

PABLO VENTURA Y CLARIN, ANGELINA ANG AND BUENAVENTURA EVANGELISTA, PETITIONERS, VS. HON. JUDGE NICASIO YATCO, AS JUDGE OF THE COURT OF FIRST INSTANCE OF RIZAL, QUEZON CITY BRANC...*G.R. No. 11223. March 16, 1959*

Ponente: BAUTISTA ANGELO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-11223/>**BAUTISTA ANGELO, J.:**

Petition for certiorari against the following orders of Hon. Nicasio Yatco, presiding judge of the Court of First Instance of Rizal, Quezon City Branch: (1) An order dismissing Civil Case Q-1831, entitled Pablo Ventura y Clarin, et al. vs. Luz Ventura, et al., for partition and damages; (2) Two orders declaring Atty. Buenaventura Evangelista, counsel for the plaintiffs in Civil Case Q-1831, in contempt of court; and (3) An order denying petitioners, motion for correction of stenographic notes.

The record discloses that on April 14, 1956, Pablo Ventura y Clarin and his wife Angelina Ang de Ventura filed a complaint for partition and damages against Luz Ventura and her husband Fernando Gorospe, which complaint was docketed as Civil Case No. Q-1831 of the Court of First Instance of Quezon City. The complaint alleges that the plaintiffs and the defendants are co-owners of two parcels of registered land situated in Quezon City, and of the improvements thereon, since May 23, 1955; that the defendants are in possession of the properties and have refused to deliver the share therein of the plaintiffs; that the defendants threatened and intimidated the plaintiffs when the latter attempted to take possession of the properties; that said properties could easily be rented for P800 a month, had not the defendants taken exclusive possession thereof; so that the plaintiffs lost P400 as their share in the rentals; and that the partition of the properties would serve the best interests of all the parties.

The defendants alleged in their answer that the properties in question belong to their father, Pablo Ventura y Villalon and their deceased mother Luz Ventura y Clarin; that said parents have always been in possession of the lands and that the plaintiffs had never asked for the partition of the properties nor for the properties to be rented; that defendants are staying in said properties to accompany their aged father, who has the right to possess, occupy and live in the same during his lifetime.

Pablo Ventura y Villalon, father of both plaintiffs and defendants, filed a complaint in intervention, which does not appear in the record. In answer thereto, the plaintiffs claim they had bought one-half of the properties from the intervenor and his deceased wife.

The case was set for hearing on July 11, 1956, before Judge Nicasio Yatco. During the hearing and while the plaintiff Pablo Ventura y Clarin was on the witness stand, petitioner Atty. Evangelista, counsel for the plaintiffs, was declared by the respondent judge in contempt twice, once when he manifested that the respondent judge has been taking an active part in the proceedings (p. 24, t.s.n.), and again when he asked for the suspension of the hearing to enable him to file a motion for disqualification of the judge (p. 25, t.s.n.). When petitioner Atty. Evangelista manifested further that he will not present evidence anymore, the respondent judge, upon motion of

defendant's counsel, dismissed the case.

On July 18, 1956, the plaintiffs filed a motion for reconsideration of the order of dismissal and the reassignment of the case to another judge, and on August 30, 1956, the respondent judge modified his order of dismissal by making said dismissal without prejudice. On July 24, 1956, petitioners also filed a motion for correction of the stenographic notes, but the same was denied by the court. These orders are now sought to be annulled in this petition.

The first issue in this petition is, whether the trial court committed grave abuse of discretion in dismissing Civil Case No. Q-1831. The transcript shows that the plaintiffs presented only one witness, plaintiff Pablo Ventura y Clarin, who testified rather vaguely on his suspicion that the properties sought to be divided are being used as a front for illegal purposes and of his conversation with the intervenor for the division of the properties. In the course of the examination of said witness and as the judge took part in the examinations, attorney for plaintiffs became irritated thereby and protested that the judge was unfairly meddling with the presentation of his case. Thereupon, the judge declared him in contempt of court. Said attorney then asked for opportunity to present a motion to disqualify the judge, but the judge, instead of allowing him to do so, declared him guilty of another contempt. With this later order said counsel lost his temper and refused to proceed further. It was then that the court dismissed the case on motion of counsel for the other party. But when counsel for plaintiff filed a motion for reconsideration of the order of dismissal, the court modified the order making it without prejudice.

It is apparent that the remedy of petitioners, plaintiff's below, is an appeal from the order, not certiorari. The petition in this respect is hereby dismissed.

The second question is, whether the trial court committed grave abuse of discretion or acted without jurisdiction in denying plaintiffs' motion for correction of stenographic notes. Jose A. Jasmin, the court stenographer, had certified to the correctness of his transcript, and as no competent evidence was offered to show that the stenographer committed mistakes, or had not performed his work regularly, the trial court did not or in denying said motion.

The third question, which is the most important one, refers to the claim made by the petitioner that the trial judge had interrupted the proceedings by remarks, questions, rulings, opinions and argumentation, *motu proprio*, in a most aggressive and angry manner; that his participations as judge has been overzealous, showing a prejudgment of the case and bias prejudice, partially and hostility against the plaintiffs and their counsel and that the protest made by counsel for plaintiffs against the above actuations of the judge cannot be considered and should not be considered as contemptuous. We have taken pains to read carefully the transcript of the testimony taken at the trial and we find, as petitioner claims, that the court actively took part in the examination. However, we do not find that said active participation in the trial contained or showed any prejudice, bias or hostility against the witness or his case. It is true that in the beginning of the trial the judge desired that plaintiff proceed to the issue raised in the special defense and in the intervention, namely, that the properties subject of the action had not been actually transferred in ownership to the plaintiff and his sister, with their father having relinquished possession of the properties. From the allegations of the pleadings, we find this to be the real issue and the judge acted in the interest of a speedy trial when he tried to make counsel for the plaintiffs direct his evidence towards this issue, which suggestion, however, was rejected by counsel for the plaintiff. Despite this rejection of the direction of the judge, which would have shortened the trial, the judge permitted counsel to develop plaintiff's own theory as their counsel believed it to be. We find no interest nor partiality, nor hostility in said attempt on the part of the judge on the other hand, we find it to be motivated by a desire to shorten the trial by making plaintiffs go directly to the issue involved.

After the incident about the above attempt on the part of the judge to direct evidence to what he considered to be the decisive issue, the judge abandoned his attempt. While it is true that he participated many times by his questions, these were clearly to clarify certain points. Thus on page 9 of the transcript the court formulated the following question: whether the corporation testified to is registered; whether the witness is a member of the Board of Directors; whether the shares given to witness were given by witness' father, questions which were merely clarifying these helped counsel of plaintiffs instead of delaying him. On page 11 of the transcript, while witness was referring to an illegal transaction by his father, the court asked what that illegal transaction was. But witness refused to disclose what it is. The illegality by the transaction necessarily involves the claim made by the plaintiffs in their complaint that the defendants were not utilizing the supposed common properties as they should have. The judge's participation in the questioning in the above respect is also not improper.

On page 13 of the record, when the witness spoke of a certain corporation known as the Lords Enterprises, the court asked if it is existing and operating. When the witness answered that it was no longer in operation, he asked if plaintiff and his father are still in business. There is also no harm in the questions asked by the judge.

On pages 15 and 16, the judge asked merely whether plaintiff subscribed his complaint under oath. There is nothing wrong in such a question. On pages 16 and 17 of the record, the judge merely called the attention of counsel for plaintiff, who was then testifying, that there are no allegations in the complaint about the Lords Enterprises and the dissolution of the corporation. The counsel for plaintiffs justified the question by stating that the evidence he was submitting was in reply to the defendants' answer and the judge ruled that the supposed evidence was not evidence in chief and that he ought first to submit his evidence in chief. The judge was again correct in this. Defenses should not be anticipated and the evidence in chief should be submitted.

From pages 21 to 22 of the record, it appears from the testimony of the plaintiffs that the latter demanded partition through their father, the intervenor, and thereupon the judge said that unless the father was duly authorized by the defendants for that purpose, the actions of the father could not bind the defendants. The observation of the judge in this respect is also correct.

Now going to the incidents immediately preceding the order of contempt, we note that the following appear in the transcript:

"q—As to the rentals you stated here, . . .

COURT

Possible rentals . . .

Q.—Possible rentals of these properties, what will be your share if.

COURT

It is clear, companero, 50% for his father and 50% for them.

ATTY. EVANGELISTA

Make it of record then. I observe that Your Honor, has been taking an active part in this proceedings since the beginning

COURT

Are you not withdrawing that?

ATTY. EVANGELISTA

It is on the record

COURT

I am giving you a chance, are you not withdrawing that?

A.—I am sorry, I am not withdrawing that, your Honor.

COURT

All right, you are hereby fined P20.00.

ATTY. EVANGELISTA

I would like to ask for a suspension of the proceedings and I would like to file a motion for the disqualification of your Honor to continue with this proceeding because this representation believes that his Honor has shown from the very beginning an attitude hostile against the plaintiffs.

COURT

You are again fined P100.00. Your fine now is P120.00. Continue." (t.s.n., pp. 24-25,)

It will be noted from the above that the counsel for plaintiffs made an insulting remark when he said: "I observe that your Honor, has been taking an active part in this proceedings since the beginning . . ." The insinuation made in the remark, while not express, is that the judge has been partial or hostile, which is entirely unfounded. The above remark was a challenge against the probity and fairness of the judge in the course of the trial, and we find that the imposition of the fine of P20.00 may not be considered as a grave abuse of discretion. When thereafter counsel for plaintiffs openly stated that he was going to ask the disqualification of the judge, he clearly showed a disrespect to the judge and the imposition of another fine then and there by the judge can not also be said to have been a grave abuse of discretion.

We understand from the petition that the tone and manner in which the judge made these questions or remarks were haughty and arrogant and hostile. The tone may be so, but an impartial reading of the words shows that such tone, if ever arrogant, could not have been meant by the judge to be so.

About the active part that the judge took in the trial, the court finds that said active part was for the purpose of expediting the trial and directing the course thereof in accordance with the issues. While judges should as much as possible refrain from showing partiality to one party and hostility to another, it does not mean that a trial judge should keep mum throughout the trial and allow parties to ask the questions that they desire, on issues which they think are the important issues, when the former are improper and the latter, immaterial. If trials are to be expedited, judges must take a leading part therein, by directing counsel to submit the evidence on the facts in dispute by asking clarifying questions, and by showing an interest in a fast and fair trial. Judges are not mere referees like those of a boxing bout, only to watch and decide the results of a game; they should have as much interest as counsel in the orderly and expeditious presentation of evidence, calling attention of counsel to points at issue that are overlooked, directing them to ask the question that would elicit the facts on the issues involved, clarifying ambiguous remarks by witnesses, etc. Unless they take an active part in trials in the above form and manner, and allow counsel to ask questions whether pertinent or impertinent, material or immaterial, the speedy administration of justice which is the aim of the Government and of the people cannot be attained. Counsel should, therefore, not resent any interest that the judge takes in the conduct of the trial, they should be glad that a trial judge takes such interest and help in the determination of truth.

Wherefore, we do not find any abuse of discretion on the part of the judge in imposing the first fine for the

insulting remark of counsel, as well as the second fine, which apparently was imposed because of the reiteration of the previous insulting remark.

For all the foregoing considerations, the petition for certiorari is hereby denied, with cost against petitioners.

Paras, C. J., Bengzon, Padilla, Montemayor, Bautista Angelo, Concepcion, Reyes, J. B. L., and Endencia, JJ., concur.

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.