

**JORGE MONTECILLO AND QUIRICO DEL MAR, PETITIONERS, VS.
FRANCISCO M. GICA, MAGNO S. GATMAITAN, JOSE N. LEUTERIO,
AND RAMON G. GAVIOLA, JUSTICES OF THE COURT OF APPEALS,
RESPONDEN...**

G.R. No. L-36800. October 21, 1974

Ponente: ESGUERRA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/f0be7999edbc/>

ESGUERRA, J.:

Petitioner Atty. Quirico del Mar of Cebu City in G.R. No. L-36800, and as respondent in contempt proceedings both in the Court of Appeals and in this Court, virtually focused the limelight on himself and relegated to insignificance the principal issue raised in the petition for certiorari to review the decision of the Court of Appeals in CA-G.R. No. 46504-R, entitled "Francisco M. Gica vs. Hon. Santiago O. Tanada, et al" which was denied due course by this Court's resolution dated May 14, 1973, for lack of merit.

Although the petition for certiorari has been denied, it becomes imperatively necessary to elucidate upon the antecedents of this case if Our only justification in so doing is to seek a reason or motive for the acts of contempt perpetrated by respondent Quirico del Mar that might serve to lighten the enormity of his wrongdoing as a member of the Bar.

As a result of an alleged slander committed by Jorge Montecillo on Francisco M. Gica (the former allegedly calling the latter "stupid" or a "fool"), Mr. Gica filed a criminal complaint for oral defamation against Montecillo (Criminal Case No. R-28782 in Branch VII of the Cebu City Court) and a case for damages arising from the same incident (Civil Case No. R-13075 in Branch VI of the Cebu City Court). Montecillo was acquitted in Criminal Case No. R-28782, and in Civil Case No. R--13075, the Cebu City Court found that Montecillo did not call Gica "stupid". Finding the counterclaim of Montecillo meritorious, the City Court rendered judgment against Gica for him to pay Montecillo five hundred pesos as moral damages, two hundred pesos as compensatory damages and three hundred pesos as attorney's fees, plus costs.

Francisco Gica appealed from the decision of the City Court of Cebu in Civil Case No. R-13075 to the Court of First Instance of Cebu presided by Hon. Santiago O. Tanada, but the Court of First Instance upheld the decision of the City Court. The case was then elevated to the Court of Appeals by petition for review by petitioner Francisco M. Gica and it was docketed therein as CA--G.R. No. 46504-R.

The Fourth Division of the Court of Appeals in a decision penned by the Hon. Magno S. Gaimaitan concurred in by Associate Justices Jose N. Leuterio and Ramon G. Gaviola, Jr. (promulgated on Sept. 27, 1972), reversed the decision of the Court of First Instance of Cebu; ruled in favor of petitioner Gica on the ground that the preponderance of evidence favored petitioner Francisco M. Gica on the principle that positive must prevail over the negative evidence, and that "some words must have come from Montecillo's lips that were insulting to Gica". The appellate court concluded that its decision is a vindication of Gica and, instead, awarded him five hundred pesos as damages.

It is from this point that trouble began for respondent Atty. Quirico del Mar when, as counsel for Montecillo, he moved for a reconsideration of the Appellate Court's decision with a veiled threat by mentioning the provisions of the Revised Penal Code on "Knowingly rendering unjust judgment" and "judgment rendered through negligence", and the innuendo that the Court of Appeals allowed itself to be deceived. When the Appellate Court denied the motion for reconsideration in its Resolution of October 24, 1972, it observed that the terminology of the motion insinuated that the Appellate Court rendered an unjust judgment, that it abetted a falsification and it permitted itself to be deceived. It admonished Atty. del Mar to remember that threats and abusive language cannot compel any court of justice to grant reconsideration. Respondent del Mar persisted and in his second motion for reconsideration, filed without leave of court, made another threat by stating that "with almost all penal violations placed under the jurisdiction of the President of the Philippines, particularly Article 171, 204 and 205 of the Revised Penal Code, as Commander in Chief of the AFP, by virtue of the proclamation of martial law, the next appeal that will be interposed, will be to His Excellency, the President of the Philippines."

The Appellate Court in its resolution of Nov. 27, 1972, noticed that notwithstanding its admonition in its resolution of Oct. 24, 1972, for Atty. del Mar to refrain from abusive language and threats, he reiterated his threats, and that the Appellate Court, impelled to assert its authority, ordered respondent del Mar to explain within 10 days (and to appear on January 10, 1973) why he should not be punished for contempt of court.

On December 5, 1972, respondent del Mar made a written explanation wherein he said that the Appellate Court could not be threatened and he was not making any threat but only informing the Appellate Court of the course of action he would follow. On the same date, respondent sent a letter to the Justices of the 4th Division of the Court of Appeals informing them that he sent a letter to the President of the Philippines, furnishing them a copy thereof, and requesting the Justices to take into consideration the contents of said letter during the hearing of the case scheduled for January 10, 1973. Not content with that move, on December 8, 1972, respondent sent another letter to the same Justices of the Court of Appeals wherein he reminded them of a civil case he instituted against Justices of the Supreme Court for damages in the amount of P200,000 for a decision rendered not in accordance with law and justice, stating that he would not like to do it again but would do so if provoked. We pause here to observe that respondent del Mar seems to be of that frame of mind whereby he considers as in accordance with law and justice whatever he believes to be right in his own opinion and as contrary to law and justice whatever does not accord with his views. In other words, he would like to assume the role of this Court, personally and individually, in the interpretation and construction of the laws, evaluation of evidence and determination of what is in accordance with law and justice.

The documented incidents as narrated in the Appellate Court's Resolution of March 5, 1973, cannot more eloquently depict the very manifest and repeated threats of respondent del Mar to bludgeon the Justices of the Fourth Division into reconsidering its decision which happened to be adverse to respondent's client. Respondent del Mar, instead of presenting lucid and forceful arguments on the merits of his plea for a reconsideration to convince the Justices of the Fourth Division of the alleged error in their decision, resorted to innuendos and veiled threats, even casting downright aspersion on the Justices concerned by insinuating that for their decision they could be criminally and civilly liable for knowingly rendering unjust judgment, or doing it through ignorance.

We quote with approval this portion of the Appellate Court's Resolution (March 5, 1973):

"A just man can never be threatened, p. 145, rollo, is not at all true; any man, just or unjust, can be threatened; if he is unjust, he will succumb, if he is just, he will not, but the offense is committed, whether the threats do or do not succeed. As to his (respondent del Mar's) reference to the New Society, p. 150, in his letter to his Excellency, complaining against those justices, let it be said that precisely it was under the Former Society that there had been so much disrespect for the constituted authorities, there was abuse, worse than abuse, there was

arrogant abuse, of the so-called civil liberties, against the authorities, including the courts, not excluding even the President; it is this anarchy that is the program to cure in the New."

This Resolution of the Appellate Court of March 5, 1973, fittingly concluded that "counsel del Mar is found guilty of contempt and condemned to pay a fine of P200.00 and ordered suspended from the practice of law and pursuant to Sec. 9 of Rule 139, let certified copies of these papers be elevated to the Honorable Supreme Court". We upheld the Court of Appeals and gave full force and effect to this order of suspension from the practice of law when in Our resolution dated Nov. 19, 1973, the Judicial Consultant of this Court was directed to circularize all courts about the order of the Court of Appeals suspending Atty. Quirico del Mar from the practice of law.

Not satisfied with the wrong that he had already done against Associate Justices Magno S. Gatmaitan, Jose N. Leuterio and Ramon Gaviola, Jr., respondent del Mar sued the three Justices for damages in Civil Case No. R-13277 of the Court of First Instance of Cebu, trying to hold them liable for their decision in CA-G.R. No. 46504-R; that the case for damages (R-13277) was terminated by compromise agreement after Mr. del Mar himself moved for the dismissal of his complaint, apologized to the Court of Appeals and the Justices concerned, and agreed to pay nominal moral damages in favor of the defendants-justices. This is the undeniable indication that respondent del Mar did not only threaten the three Justices of the Appellate Court but he actually carried out his threat, although he did not succeed in making them change their minds in the case they decided in accordance with the exercise of their judicial discretion emanating from pure conviction.

To add insult to injury, respondent del Mar had the temerity to file his motion on October 10, 1973, before Us, asking that his suspension from the practice of law imposed by the Court of Appeals be ignored because of the amicable settlement reached in Civil Case No. R--13277 of the Court of First Instance of Cebu which was the action for damages filed against the three Justices of the Appellate Court.

Respondent del Mar's ire at the Appellate Court, fanned by the wind of frustration, turned against Us when We denied on May 14, 1973, his petition for review on certiorari of the decision of the Appellate Court, G.R. No. L-36800, for on May 25, 1973, he filed his motion for reconsideration and wrote a letter addressed to the Clerk of this Court requesting the names of the Justices of this Court who supported the resolution denying his petition, together with the names of the Justices favoring his motion for reconsideration. This motion for reconsideration We denied for lack of merit in Our resolution dated June 15, 1973. He, then, filed a manifestation dated July 1, 1973, before Us, stating brazenly, among other things, "I can at this time reveal to you that, had your Clerk of Court furnished me with certified true copies of the last two Resolutions of the Supreme Court confirming the decision of the Court of Appeals in the case entitled Francisco M. Gica vs. Jorge Montecillo, I would have filed against the Justices supporting the same, civil and criminal suits as I did to the Justices of the Court of Appeals who, rewarding the abhorrent falsification committed by Mr. Gica, reversed for him the decisions of the City Court and the Court of First Instance of Cebu, not with a view to obtaining a favorable judgment therein but for the purpose of exposing to the people the corroding evils extant in our Government, so that they may well know them and work for their extermination" (*Italics supplied*). In one breath and in a language certainly not complimentary to the Appellate Court and to Us, respondent del Mar again made his veiled threat of retribution aimed at the Appellate Court and at Us for Our judicial acts in CA--G.R.No. 46504-R and G.R. No. L-36800.

Our immediate reaction to this manifestation, dictated by the impulse of placing on a pedestal beyond suspicion the integrity and honor of this Court and that of any of our other courts of justice, was to require by Resolution of July 16, 1973, respondent del Mar to show cause why disciplinary action should not be taken against him for the contemptuous statements contained in his manifestation.

At this juncture, We pause to reexamine the act of the Appellate Court in CA-G.R. No. 46504-R and our own in G.R. No. L-36800 to determine what error we might have committed to generate such a vengeful wrath of

respondent del Mar which drove him to make his contemptuous statements.

The crucial issue in the case of oral defamation filed by Francisco M. Gica against Jorge Montecillo is as to what was the statement really uttered by Montecillo on the occasion in question-"binuang man gud na" (That act is senseless or done without thinking) or "buang man gud na siya" (He is foolish or stupid). If the statement uttered was the former, Montecillo should be exonerated; if the latter, he would be liable. The Appellate Court on evaluating the evidence ruled that the preponderance thereof favored Gica, "on the principle that the positive evidence must prevail over the negative" and, therefore, what was really uttered by Montecillo on that occasion was "buang man gud na siya" (He is foolish or stupid), thus making him liable for oral defamation. When We denied in G.R. No. L-36800 the petition for review on certiorari of the Appellate Court's decision in CA-G.R. No. 46504-R, We did so because We could find no reason for disturbing the Appellate Court's finding and conclusion on the aforementioned lone question of fact which would warrant overturning its decision.

On July 13, 1973, Our resolution of May 14, 1973, denying the petition for review on certiorari of the decision of the Appellate Court in CA-G.R. No. 46504-R, became final and executory and the Court of Appeals was so informed.

To Our resolution of July 16, 1973, requiring respondent del Mar to show cause why he should not be disciplined for his statements contained in his manifestation of July 1, 1973, he submitted an explanation dated August 1, 1973, wherein he stated that "..., he is attaching hereto the criminal case he filed with the President of the Philippines (copy marked as Annex "A") and the civil case instituted in the Court of First Instance of Cebu (copy marked as Annex "B") against Justices Magno S. Gatmaitan, Jose N. Leuterio and Ramon G. Gaviola, Jr., which embody the corroding evils he complained of as extant in the Government needing correction. He would have followed suit were it not for the fact that he is firmly convinced that human efforts in this direction will be fruitless. As manifested, he, therefore, decided to retire from a life of militancy to a life of seclusion, leaving to God the filling-up of human deficiencies" (*Italics supplied*).

This so-called explanation is more, in its tenor, of a defiant justification of his contemptuous statements contained in the manifestation of July 1, 1973. Its contents reveal a continued veiled threat against the Justices of this Court who voted to deny del Mar's petition for review on certiorari of the decision of the Court of Appeals in CA-G.R. No. 46504-R.

Our resolution of September 4, 1973, required respondent Atty. Quirico del Mar to appear personally at the hearing of his explanation on November 5, 1973. On September 26, 1973, respondent filed an additional explanation with this Court, wherein he stated, among other things: "Graft, corruption and injustice are rampant in and outside of the Government. It is this state of things that convinced me that all human efforts to correct and/or reform the said evils will be fruitless and, as stated in my manifestation to you, I have already decided to retire from a life of militancy to a life of seclusion, leaving to God the filling-up of human deficiencies."

Again We noticed that the tenor of this additional explanation is a toned-down justification (as compared to his explanation of August 1, 1973) of his previous contemptuous statements without even a hint of apology or regret. Respondent is utilizing what exists in his mind as state of graft, corruption and injustice allegedly rampant in and outside of the government as justification for his contemptuous statements. In other words, he already assumed by his own contemptuous utterances that because there is an alleged existence of rampant corruption, graft, and injustice in and out of the government, We, by Our act in G.R. No. L-36800, are among the corrupt, the grafters and those allegedly committing injustice. We are at a complete loss to follow respondent del Mar's logic and We certainly should, with understanding condescension, commiserate in the pitiable state of mind of a brother in the legal profession who seems to have its reasoning and sense of proportion blurred or warped by an all-consuming

obsession emanating from a one-track mind that only his views are absolutely correct and those of others are all wrong.

When this Court in the resolution dated November 19, 1973, directed the Judicial Consultant to circularize to all courts concerning the order of the Court of Appeals suspending Atty. Quirico del Mar from the practice of law, respondent, del Mar filed a motion for reconsideration on December 12, 1973, requesting Us, to reconsider said directive. In Our resolution dated December 17, 1973, respondent del Mar, after he had been interpellated by the Court, was given a period of five days to submit a memorandum in support of his explanation. In view of respondent's manifestation that there was no need for further investigation of the facts involved, in accordance with Section 29 of Rule 138, We resolved that the matter be deemed submitted for decision.

In the memorandum entitled "Explanation dated December 1973, respondent del Mar stated that he suffered repeated strokes of high blood pressure which rendered him dizzy and unstable mentally and physically; that his sight is blurred and his reasoning is faulty; he easily forgets things and cannot readily correlate them; that for any and all mistakes he might have committed he asked for forgiveness; he reiterated that "blunders" were committed by the Court of Appeals in its decision and that the Justices thereof knowingly rendered the same in violation of Article 204 of the Penal Code; he persisted in his view that the Court of Appeals committed an error in its decision; justified his act of invoking Article 204 of the Penal Code in trying to make the Appellate Justices liable; that he was high in his academic and scholastic standing during his school days; that "with all the confusion prevailing nowadays, the undersigned has decided for reasons of sickness and old age to retire from the practice of law. He hopes and expects that, with the approval thereof by the Supreme Court, he could have himself released from the obligation helms contracted with his clients as regards all his pending cases."

It is Our observation that the tenor of this explanation although pleading mental and physical ailment as a mitigation of the contemptuous acts, is still that of arrogant justification for respondent's previous statements. We quote:

"The undersigned was asked if he had not filed against the Justices of the Supreme Court a case for damages against them. He answered in the affirmative, but the case was dismissed by Judge Villasor, of the Court of First Instance of Cebu, because of an American ruling that a justice of the Supreme Court of the Philippines cannot be civilly held liable. The ruling cited was rendered during the American regime in the Philippines which was still subject to the jurisdiction of the American laws. But the Philippines is now independent and Article 204 of the Penal Code still remains incorporated therein for observance and fulfillment. Up to now, there is not yet any definite ruling of the Supreme Court thereon"

While still persistently justifying his contemptuous statements and at the same time pleading that his physical and mental ailment be considered so that We may forgive respondent del Mar, he shrewdly staled at the end of his explanation that he has decided for reasons of sickness and old age to retire from the practice of law, in practical anticipation of whatever penalty We may decide to impose on him and thus making it appear that he has voluntarily done so with honor and in complete evasion of whatever this Court may decide to do in this case.

With full realization that a practicing lawyer and officer of the court facing contempt proceedings cannot just be allowed to voluntarily retire from the practice of law, an act which would negate the inherent power of the court to punish him for contempt in defense of its integrity and honor, We resolved, by resolution of January 10, 1974, to deny said prayer of Atty. del Mar without prejudice to his making arrangement directly with his clients.

To aged brethren of the bar it may appear belated to remind them that, second only to the duty of maintaining allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines, is the duty of all attorneys to observe and maintain the respect due to the courts of justice and judicial officers

(Sec 20(b) Rule 138, Rules of Court). But We do remind them, of said duty to emphasize to their tiger brethren its paramount importance. A lawyer must always remember that he is an officer of the court exercising a high privilege and serving in the noble mission of administering justice.

It is the duty of the lawyer to maintain towards the courts a respectful attitude (*People vs. Carillo*, 77 Phil. 572). As an officer of the court, it is his duty to uphold the dignity and authority of the court to which he owes fidelity, according to the oath he has taken. Respect for the courts guarantees the stability of our democratic institutions which, without such respect, would be resting on a very shaky foundation (*In re Sotto* 82 Phil. 595).

As We stated before:

"We concede that a lawyer may think highly of his intellectual endowment. That is his privilege. And, he may suffer frustration at what he feels is others' lack of it. This is his misfortune. Some such frame of mind, however, should not be allowed to harden into a belief that he may attack a court's decision in words calculated to jettison the time-honored aphorism that courts are the temples of right. He should give due allowance to the fact that judges are but men; and men are encompassed by error, fettered by fallibility.

x x x To be sure, lawyers may come up with various methods, perhaps much more effective, in calling the Court's attention to the issues involved. The language vehicle does not run short of expressions, emphatic but respectful, convincing but not derogatory, illuminating but not offensive" (*Rheem of the Philippines vs. Ferrer* G.R. No. L-22979, June 26, 1967; 20 SCRA 441, 444-445)

Criminal contempt has been defined as a conduct that is directed against the dignity and authority of the court of a judge acting judicially. It is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect (17 C.J.S. 7).

We have held that statements contained in a motion to disqualify a judge, imputing to the latter conspiracy or connivance with the prosecutors or concocting a plan with a view to securing the conviction of the accused, and implicating said judge in a supposed attempt to extort money from the accused on a promise or assurance of the latter's acquittal, all without basis, were highly derogatory and serve nothing but to discredit the judge presiding the court in an attempt to secure his disqualification. Statements of that nature have no place in a court pleading and if uttered by a member of the bar, constitute a serious disrespect. We said:

"As an officer of the court, it is his sworn and moral duty to help build and not destroy unnecessarily the high esteem and regard towards the court so essential to the proper administration of justice" (*Italics supplied*). (*People vs. Carillo*, 43 O.G. No. 12, p. 5021; *De Joya et al. vs. C.F.I. of Rizal and Rilloraza* 52 O.G. 6150).

As already stated, the decision of the Court of Appeals in CA-G.R. No. 46504-R was based on its evaluation of the evidence on only one specific issue. We in turn denied in G.R. No. L-36800 the petition for review on certiorari of the decision because We found no reason for disturbing the appellate court's finding and conclusion. In both instances, both the Court of Appeals and this Court exercised judicial discretion in a case under their respective jurisdiction. The intemperate and imprudent act of respondent del Mar in resorting to veiled threats to make both Courts reconsider their respective stand in the decision and the resolution that spelled disaster for his client cannot be anything but pure contumely for said tribunals.

It is manifest that respondent del Mar has scant respect for the two highest Courts of the land when on the flimsy ground of alleged error in deciding a case, he proceeded to challenge the integrity of both Courts by claiming that they knowingly rendered unjust judgment. In short, his allegation is that they acted with intent and malice, if not with gross ignorance of the law, in disposing of the case of his client.

We note with wonder and amazement the brazen effrontery of respondent in assuming that his personal

knowledge of the law and his concept of justice are superior to that of both the Supreme Court and the Court of Appeals. His pretense cannot but tend to erode the people's faith in the integrity of the courts of justice and in the administration of justice. He repeatedly invoked his supposed quest for law and justice as justification for his contemptuous statements without realizing that, in seeking both abstract elusive terms, he is merely pursuing his own personal concept of law and justice. He seems not to comprehend that what to him may be lawful or just may not be so in the minds of others. He could not accept that what to him may appear to be right or correct may be wrong or erroneous from the viewpoint of another. We understand that respondent's mind delves into the absolute without considering the universal law of change. It is with deep concern that We view such a state of mind of a practicing lawyer since what We expect as a paramount qualification for those in the practice of law is broadmindedness and tolerance, coupled with keen perception and a sound sense of proportion in evaluating events and circumstances.

For a lawyer in the twilight of his life, with supposed physical and mental ailments at that, who dares to challenge the integrity and honor of both the Supreme Court and Court of Appeals, We have nothing but commiseration and sympathy for his choosing to close the book of his long years of law practice not by voluntary retirement with honor but in disciplinary action with ignominy and dishonor. To those who are in the practice of law and those who in the future will choose to enter this profession, We wish to point to this case as a reminder for them to imprint in their hearts and minds that an attorney owes it to himself to respect the courts of justice and its officers as a fealty for the stability of our democratic institutions.

WHEREFORE, the resolution of the Court of Appeals in CA-G.R. No. 48505-R, dated March 5, 1973, suspending Atty. Quirico del Mar from the practice of law, as implemented by Our resolution of November 19, 1973, is hereby affirmed.

Respondent Atty. Quirico del Mar, for his misconduct towards the Supreme Court, shall be, as he is hereby, suspended from the practice of law until further orders of this Court, such suspension to take effect immediately. (In re Almacen, G.R. No. L-27654, Feb. 18, 1970, 31 SCRA, p. 562.)

The Judicial Consultant of this Court is directed to circularize all courts and the Integrated Bar of the Philippines regarding the indefinite suspension of Atty. Quirico del Mar from the practice of law.

SO ORDERED.

Makalintal, C. J., Castro, Teehankee, Barredo, Makasiar, Antonio, Fernandez, Munoz Palma and Aquino, JJ., concur.

Fernando, J., took no part.

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.