

EZEQUIEL S. CONSULTA, PETITIONER VS. THE HON. NICASIO YATCO, ETC., ET AL., RESPONDENTS.

G.R. No. L-15964. January 30, 1962

Ponente: DIZON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/b178c52be521/>

DIZON, J.:

This is an original action for certiorari, with a petition for preliminary injunction, filed by Ezequiel S. Consulta against the Hon. Nicasio Yatco, Judge of the Court of First Instance of Rizal, Quezon City Branch, and Heraclio A. del Pilar who was made respondent by reason of his claim for attorney's fees as original counsel of the petitioners in Special Proceedings No. Q-453 of said court.

The petition seeks firstly, to annul the order issued in said proceedings by the respondent judge on September 12, 1959 finding petitioner guilty of contempt, on the ground that it was issued without jurisdiction and with grave abuse of discretion, and secondly, to secure judgment declaring that the original and supplemental statements of accounts submitted by the executrix are sufficient in form and substance, or, otherwise, that the respondent judge should specify their alleged defects.

It appears that on November 8, 1958, in Special Proceedings No. Q-453 entitled "Intestate Estate of Marcelo de Castro, the respondent judge issued an order requiring the executrix, Angelita de Castro, to file her statement of accounts within a period of 15 days. On November 21, 1958, the executrix, through her counsel, the petitioner herein, filed the required statement, but the same was disapproved by the respondent judge in his order of November 24, 1958 on the ground that it was not verified and was not accompanied by corresponding vouchers and receipts. The order gave the executrix five days from notice to comply with the order of November 8. Upon her failure to file an amended statement of accounts the respondent judge, on motion of his co-respondent issued the order of March 14, 1959 requiring the executrix to appear before him to explain why she should not be held in contempt. In her reply to the motion for contempt, the executrix explained that her failure to submit her amended statement of accounts was due to the impossibility of attaching thereto the numerous supporting vouchers and receipts, suggesting that, instead, she be examined under oath on her accounting, said vouchers and receipts to be produced in the course of her examination. After hearing the executrix, the respondent judge issued another order on March 21, 1959, requiring her to comply with the order of November 8, 1958 within a period of ten days. On March 30, 1959, the executrix, through her counsel, filed a pleading entitled "Compliance", attaching thereto her statement of accounts, duly verified and supported by the corresponding receipts and vouchers. Subsequently, a hearing was had on said statement before a Commissioner appointed by the Court with the consent of the parties.

On April 29, 1959, respondent judge issued another order requiring the executrix to appear before the court to explain why she had secured a small loan from the Development Bank of the Philippines without previous court authority, and why she had failed to include in her accounting the income and/or losses from the properties of the estate situated in Batangas and the drugstore in Quezon City. Not satisfied with the explanation given by the executrix in connection with the matters just referred to, the respondent judge, in open court, found her guilty of contempt, and ordered her again to comply with the order of April 29, 1959 and to explain why her bond should

not be forfeited.

On June 17, 1959, the executrix, through her counsel, filed her "Compliance" with the order of April 29, 1959, explaining anew that the small loan obtained by her from the Development Bank of the Philippines was for administration purposes and as such did not require previous authority of the court, and stating further that the same was obtained without security and, therefore, no properties of the estate were encumbered. With respect to the properties in Batangas, she explained that their income and/or losses were not included in her statement of accounts for the reason that said properties were in the possession of third persons against whom legal action was contemplated; and with respect to the drugstore in Quezon City, the executrix filed a verified supplementary statement of accounts indicating the income and/or losses of the same. In the course of the hearing held on said supplemental statement, respondent judge stated that the same was not in conformity with his order of April 29, 1959, without, however, specifying in what respects the statement was defective, notwithstanding petitioner's request, as counsel for the executrix, for clarification, and issued another order requiring the executrix to file an amended "Compliance" with the order of April 29, 1959 within ten days.

Other orders were thereafter issued requiring the executrix to comply strictly with the order of April 29, 1959, with the executrix filing amended compliances which were, however, held to be defective.

At the hearing held on September 12, 1959 in connection with the executrix's last amended "Compliance" submitted on the 9th of the same month, counsel for respondent Del Pilar remarked that the amended compliance was not in accordance with the order of April 29, 1959. In view of this, petitioner, as counsel for the executrix, inquired from the respondent judge in what particulars the amended compliance was defective, to which His Honor replied that petitioner had no right to make such an inquiry and held him guilty of contempt for which he was ordered to pay a fine of P20.00. The order is as follows:

"This is in connection with the Motion for Contempt which was postponed on September 5, 1959 upon petition of counsel for administratrix, Atty. Ezequiel Consulta, praying that the administratrix be declared in contempt of court for her failure to comply with the order of this court accordingly.

"Instead of complying with the order of the court dated July 25, 1959, however, counsel for the administratrix, Atty. Consulta, filed a pleading captioned "Amended Compliance", which, in effect, is not in accordance with the explanation sought for in the said order and which counsel for administratrix insisted to be so, notwithstanding the admonition by the court to the contrary. As a matter of fact, the administratrix in this case has already been fined for contempt of court by this court for the same reason, in the order of this court of June 6, 1959.

"In view of this apparent failure of the herein counsel for administratrix, Atty. Ezequiel Consulta, to comply with the order of this court as aforesaid, the court herein fines him the sum of P20.00, with the corresponding subsidiary imprisonment in case of insolvency for contempt of court.

"In the meantime, let the hearing of the herein Motion for Contempt set for today be postponed to next Saturday, September 19, 1959, at 8:30 in the morning, at Quezon City.

"SO ORDERED."

The above order of September 12, 1959 shows that petitioner was found guilty of contempt for his "apparent failure" to comply with the order of the respondent judge requiring the administratrix—petitioner's client—to comply with the order of the court dated July 25, 1959, which, in turn, required the administratrix "to strictly comply with the order of April 29, 1959". This last order, as stated heretofore, required the administratrix to explain why she had secured a small loan from the Development Bank of the Philippines without previous authority from the court and why she had not included in her accounting the income or losses from certain

properties situated in Batangas and a drugstore in Quezon City. It is thus obvious that the one under obligation to comply with the orders aforesaid was not petitioner himself but his client, the administratrix, who, as stated in the order of September 12, 1959, had already been fined for contempt for her failure to comply with the dame orders of the court. Moreover, the hearing held on September 12, 1959 was exclusively to have the admin istratrix explain why she should not be again punished for contempt for her failure to comply with the order of July 25, 1959. Petitioner only appeared as her counsel and had not been cited to appear to explain why he should not be punished for contempt in connection with the same matter.

Respondents contend that petitioner was found guilty of direct contempt because in the course of the hearing held on September 12, 1959 he kept on contending that the pleading entitled "Amended Compliance" was already in accordance with the previous orders of the court, notwithstanding the statement to the contrary made by the respondent judge. This—they claim—was "an exhibition of disrespect toward the court". This contention is belied, as already stated, by the complained order itself, according to which the contemptuous act allegedly committed by the petitioner was his "apparent failure" to submit, on behalf of his client, a satisfactory explanation in connection with her failure to secure court authority before obtaining a small loan from the Development Bank of the Philippines and to include in her accounts the income of certain properties belonging to the estate. It is clear, therefore, that petitioner was not found guilty of any disrespectful conduct on his part during the hearing.

On the other hand, the petition must fall insofar as it seeks to secure judgment declaring that the original and supplemental accounts submitted by the executrix are sufficient in form and substance. The petition itself alleges that the respondent judge had refused to specify in detail the respects in which he believed said statements of account to be not in conformity with his orders. This being so, we are not now in a position fairly to decide whether or not said statements are in accordance with the orders in, question. Of necessity we need to know definitely in what particular respects the respondent judge considered them as incomplete or unsatisfactory before we could make a ruling on the matter. It is our opinion, therefore, that in order to decide once and for all the question of the accounts submitted by the executrix, it is highly desirable that the respondent judge should specify the particular matters which, in his opinion, made said statements of accounts not in accordance with his orders, and give the executrix a reasonable time to introduce therein the corresponding amendments. Thereafter, the statements of accounts may be examined as provided by law to be thereafter approved or disapproved.

Wherefore, the order of September 12, 1959 finding petitioner guilty of contempt and sentencing him to pay a fine of P20.00 is hereby set aside, and it is hereby ordered that the original and supplemental statements of accounts submitted by the executrix be taken up for consideration below in accordance with this decision.

Bengzon, C. J., Padilla, Bautista Angelo, Labrador, Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, and De Leon, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.