

ESTRELLA LEDESMA, PETITIONER, VS. EDUARDO ENRIQUEZ, JUDGE OF THE COURT OF FIRST INSTANCE OF NEGROS ORIENTAL, RESPONDENT.*G.R. No. L-2166. August 30, 1949*

Ponente: MONTEMAYOR, J.

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This is a case of prohibition instituted by Estrella Ledesma, administratrix in testate proceedings No. 1362 in the Court of First Instance of Occidental Negros, against Judge Eduardo D. Enriquez, presiding over the third branch of said court. The facts which may be gathered from the petition and from the answer and annexes attached thereto of the respondent, may be briefly stated as follows:

This case No. 1362 aforementioned refers to the testate estate of the deceased Marcelo Ledesma and involves properties presumably situated in the province of Occidental Negros. The petitioner Estrella appears to be one of the heirs of the deceased Marcelo Ledesma. She is now residing in the City of Manila but it is not known when she first took up such residence in the City. In February, 1948, Jose Cosgayon y Ledesma, another heir, filed in said case No. 1362 a petition alleging that the administratrix Estrella is a permanent resident of Manila; that the properties included in the testate estate are abandoned; that the produce, rentals, and income of the estate are in the hands of the tenants, and the supposed lessees of the properties; that unless a co-administrator is appointed, the estate and all its assets including its Income are liable to be lost to the detriment of the heirs and other interested parties, and asking that he be appointed co-administrator to protect his rights and those of the other heirs, specially his brothers and sisters; and that an order be issued requiring petitioner Estrella to render an accounting of her administration.

Acting upon this petition Judge Francisco Arellano, presiding over the first branch of the Court of First Instance of Negros Occidental, issued an order dated February 16, 1948, denying the petition for appointment of a co-administrator on the ground that as long as the administration of the properties of a deceased person is in the hands of an administrator duly qualified and acting as such, it is improper to appoint another administrator. The order however, states that since it is alleged that the administratrix Estrella Ledesma had not filed any inventory or annual report of her administration since she was appointed 25 years ago, and since she resides permanently in Manila and that all these were prejudicial to the heirs, he cited Estrella Ledesma to appear before the court on March 6, 1948, at 8:30 a.m., and show cause, if any, why she should not be punished for contempt of court in view of the alleged abandonment of her administration and in not having made the corresponding inventory of the properties under her administration, including her annual reports.

On March 4, 1948, Estrella sent the following telegram from Manila to the Court of Negros Occidental:

"RE ORDER NO. 1362 ORDER JUST RECEIVED PLEASE POSTPONE HEARING FOR 30 DAYS
INDISPOSED WILL FILE WRITTEN REPLY."

On the basis of this telegram Judge Francisco Arellano of said Court granted the same and he set the hearing of

the incident (la vista de este incidente) for April 3, 1948, at 8:30 a.m., warning the administratrix that she must appear personally on that date. On April 1, 1948, Estrella again sent the following telegram to the same court:

"PLEASE GIVE ANOTHER EXTENSION STILL INDISPOSED AND FINANCIALLY DISABLED."

Acting upon this telegram, Judge Eduardo D. Enriquez, the respondent herein, presiding over the third branch of said Court, issued an order dated April 3, 1948 which reads as follows:

"No encontrado justificada la peticion de la administradora formulada mediante telegrama de fecha 1. de Abril de 1948, pidiendo extension de plazo para su comparecencia;

"Por el presente, se ordena su arresto."

The corresponding warrant of arrest was issued and was served on the petitioner Estrella in Manila on April 20, 1948. On April 22, 1948, the petitioner-administratrix through her counsel filed in this Court the present petition for prohibition alleging that the warrant of arrest issued against her was illegal and unjust and constituted a grave abuse of discretion and that as a result thereof, she was arrested and confined for an indefinite period of time; that her confinement was causing her great prejudice, annoyance and degradation, and that she had no other adequate remedy nor could she appeal from the order ordering her arrest. She now asks this Court to set aside the said warrant of arrest; that pending consideration of her petition "an order be issued to the respondent Judge to refrain him from further execution of said order of arrest and that herein petitioner be released from confinement."

On April 24, 1948, petitioner's counsel filed a petition to permit the herein petitioner to file a bond in an amount to be fixed by this Court in order that herein petitioner "will have more facilities to comply with all what the Hon. Court is requiring her to submit," and within a period of 30 days, the herein petitioner is willing to appear before the said Court and submit her account.

On April 30, 1948, this Court by resolution gave due course to the petition for prohibition and required the respondent to answer the same within 5 days from receipt of a copy of the resolution, at the same time ordering the provisional release of the petitioner upon her filing a bond in the sum of P200. Petitioner's counsel as well as the respondent were notified by telegram on the same date of that part of the resolution regarding the provisional release of the petitioner. On May 3, 1948, the petitioner filed the corresponding bail bond and she was forthwith released.

On May 22, 1948, the answer of the respondent was received. In said answer Judge Eduardo D. Enriquez claims among other things, that the petitioner never complied with her promise to file a reply, contained in her telegram of March 4, 1948; that her petition for another extension contained in her second telegram of April 1, 1948, was not supported either by an oath or a medical certificate; that he (respondent) regarded the alleged indisposition of the petitioner stated in her two telegrams as ground for the postponement of her appearance as a mere subterfuge to frustrate the orders of the court and to place obstacles in the orderly administration of justice, seeking thereby to convert said orders into mere scraps of paper to the detriment of the dignity of the courts of justice, and that the issuance by the respondent of the order of arrest was done in a regular manner and in the ordinary exercise of the inherent powers of courts of justice to enforce their orders and legal processes.

After a careful consideration of this case, we are satisfied that the respondent was warranted in issuing his order of April 3, 1948, ordering the arrest of the petitioner herein. Said order was issued not to harass the petitioner but merely to enforce the order of the court requiring her appearance in court to show cause why she should not be punished for contempt of court for her failure to comply with her duties as administratrix in the testate proceedings. Said court was perfectly justified in issuing that order for her appearance if as made to appear before us, since her appointment as administratrix about 25 years ago, to the prejudice of the heirs and to the detriment of

the properties under administration, she had really abandoned her administration, had come to live permanently in Manila and had not filed any annual report, not even an inventory of the properties she was supposed to be administering. And, this requirement for hereto appear and render an accounting of her administration was not done by the court on its own initiative although it could have done so but upon a petition of one of the heirs said to be prejudiced by petitioner's abandonment of her administration.

No one may be compelled to act as administrator in any proceedings. The petitioner herein was under no obligation to be administratrix in said proceedings No. 1362, If she found her permanent residence in Manila incompatible with her duties to administer properties situated in Negros Occidental, she was perfectly justified in refusing the administration. But as long as she accepted the appointment of administratrix, qualified as such, and led the court and the heirs to believe that she would perform her duties as such and protect and serve the interests of said heirs and other interested parties, she was bound to comply with her duties. If later on she found it difficult or impossible to continue with her administration, at least she should have filed an inventory of the properties she had administered and render an accounting of her administration, particularly of the produce, fruits and income of the properties under administration, and then ask the court that she be relieved of her duties. This, she apparently had not done. For this reason as already stated, the Court of First Instance of Negros Occidental was justified in requiring her to appear.

Her first request for postponement which was not supported by medical certificate was granted; but when another request by telegram equally unsupported either by oath or medical certificate was sent by her, specially since the promise to reply contained in her first telegram had not been complied with, the respondent herein who presided the court before which she was required to appear believing that the petitioner was purposely and want only disobeying orders of the court had the right to issue the warrant of arrest in order to enforce compliance with its order. Without this remedy, courts would be helpless to enforce their orders and judicial processes. When a person or party is legally and validly required by a court to appear before it for a certain purpose, when that requirement is disobeyed, the only remedy left for the court is to use force to bring such person or party before it. It may be that this power may be abused. In the present case however, we are satisfied that there was no abuse of discretion committed by the respondent. If the Supreme Court allowed the provisional release of the party, as it did, it was not because it considered the warrant of arrest as having been issued illegally and without cause, but it was merely to relieve the petitioner of the discomfort and embarrassment incident to confinement in jail and to accord her better facilities to pursue the remedy she sought, while we studied and passed upon the merits of her petition.

In view of the foregoing, the present petition is hereby denied, without any pronouncement as to costs. The petitioner is ordered within ten days after notification of this decision, to appear, before the Court of First Instance of Negros Occidental as she was originally required to do to be dealt with by that court. Should she fail to do so, that court is authorized to confiscate the bail bond filed by her under authority of this Court, and take such other measures it may deem just and proper.

Moran, C.J., Ozaeta, Paras, Feria, Bengzon, Padilla, Tuason, and Reyes, JJ., concur.

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