperly citing complainant Panaligan for contempt and ordering his detention without sufficient legal basis, a fine of P5,000.00 is hereby IMPOSEDSTERN WARNING

that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Callejo, Sr., JJ., concur.

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[1] Rollo, p. 5.

[2] Id. at 8.

[3] Id. at 14.

[4] Id. at 16.

[5] Now Associate Justice of the Supreme Court.

[6] Rollo, p. 18.

[7] Id. at 21-30.

[8] Id. at 36.

[9] RULES OF COURT, Section 1, Rule 71.

[10] Esmeralda-Baroy v. Peralta, 350 Phil. 431, 447-448 (1998).

[11] Oclarit v. Paderanga, G.R. No. 139519, 24 January 2001, 350 SCRA 260, 264-265.

[12] Panado v. Court of Appeals, 358 Phil. 593, 603 (1998).

[13] Abad v. Somera, G.R. No. 82216, 2 July 1990, 187 SCRA 75, 85.

[14] Sy v. Fineza, A.M. No. RTJ-03-1808, 15 October 2003, 413 SCRA 374, 383.

[15] Tapiru v. Judge Biden, 386 Phil. 235, 243 (2000).

[16] NEW CODE OF JUDICIAL CONDUCT FOR THE PHILIPPINE JUDICIARY, Canon 2, Section 2 (1 June 2004).

[17] Sy v. Fineza, supra note 13, p. 383.

[18] Mataga v. Rosete, A.M. No. MTJ-03-1488, 13 October 2004, 440 SCRA 217, 218.

[19] A.M. No. RTJ-03-1805, 14 October 2003, 413 SCRA 333.

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