

HON. FERNANDO T. BERNAD, AS CITY MAYOR, HON. FERMIN VILLAR, AS VICE-MAYOR, HON. MANUEL CORTES, HON. LILIANO NERI, HON. TEOPISTO CEBEDO, JR., HON. IRENE LUANSING, HON. CRISTINO A...

G.R. No. L-25860. June 29, 1967

Ponente: SANCHEZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/d7f85a467f39/>

SANCHEZ, J.:

Certiorari and prohibition to nullify the contempt charge initiated by respondent Judge against the Mayor, Vice-Mayor, Councilors, City Treasurer and City Auditor of Ozamiz City, and to stop said respondent from proceeding with the contempt case.

On application, this Court on March 25, 1966, issued a cease-and-desist order transmitted to respondent Judge by telegram that same day.

Following are the events that spawned the present proceedings:

On March 11, 1966, respondent Judge of the Court of First Instance of Misamis Occidental, Branch I, issued [Special Case No. 9, for con-tempt, initiated by him against petitioners herein] an order, directing petitioners, amongst others, to appear before him in the morning of March 19, 1966, to show cause why they should not be held in contempt of court for alleged contumacious refusal to provide a "detention cell or room" for, and to maintain, "all persons who are detention prison-ers pending trial of their cases" at Branch II of said court at Ozamiz City.

On the same date, March 11, the respondent Judge, in a separate communication, warned petitioners, that if by Friday, March 18, 1966, the latter should fail "to establish and maintain a well-secured deten-tion cell" in Ozamiz City, "the citation for contempt of court will pro-ceed as scheduled".

In response to this order and as a gesture of cooperation with the province of Misamis Occidental, the Municipal Board of Ozamiz City adopted, on March 14, 1966; Resolution No. 159 whereunder the city offered the temporary use by the province of one cell or room in the city jail, "for provincial detention prisoners" triable in Branch II afore-said, "until the province shall have constructed its own jail or extension of the provincial jail". The board, however, made of record its belief that "this duty belongs to the province of Misamis Occidental and not to the City of Ozamiz".

On March 17, 1966, petitioners filed in Special Case No. 9 their answer to the March 11 contempt charge. They averred that they have established and maintained a detention cell as required by law, for all city prisoners; admitted not having provided a detention cell for those coming from other towns also within the jurisdiction of Branch II, and claimed that this duty devolves upon the provincial authorities.

On March 19, 1966 petitioners appeared, as scheduled, before res-pondent Judge. The proceedings on that date

terminated without definite results, except that petitioners were told: "I may consider this case closed, but officially, I will transfer this on Saturday. You may not come".

On March 22, 1966, the Clerk of Court, by direction of respondent Judge, wrote the City Mayor, one of petitioners, advising the latter that failure on petitioners' part to "remedy the situation obtaining" in the city jail (which was proposed to house detention provincial prisoners), as reported to respondent Judge by the provincial warden, "within two days from today, the contempt charges will continue as scheduled this coming Saturday, March 26, 1966". The mayor received this letter on March 23, 1966.

The present petition was verified on March 24, 1966, and filed in this Court on March 25, 1966.

Meanwhile, on March 24, 1966, the City Mayor sent a rush telegram to the Clerk of Court, as follows:

"In connection with your letter March twenty-two re construction of city jail please furnish us written copy of the direction of Judge Catolico"

At 3:15 p.m. on the same day, March 24, the Deputy Clerk of Court answered Mayor Bernad, thus:

"Retel please be informed that upon consultation with Judge Catolico comma he told me to inform your honor that court opinion regarding security detention cell is joint venture both city and provincial officials stop Court order shall be issued on Saturday March 26 on warden's report depending provision compliance full security cell stated in my letter"

On March 25, 1966, Mayor Bernad wired back:

"Reurtel am surprised because Judge Catolico had never informed us of any duty to provide cell for provincial detention prisoners stop On the contrary in people versus de Guzman his honor Judge Catolico ren-dered opinion quote all these are an after effect of the indecision of the provincial board to build a provincial prison house within the territorial limits of Branch II comma upon the excuse of lack of funds for the project and for the purpose of maintenance of detention prisoners period This province should provide for the maintenance of those prisoners confined in the detention prison at Ozamiz City comma or any other place within the territo-rial division of the province among the three branches of the court of first instance unquote Also in open court last Saturday his honor Judge Catolico emphasized that we need not attend in court on Saturday March 26, 1966 stop"

At about 5:55 p.m. on March 25, 1966, the Deputy Clerk of Court wired Mayor Bernad, as follows:

"ReUrtel upon consultation Judge Catolico says Ozamiz City officials need not come tomorrow"

On March 26, 1966, respondent Judge signed an order starting with -

"When this case was called today, for the continuation of the hearing hereof (referring to the contempt case) x x x"

and ending with -

"Done in open court, this 26th day of March, 1966, at Oroquieta, Misamis Occidental".

But because of the restraining order issued by this Court, the foregoing order remains unpromulgated. This order of respondent Judge directed that petitioners are "hereby ordered dropped from the herein [contempt] charges" and that this case is "dismissed with regard to them". The Judge's reason is that, by the city board's Resolution No. 159 adopted March 14, 1966, petitioners "have shown their avowed readiness to co-operate in providing a cell for the detention prisoners of the four munici-palities of the province and the City of Ozamiz proper, awaiting trial in Branch II," and that said petitioners have "shown amazing readiness to cooperate with the officials of the

province, thus showing lack of desire to incur official responsibilities amounting to contempt of court."

1. The core of the case is this: Is it petitioners' duty to provide a detention cell for, and maintain, provincial detention prisoners whose cases are cognizable by Branch II of the Court of First Instance of Misamis Occidental?

For, if the answer be in the affirmative, and upon demand petitioners refused to comply, then they are indeed guilty of disobedience of a lawful command of a court and deserve punishment for contempt.[1]

We go to the law. The Ozamiz city charter enumerates the general powers and duties of the mayor, the powers and duties of the municipal board.[2] Nothing in the charter as much as intimates a duty on the part of Ozamiz City to provide for a detention cell for, or maintain, provincial prisoners. Or, for that matter, those accused of crimes cognizable by Branch II, Court of First Instance, stationed at Ozamiz City. Congress has seen fit to authorize the municipal board of said city, in clear express language, to establish and maintain school, engine houses, municipal pounds, public markets, and slaughter houses. And yet, such an important function as is to establish a detention cell for provincial detention prisoners or maintain them was excluded. A court of justice may not recast the Ozamiz city charter to include therein a provision which would place upon the city authorities such an obligation. That is a function clearly outside the jurisdictional boundaries of courts. Implicit then in the lack of statutory duty, is that petitioners have none. That obligation is withheld; it is not imposed.[3]

Not that the views expressed herein are without justification. The Ozamiz city charter commands that all taxes and revenues of the city be expended upon appropriations "to the payment of municipal expenses". And the authority of the city board to appropriate is narrowed down to "the expenses of the government of the city".[4]

Upon the other hand, the Revised Administrative Code makes it a mandatory duty of provinces to maintain at their own expense jails at their respective capitals for provincial prisoners. And persons detained pending preliminary investigation or pending trial before the Court of First Instance and persons sentenced to imprisonment of not more than one year or a fine of not more than P500.00, or both, come within the category of provincial prisoners.[5]

But if more were needed, there is the marked delineation of responsibility in reference to the expenses for the maintenance of prisoners: The municipal prisoner, by the city or municipality in which the offense with which he is charged or of which he stands convicted was committed; the province, in the case of a provincial prisoner. And this, not to speak of national prisoners whose maintenance is the concern of the Bureau of Prisons.[6]

Finally, the Revised Administrative Code enjoins that, except as allowed by law, municipal funds be devoted "exclusively to local public purposes".[7]

2. With the foregoing legal precepts as guidelines, we come to the conclusion that where no legal duty is imposed, no legal obligation exists. There is then no legal justification for the March 11 order demanding that petitioners comply with the non-existing obligation to provide a detention cell or room for, and to maintain, provincial detention prisoners. And, in requiring petitioners so to do on pain of contempt of court, respondent Judge acted without jurisdiction. Certiorari will lie.[8] And, prohibition will follow as a matter of course.

3. We now take stock of the unpromulgated order of March 26, 1966. Standing in bold relief is the fact that respondent Judge therein directed that petitioners be dropped from contempt charges and that the contempt case as to them be dismissed. This, in effect, writes finis to the certiorari and prohibition proceedings before this Court.

Accordingly, with the declaration that respondent's order of March 11, 1966, insofar as it affects petitioners, is hereby declared null and void, the petition herein is hereby dismissed. No costs.

So ordered.

Concepcion, C.J., Reyes, J.B.L., Dizon, Makalintal, Bengzon, J.P., Zaldivar and Ruiz Castro, JJ., concur.

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

[2] Article II, Section 9, Article III, Section 15, Republic Act 321.

[3] *Catuiza vs. People*, L-20455, March 31, 1965; *Nin Bay Mining Com-pany vs. Municipality of Roxas, etc.*, L-20125, July 20, 1965.

[4] Sections 9(c), 15(b), charter.

[5] Sections 1729 and 1740 (a) (b), Revised Administrative Code.

[6] Section 1744, Revised Administrative Code.

[7] Section 2288, Revised Administrative Code.

[8] *Rocha vs. Crossfield*, 6 Phil. 355, 359; *Director of Lands vs. Santamaria*, 44 Phil. 594, 596; *Clemente vs. Lukban*, 53 Phil. 931, 934; *Government vs. Judge of First Instance of Occidental Negros*, 57 Phil. 500, 501; *Silvestre vs. Torres*, 57 Phil. 885, 891-892; *Botelho Shipping Corp. vs. Leuterio*, L-20420, May 30, 1963. See also: III Moran, *Comments on the Rules of Court*, 1963 ed., p. 141; II Martin, *Rules of Court*, 1964 ed., p. 476.

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.