

RICARDO PALMA, PETITIONER, VS. HON. ENRIQUE A. FERNANDEZ, ETC., RESPONDENT

G.R. No. L-13369. July 28, 1960

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

Petitioner in 1950 was appointed administrator of the estate of deceased spouses Alejo S. Ong and Placida T. Ong in Special Proceedings No. 63-R of the Court of First Instance of Davao. One of the heirs of the estate was Novernia Ong, wife of petitioner.

In 1957, as a result of the charge of parricide filed against petitioner in connection with the death of his wife Novernia, petitioner was relieved as administrator and a commissioner was appointed to revise and check the accounts submitted by him as administrator. On September 4, 1957, upon motion of the commissioner, respondent judge issued an order requiring petitioner to appear before him and bring certain documents mentioned therein, among which (1) "work sheets from which the estate's financial statements for the years 1950 to 1956 inclusive were prepared"; and (2) "financial records of the gasoline station located in the estate property which he allegedly operated in his personal behalf in partnership with Mr. Roman Macalinao."

As petitioner was not able in due time to comply with the aforesaid order because at that time he was facing trial involving his life for which reason he had difficulty in gathering all the documents, papers and data enumerated in the order, upon motion of the commissioner, respondent judge, on October 11, 1957, issued another order requiring petitioner to appear on October 19 to explain why he should not be declared in contempt for disobeying the order of the court.

On October 19, 1957, in compliance with the order of the court, petitioner appeared and delivered to the court all the papers, vouchers, notes, work sheets and other papers mentioned in the order stating under oath that they were the only papers he had in his possession, but not satisfied with the action of petitioner respondent judge issued another order on November 23, 1957 directing him to deliver within 10 days (1) "the complete and original worksheets and supporting papers from which he prepared his financial statements of accounts for the years 1950 to 1956" and (2) "to present documentary proofs that the capital invested in the operation of the gasoline station located on the property of the estate was a personal investment of the late Mrs. Novernia Ong Palma and by credits obtained by him in his personal capacity; should he be not able to present such documentary proofs, the ex-administrator is ordered to deliver to the Court the financial reports of the said gasoline station." Petitioner was warned that should he fail to comply with the order the court will order his arrest and confinement.

On December 7, 1957, in compliance with the last order, petitioner presented to the court two sets of documents, namely: (1) "worksheets consisting of 7 pages which have been marked Exhibits A to A-6", and (2) "duplicate copies of the Sales Agreement between the Shell Company of the Philippines, Ltd., and the petitioner, marked as Exhibit B." But notwithstanding the presentation of the above documents, respondent judge issued on January 2, 1958 another order the dispositive part of which reads:

"Wherefore, the Court finding the motion for suspension of the Orders of Arrest not well taken, hereby orders the issuance of an alias warrant of arrest against the ex-administrator Ricardo C. Palma and his confinement in the Provincial Jail until he is ready to deliver to this Court (1) the complete and original work sheets and supporting papers to his adjustments attached therein from which he prepared his final statement of accounts for the years 1950 to 1956 and (2) the complete financial records of the gasoline station which he claims to have operated as his personal business."

His motion for reconsideration having been denied, petitioner filed the present petition for certiorari in which he claimed that respondent judge has acted in excess of his jurisdiction and prayed that he be temporarily enjoined pending the disposition of this case on the merits. The petition was given due course, requiring respondent to answer the same within 10 days, and granting the prayer for a writ of preliminary injunction upon a bond of P500.00. Respondent, however, failed to answer the petition.

It is admitted that when petitioner was required by the court to appear and deliver certain documents needed by the commissioner in charge of revising his accounts as administrator, he in effect delivered the following: (1) worksheets composed of seven pages marked as Exhibits A to A-6, and (2) the duplicate copy of the sales agreement executed between the Shell Company of the Philippines, Ltd. and petitioner, marked Exhibit B, but the court did not consider said documents sufficient to meet the requirement of the commissioner and on this matter made the following observation:

"When the above documents were presented to this Court, the Commissioner objected to the administrator in the preparation of his financial statements for the years 1950 to 1956 because the original work sheets previously shown to the Commissioner by the ex-administrator contained check marks in red ink after the figures or amounts therein which check marks in red ink are not evident in the worksheets marked Exhibits 'A', 'A-1', to 'A-6', and that in the original working papers were attached certain documents and income records from which the ex-administrator based some of his adjustments or adjusting entries which are not also attached to said exhibits marked 'A', 'A-1' to 'A-6'.

"It was further observed that the worksheets marked Exhibits 'A', 'A-1' to 'A-6' were fresh and crisp contrary to the nature of working papers which the ex-administrator, in his own words even described as 'Scratch paper'. The said work sheets submitted by the ex-administrator do not show any evidence of wear and tear which would have naturally resulted from ordinary reference and handling.

"The duplicate copy of the Sales Agreement between the Shell Company of the Philippines Ltd., and the ex-administrator marked as Exhibit 'B' is not evidence that the capital invested in the operation of the gasoline station was a personal investment of the late Mrs. Novernia Ong Palma and from credits obtained by the ex-administrator in his personal capacity."

In meeting the above observation, of the court, petitioner averred that the worksheets marked Exhibits A to A-6 which he delivered to the court were the original worksheets he used in making the adjustment and preparation of his report and that having been the one who prepared them as a certified public accountant he is in a better position to state whether they are the original documents or not. In fact,—he contends—he stated under oath in open court that said documents were the original and only worksheets he had in his possession, and that the duplicate of the sales agreement between him and the Shell Company of the Philippines, Ltd. which was signed by him in his individual capacity is sufficient to prove that the business relative to the gasoline station is his own personally and its presentation is a substantial compliance with the order of the court. But respondent judge did not consider the above explanation satisfactory and ordered his arrest and confinement until he submits better evidence.

Considering that the above explanation was reiterated by petitioner in the present petition for certiorari which is under oath and respondent has not contested the same for he has not presented any answer thereto in spite of the requirement of this Court, we are of the opinion that the aforesaid explanation is sufficient even if the

commissioner believes that petitioner has not delivered the precise documents required by the court. Petitioner stated under oath before the trial court in the presence of the commissioner that the documents he had delivered were the original and only documents he had in his possession to prove his accounts and there is nothing to show that such statement has been contradicted. Even assuming that the documents delivered were not enough to constitute the worksheets required according to the criterion of the commissioner and are not sufficient to prove the ownership of the gasoline station, still the trial court was not justified in ordering the confinement of petitioner after he had sworn that he had no other documents in his possession. The alternative would be to disallow or disapprove the particular items or accounts which in the opinion of the court have not been explained or clarified for lack of evidence and make petitioner personally responsible therefor, and not to take the drastic action of depriving him of his liberty. In any event, the only issue presented before the court was whether petitioner told the truth or the commissioner, which is merely a matter of credibility the determination of which cannot result in the action taken by the lower court. In this sense, we opine that respondent judge has acted somewhat harshly against petitioner and as such he is entitled to the relief prayed for.

Wherefore, petition is granted. The order of the trial court dated January 2, 1958 is hereby set aside. No costs.

Paras, C. J., Padilla, Labrador, Barrera, and Gutierrez David, JJ., concur.

Concepcion, and Reyes, J. B. L., JJ., concur in the result.

Bengzon, J., took no part.

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