

ALAN A. BAKEWELL, PETITIONER AND APPELLEE, VS. JUDGE JOSE T. LLOREN, JUSTICE OF THE PEACE OF ITOGON, BENGUET, RESPONDENT AND APPELLANT.*G.R. No. L-20108. December 28, 1964*

Ponente: REYES, J. B. L., J.

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This is an appeal from the decision of the Court of First Instance of Baguio, in its Special Civil Action No. 752, making permanent a preliminary injunction previously issued against the herein respondent-appellant, Justice of the Peace Jose T. Lloren, from issuing a warrant of arrest to compel the personal appearance of the herein petitioner-appellee, Alan A. Bakewell.

The facts were stated in the decision of this Court in Lloren vs. de Veyra, etc., et al., G. R. No. L-13929, promulgated on 28 March 1962[1], and which are hereunder partially quoted therefrom to the extent germane to the present appeal, as follows:

"(Therein) Petitioner Lloren, as Justice of the Peace of Itogon, Benguet, went to the office of the chief of police of the Baguio Gold Mining Company at Itogon situated within its compound after obtaining a permission from Alan A. Bakewell, general superintendent "of the company, to conduct a preliminary examination of the witnesses living there who could not afford to go to the municipal hall of Itogon to testify in Criminal Case No. 894 filed in his court. In connection with said examination, Bakewell interrupted the proceedings by insulting a witness who was then under investigation for which reason Lloren suspended the proceedings and cited Bakewell to appear and show cause why he should not be held in contempt for his misbehavior. Bakewell, instead of appearing personally, submitted thru a counsel a written explanation of his behaviour which the justice of the peace considered improper and contemptuous. Considering the submission of said written explanation not a sufficient compliance with his order, Justice of the Peace Lloren set a date for hearing requiring Bakewell, or his counsel, to appear regarding the incident, and having both failed to do so, Lloren issued an order directing that Bakewell be brought before him on February 7, 1958 pursuant to Section 3, Rule 64, of the Rules of Court. The warrant having been served upon Bakewell, the latter was placed under the custody of the Itogon police force. But in the afternoon of the same day, Bakewell was released by virtue of a writ of preliminary injunction issued by the court of first instance as a result of a petition for certiorari which Bakewell filed imputing to Justice of the Peace Lloren the commission of a grave abuse of discretion (Special Civil Action No. 752).

"After this case had been heard, with due notice to the respondent, the court, Honorable Jesus de Veyra, presiding, rendered decision holding that respondent justice of the peace committed an abuse of discretion in issuing the warrant of arrest against petitioner Alan A. Bakewell thereby ordering that the writ of preliminary injunction issued against said justice of the peace be permanent. x x x"

The only issue in the present case is whether the respondent may validly issue a warrant of arrest to compel the personal appearance of one charged with contempt before him even though that person has filed, through counsel, a written answer.

The resolution of the above issue falls within the purview of the ruling of this Court in *Francisco, et al. vs. Enriquez*, 94 Phil., 603, that where the accused appears by counsel and submits explanation under oath why he could not appear at hearing upon order of court, it is abuse of discretion to insist upon his appearing in person, in absence of showing that he was the only one who could give an answer legally admissible.

That the answer of the alleged contemner in the present case is not under oath does not remove it from the purview of the foregoing ruling because the Rules do not require that the answer in contempt, under the signature of counsel, be verified, and because-

"The signature of an attorney constitutes a certificate by him that he has read the pleading; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. x x x" (Sec. 5, Rule 15, old Rules of Court).

Furthermore, as stated in *Esparagoza, et al., vs. Tan, etc., et al.*, 94 Phil., 249, the power of the Court to compel the personal appearance of one charged with contempt, under the last paragraph of Section 3, Rule 64, of the old Rules of Court, providing, "x x x nothing x x x shall be construed as to prevent the court from issuing process to bring the accused party into court, or from holding him in custody pending such proceedings", "can only be taken if good reasons exist justifying it". We cannot see, in the present case, a sufficient reason to justify the petitioner-appellee's personal appearance since he has already tendered an explanation to the charge of contempt. If the explanation be not satisfactory, the proper course is to proceed with the contempt proceedings in accordance with the Rules of Court. And if the return is, as claimed, insolent or libelous, proper criminal or administrative action may also be taken against him, in the regular course of law.

For the foregoing reasons, the appealed decision is hereby affirmed, without costs.

Bengzon, C. J., Bautista Angelo, Concepcion, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

[1] A case of mandamus, the issue of which was the timeliness of the appeal.

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