

AURELIO G. FRANCISCO, COMPLAINANT, VS. MUNICIPAL JUDGE BENEDICTO M. RAMOS OF MUÑOZ, NUEVA ECIJA, RESPONDENT.*Adm. Matter No. 776-MJ. February 27, 1976*

Ponente: FERNANDO, J.

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The grievance set forth in a complaint dated August 11, 1973 filed by Aurelio G. Francisco against respondent Benedicto M. Ramos, municipal judge of Muñoz, Nueva Ecija, arose from his being declared in default in Civil Case No. 2305 for forcible entry with damages allegedly without notice and hearing and thereafter in his being held for contempt for having planted corn on the parcel of land in question when, according to him, he was merely obeying an order of the Philippine Constabulary to utilize vacant lots. He did allege therefore that respondent was guilty of being unjust in the two instances above specified. Respondent was required to answer, and he did so on January 14, 1974. He sought to meet the charges against him in his reply of January 14, 1974 thus: "The case referred by the complainant is Civil Case No. 2305 for 'Forcible Entry' with Damages filed by the 'C. Pingol Subdivision, Incorporated versus Aurelio G. Francisco.' The case was filed on October 11, 1971 and summons together with a copy of the complaint was served upon the defendant on October 20, 1971. On November 2, 1971, Atty. Guillermo C. Bumanlag, counsel for the defendant filed a 'Motion Ex-Parte for Extension of Time to File an Answer' which motion was granted the same day giving the defendant another 15 days within which to file an answer. However, despite this extension the defendant thru counsel only filed an answer on December 3, 1971. For this reason the plaintiff filed a Motion to Strike Out Answer and To Declare Defendant in Default and Suspend Time to File an Answer on January 18, 1972. On January 19, 1972 the Court found the motion to strike out the answer meritorious and declared the defendant in default. After defendant was declared in default, evidence for the plaintiff was received. All the while no action whatsoever was taken by the defendant against the order of this Court finding them in default. So on June 21, 1972 this Court rendered a decision against the defendant ordering [him] to vacate the lots embraced in Block 19 to 26 of the plaintiff's subdivision, Bantug, Muñoz, Nueva Ecija and to pay the plaintiff P7,000.00 as actual damages and P1,000.00 as attorney's fees. It is to be remembered that the plaintiff is a duly incorporated subdivision with improvements which is not covered by Land Reform Code. After the decision had become final and executory, the plaintiff was placed in possession of the land in question by the Provincial Sheriff of Nueva Ecija on December 29, 1972 by virtue of a Writ of Execution. However, the damages and attorney's fee and other legal fees were not collected. After the plaintiff was placed in possession of the land in question by the Provincial Sheriff of Nueva Ecija, the defendant Aurelio G. Francisco reentered the land so the plaintiff filed contempt proceedings against him and the defendant was found guilty in contempt of Court and sentenced to pay a fine of P100.00. However, the defendant appealed to the CFI. Defendant Aurelio G. Francisco then filed a case in the CFI, Civil Case No. (SD) - 502 against this Court and the plaintiff in Civil Case No. 2305 the C. Pingol Subdivision Incorporated for 'Annulment of Decision' but the CFI of Nueva Ecija in its order dated August 29, 1973 dismissed the case. The order of the CFI was appealed to the Supreme Court, but the appeal was denied by Judge Florencio Villamor of the CFI on November 23, 1973 for the reason that the record on appeal was filed outside the reglementary period for perfecting appeal. Pending

now before this Court is a second contempt of Court [incident] filed by the plaintiff subdivision to hold the defendant, Aurelio G. Francisco for planting palay on the land. This second contempt proceedings is not yet resolved by this Court." [1] Complainant did not bother to dispute the facts as above alleged, contending himself in his rejoinder of February 25, 1974 with the allegation that there was lack of jurisdiction.

It would appear, therefore, that any accusation that respondent acted unjustly is devoid of any factual or legal foundation. If there was a default order against complainant, that was the consequence of his having failed to file an answer to the complaint within the extended 15-day period granted by the Court. This is in accordance with Section 12, Rule 5 of the Rules of Court which, insofar as relevant, provides that "if the defendant does not file a written answer within the time designated in the summons, he may be declared in default, and the court shall thereupon proceed to hear the testimony of the plaintiff and his witnesses, and shall render judgment for the plaintiff in accordance with the facts alleged and proved." [2] Nor could any fault be imputed to respondent when complainant was held in contempt of court. There was a manifest disobedience to what was ordered by the court. Barred from the lot in question, from which he had been ejected, he did go back. That act was clearly contempt. So the Rules state categorically: "Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge, 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; * * * ." [3]

No other conclusion is allowable except the termination of this case and a declaration that respondent Judge had not been shown remiss in his duty as such.

Wherefore, the complaint is dismissed. Let a copy of this resolution be spread on his record.

Barredo, Antonio, Aquino, and Concepcion, Jr., JJ., concur.

[1] Letter of Respondent dated January 14, 1974.

[2] Section 12 of Rule 5, Rules of Court.

[3] Section 3(b) of Rule 71, Rules of Court.

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