

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS.
PANTALEON ELPEDES, ACCUSED. PABLO C. AÑOSA, DEFENDANT AND
APPELLANT.**

G.R. No. L-16535. April 29, 1961

Ponente: BENGZON, C.J.

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BENGZON, C.J.:

Appeal from the judgment of the court of first instance of Samar sentencing Attorney Pablo C. Añosa, for contempt, to suffer three months imprisonment and to pay a fine of P300.00 with subsidiary liability.

The Solicitor General in a carefully prepared brief for the appellee, recommends reversal. Attorney Añosa filed in this Court a complaint for misconduct against Judge Emilio Benitez of Samar charging the latter, among other things, with having promulgated an unjust decision acquitting Pantaleon Elpedes in Criminal Case No. 2966 of Samar. The said judge, according to the complaint, "changed the sentence of conviction" into "acquittal after more than one month from the date he wrote the sentence of conviction." Attached to his charges, Añosa submitted copy of a decision signed by Judge Benitez wherein after explaining the proven facts, said judge declared the accused Elpedes guilty of the crime of murder as described in the information.

Considering the charges to be serious, this Court required Judge Benitez to comment thereon. Thus aware of Añosa's allegations and resenting the latter's insinuation of misconduct, Judge Benitez issued on December 21, 1959, this order:

"Having Atty. Pablo C. Añosa alleged in his complaint against the undersigned filed with the Supreme Court last November that the undersigned judge rendered a decision in the above-entitled case condemning the accused and that copy of said decision was in his possession notwithstanding the fact that said attorney positively know that such decision had never been promulgated, it is hereby ordered that said attorney should appear before this court tomorrow at 8:00 o'clock a. m. bringing with him copy of said decision and to explain why he should not be condemned for contempt of court."

Pursuant to this order, Atty. Añosa submitted on the next day, a written explanation wherein he made these statements:

"That what had fallen into the hands of the undersigned was not a decision but a sentence dated January 31, 1959, signed by the Presiding Judge of this Honorable Court, and the same came into the undersigned's possession on the ground that a certain employee of the Office of the Clerk of Court, Branch II, gave the same to undersigned * * *.

That said copy of the sentence was given to the undersigned by the said employee of the Office of the Clerk of Court after the decision in the above-entitled case has become final;

That the falling of the said sentence into the hands of the undersigned did not in any manner influence the action taken on this case by this Honorable Court, neither did the same embarrass the integrity of said Court;

That the copy of the sentence has been appended to the complaint in the administrative case which the undersigned has filed with the Supreme Court against the Presiding Judge of this Honorable Court, and the original bearing the signature of said Presiding Judge, is now in the possession of the lawyers of the undersigned in Manila."

And relying on this explanation, Añosa did not appear on December 22. Whereupon, Judge Benitez issued an order for his arrest, to explain why he should not be punished for contempt. The records do not show whether the arrest was carried out. But it appears that on the same day, the judge promulgated this judgment under review sentencing Añosa for contempt for these reasons:

"Not being satisfactory the written explanation of Atty. Pablo C. Añosa, filed today in this incident of contempt of court, for the reason that he did not reveal in said explanation the name of the employee in the office of the Clerk of Court who allegedly delivered to him a copy of the sentence in question, and even granting "arguendo" that such contention of Atty. Añosa is true, said attorney should not have received a copy of said decision knowing fully well that such decision had never been promulgated and he was in duty bound to inform forthwith the court about the name of the employee in the office of the Clerk of Court who had delivered to him the copy of the decision in question so that the court could be able to impose discipline upon such employee and to take the proper action against him.

The other contention of Atty. Pablo C. Añosa in his written explanation to the effect that the falling of said sentence into his hands did not in any manner influence the action taken in this case by this court neither did the same embarrass the integrity of said court is unmeritorious for the reason that said attorney being the private prosecutor in this case had special interest in taking surreptitiously, as he did, a copy of said unpromulgated decision, the same favorable to his client with the deliberate intention to utilize it in the administrative case against the undersigned judge with the Supreme Court to embarrass the undersigned by attacking his integrity."

There is no question that Judge Benitez signed a "decision" convicting the accused; that such decision dated January 31, 1959, was never promulgated; that on February 9, 1959, the decision in the case was set for promulgation, but the accused asked for postponement which was granted up to March 9, 1959; and that later (presumably on the last date) a decision also dated January 31, 1959, was promulgated acquitting the accused, because "the prosecution miserably failed to establish" his guilt "beyond reasonable doubt."

It happens sometimes that a judge after preparing a "draft" of a decision acquitting or convicting a defendant, upon further deliberation afterwards signs and promulgates another decision convicting or acquitting the defendant.

Possibly some judge after signing a judgment of conviction, has afterwards signed and promulgated a judgment of acquittal. Yet, it is unheard of, verging on the suspicious, that on the same day a judge should sign two decisions, one of conviction and one of acquittal, and on extremely irreconcilable terms. That is what happened in the Elpedes incident.[1] Therefore, counsel for the losing party (Añosa) could not be blamed for implying something wrong and for resorting to this Court against Judge Benitez, and enclosing in support of his accusation, a copy of the unpromulgated decision.

As to the part of the judgment finding Atty. Añosa guilty of contempt because "he did not reveal the name of the employee * * * who allegedly delivered to him a copy of the sentence in question" it is enough to point out that Añosa was never ordered to make such revelation. And we agree with the Solicitor General when he says "neither did respondent-appellant's act of receiving a copy of the unpromulgated decision and keeping possession of it constitute contempt of court, nor was it contempt on his part to attach a copy of said unpromulgated decision to his administrative complaint against the judge in the Supreme Court, long after the decision acquitting the accused

in Criminal Case No. 2966 had become final, even if the act personally embarrassed the judge. The unpromulgated decision was relevant evidence against the judge in the administrative case which the Supreme Court had given due course."

For the above reasons, the judgment for contempt can not stand. It must be, as it is hereby, reversed. Respondent attorney is hereby exonerated.

Padilla, Labrador, Concepcion, Reyes, J.B.L., Barrera, Paredes, and Dizon, JJ., concur.

[1] The judgment of conviction said, the identity of the accused was established by the testimony of the widow and by the dying declarations; the judgment of acquittal disbelieved her testimony and the dying declarations.

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