

IN THE MATTER OF CONTEMPT PROCEEDINGS AGAINST VENTURA O. DUCAT, ET AL. PAPA SECURITIES CORPORATION, PETITIONER, VS. COURT OF APPEALS, ET AL., RESPONDENTS.

G.R. No. 117266. March 13, 1997

Ponente: BELLOSILLO, J.

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BELLOSILLO, J.:

PAPA SECURITIES CORPORATION filed on 30 September 1983 an action for a sum of money against Ventura O. Ducat before the Regional Trial Court of Makati[1] in connection with an obligation which arose on 25 August 1983.

On 30 June 1987 the trial court rendered judgment finding respondent Ventura O. Ducat liable to petitioner Papa Securities Corporation in the principal amount of P3,159,253.37 with interest at 14% per annum from 25 August 1983 until full payment, service fee of 1/2% of the debt balance computed monthly, attorney's fees and expenses of litigation in an amount equivalent to 25% of the amount due plus costs of suit.

On 12 February 1991 the Court of Appeals affirmed the decision of the trial court. On 20 November 1991 this Court also affirmed the decision of the Court of Appeals, and on 22 January 1992 denied the motion for its reconsideration.

On 18 June 1992 a writ of execution was issued by the trial court by virtue of which respondent Ducat's shares of stock with petitioner and a lot located at Ayala Alabang, Muntinlupa, were sold in an execution sale. The proceeds of the sale being insufficient to satisfy the judgment debt his residential house and lot located at Wack Wack Subdivision, Mandaluyong, were further sold in a public sale on 7 September 1992. In that sale petitioner was the highest bidder. On 9 September 1992 a certificate of sale covering the aforementioned property was issued by the Sheriff and the sale was accordingly annotated on the certificate of title.

Respondent Ducat having failed to redeem the Wack Wack property within the one (1) year redemption period, a final deed of sale was executed by the Sheriff on 10 September 1993 and a writ of possession with notice to vacate was issued by the trial court.

On 14 September 1993 respondent Ducat filed an Urgent Omnibus Motion seeking to annul the execution sale conducted on 7 September 1992, to set aside the order of 10 September 1993, and to hold in abeyance the implementation of the writ of possession and notice to vacate on the grounds that: (a) the levy and sale of the Wack Wack property already exceeded the amount of the judgment debt; (b) the Sheriff's Return dated 15 July 1992 regarding the sale of the shares of stock rendered the writ of execution dated 18 June 1992 *functus officio* such that no further sale on execution could have been made by authority thereof; and, (c) petitioner failed to observe the procedure laid down by law for the sale of properties exempt from execution such as the Wack Wack property which has been constituted as his family home.

Resolving the claims of Ducat, the trial court held: (1) the auction sale of 7 September 1992 was conducted in full

compliance with the requirements of the law; besides, as early as 26 October 1992 Ducat already acknowledged the validity of the proceedings in his letter to the Makati Stock Exchange; (2) there could never as yet be an excessive execution of judgment in the absence of entry of satisfaction of judgment contemplated by Sec. 46 in relation to Sec. 47 of Rule 39 of the Rules of Court; and, (3) the family home of Ducat was not exempt from execution. Thus on 3 November 1993 the Urgent Omnibus Motion was denied,[2] and on 31 January 1994 the Court of Appeals sustained the denial of the motion.[3]

The decision of the Court of Appeals was elevated to this Court but on 23 May 1994, for non-compliance with Circulars 1-88 and 19-91, the Motion for Extension of Time to file petition was denied,[4] and the petition itself was likewise denied not only because it was filed out of time but also for failure to show any reversible error committed by the appellate court. Respondent Ducat moved to file the petition anew but was similarly denied on 11 July 1994 because no compelling reason was adduced to warrant the relief sought.[5] Thereafter petitioner filed before the trial court a motion for the issuance of an alias writ of possession.

On 16 August 1994 respondent Ducat moved for reconsideration of the denial of his motion by this Court.

On 18 August 1994 or during the pendency of the motion for reconsideration of the denial of his motion respondent Ducat thru a new and collaborating counsel, respondent Atty. Elgar Cruz of the Teng Mariano and Cruz Law Offices, filed an urgent motion to declare failure of auction sale of the Wack Wack property before the trial court. He argued that based on the decision dated 30 June 1987 and the corresponding writ of execution his obligation to petitioner has amounted to P13,789,964.73. After the sale of his shares of stock and the Ayala Alabang lot there was left only a balance of P5,429,964.73 whereas the Wack Wack property was sold for P13,294,264.31 thereby leaving an excess over the judgment in the amount of P7,864,299.58. Atty. Cruz invoked Sec. 23, Rule 39, of the Rules of Court which provides that if the amount of the bid exceeds the amount stated in the judgment, the judgment creditor who at the same time is the purchaser at the execution sale must pay the excess.

The records do not show that petitioner paid the excess. He further invoked Art. 1352 of the Civil Code which provides that a contract of purchase and sale is null and void and produces no effect whatsoever where the purchase price which appears therein as paid was never in fact paid by the purchaser to the vendor;[6] needless to say, the auction sale of the Wack Wack property did not produce any effect.

On 7 September 1994 this Court denied reconsideration of the 11 July 1994 ruling.

On 14 September 1994 respondent Ducat again thru respondent Atty. Cruz filed before the trial court a position paper in support of the 18 August 1994 motion.

On 26 September 1994 another urgent motion was filed but this time for protective orders: (a) requiring the Sheriff to render a complete and final report and accounting; (b) requiring petitioner to pay the excess of bid over the judgment debt; (c) declaring void the certificate of sale of the Wack Wack property based on the same arguments raised in the 18 August 1994 motion; and, (d) holding in abeyance the resolution of the motion for an alias writ of possession.

The filing of these motions prompted petitioner to file a petition with this Court on 12 October 1994 to cite in contempt of court respondents Ventura O. Ducat and Teng Mariano and Cruz Law Offices alleging that respondents Ducat and his present counsel have deliberately, maliciously and in utter and palpable bad faith delayed and continue to delay the satisfaction of a final judgment in its favor, and that respondent Ducat cannot keep on re-filing motions and attempting to re-open finally settled issues through the expediency of hiring a new counsel. On the other hand, the present counsel is duty-bound to be aware of the status of the case and cannot take

refuge in the claim that he was newly hired.

Incidentally, on 14 October 1994 the trial court denied the motion to declare the 7 September 1992 auction sale void inasmuch as the Court of Appeals and this Court had categorically and finally declared the sale valid. The motion for the issuance of a protective order to declare the certificate of sale void was likewise denied since the issuance of said certificate was an act related to the auction sale that has been declared valid with finality. On 17 October 1994 the trial court issued an order stating that the alias writ of possession/authority to break open would issue simultaneously as soon as it was informed by the parties of the action taken by them in the matter of the excess judgment.

Respondents contend that they have not committed any act to delay the proceedings before the trial court. In fact, their acts have been guided by and premised on the decision of the Court of Appeals dated 31 January 1994, as affirmed by this Court in G.R. No. 115585, which held that the computation of the judgment debt vis-a-vis the amounts obtained under execution was premature. They filed the two (2) urgent motions before the trial court precisely because it was the opportune time to compute those amounts. They counter the present motion by moving that petitioner instead be declared in indirect contempt of court based on the following: (a) abuse of the processes of the courts, particularly the process of execution, and (b) improper conduct directly tending to impede, obstruct and degrade the administration of justice.

We grant the motion of petitioner as we find respondent Ventura O. Ducat and his counsel Atty. Elgar Cruz guilty of indirect contempt of court pursuant to Sec. 3, Rule 71, of the Rules of Court. By filing the 18 August 1994 motion respondents committed the acts mentioned in letters (c) and (d) of Sec. 3:

(c) Any abuse of or any unlawful interference with the process or proceedings of a court not constituting direct contempt under section 1 of this rule;[7]

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice x x x x

The power to declare a person in contempt of court and in dealing with him accordingly is a means to protect and preserve the dignity of the court, the solemnity of the proceedings therein and the administration of justice from callous misbehavior and offensive personalities.[8]

A comparison of the Urgent Omnibus Motion filed on 14 September 1993[9] with the urgent motion to declare failure of auction sale of the Wack Wack property filed on 18 August 1994[10] discloses that the latter motion merely echoed the allegations found in the former motion. Furthermore, both motions prayed for the same relief, namely, the annulment of the auction sale conducted on 7 September 1992. In effect, respondents asked the trial court in the 18 August 1994 motion to resolve an issue which has been settled by the same court as early as 3 November 1993, affirmed by the Court of Appeals on 31 January 1994, and by this Court on 11 July 1994. Equally disdainful is the fact that the motion for reconsideration of the 11 July 1994 ruling was still pending before this Court when respondents filed the 18 August 1994 motion. The foregoing actuation demonstrates defiance of the authority and dignity of this Court and disrespect of the administration of justice.[11]

The explanation proffered by respondents in filing the 18 August 1994 and 26 September 1994 motions, i.e., that it is the opportune time to determine whether there was an excess over the judgment debt, is an attempt to mask their underlying intention. As distinctly set forth in the prayer of the 18 August 1994 motion and in the position paper which they filed as proof and in support of the motion, the relief that they were asking was the annulment of the 7 September 1992 auction sale.

Respondents are therefore guilty of indirect contempt of this Court. Punishment shall be meted on a corrective

principle[12] in order to vindicate the authority and dignity of this Court and the administration of justice. Under Sec. 6, Rule 71, of the Rules of Court, if the contempt was committed against a superior court or judge, the accused may be fined not exceeding one thousand pesos (P1,000.00) or imprisoned for not more than six (6) months, or both. Conformably thereto, we impose upon respondent Ventura O. Ducat a fine of Five Hundred Pesos (P500.00). As regards respondent Atty. Elgar Cruz, being not just a member of the legal profession but an officer of the court as well,[13] we impose upon him a higher fine of One Thousand Pesos (P1,000.00).

Respondents' motion to declare petitioner instead guilty of indirect contempt of court deserves no consideration because the bases relied upon are utterly unfounded.

WHEREFORE, respondents VENTURA O. DUCAT and ATTY. ELGAR CRUZ of Teng Mariano and Cruz Law Offices are declared GUILTY of INDIRECT CONTEMPT and fined Five Hundred Pesos (P500.00) and One Thousand Pesos (P1,000.00), respectively, with a STERN WARNING that a repetition of the same or similar acts in the future will be dealt with more severely. The imposed fines should be paid to this Court within ten (10) days from notice.

Let a copy of this decision be furnished the Integrated Bar of the Philippines and entered in the records of respondent Atty. Elgar Cruz.

SO ORDERED.

Padilla, (Chairman), Vitug, Kapunan, and Hermosisima, Jr., JJ., concur.

[1] Raffled to Br. 57 then presided over by Judge Francisco X. Velez.

[2] RTC Order denying the Urgent Omnibus Motion was issued by Judge Arsenio J. Magpale; Rollo, p. 36.

[3] CA Decision sustaining the denial of the Motion was penned by Mme. Justice Lourdes K. Tayao-Jaguros with Justices Vicente V. Mendoza and Jesus M. Elbinias concurring, Rollo, p. 88.

[4] G.R. No. 114871, Third Division.

[5] G.R. No. 115585, Second Division.

[6] The exact provision reads: Contracts without cause, or with unlawful cause, produce no effect whatsoever. The cause is unlawful if it is contrary to law, morals, good customs, public order or public policy.

[7] Sec. 1. Direct contempt punished summarily. - A person guilty of misbehavior in the presence of or so near a court or judge as to obstruct or interrupt the proceedings before the same, including disrespect toward the court or judge, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court or judge x x x x

[8] Cf. *De Guia v. Guerrero, Jr.*, A.M. No. RTJ-93-1099, 1 August 1994, 234 SCRA 625.

[9] Rollo, pp. 15-31.

[10] *Id.*, pp. 113-121.

[11] *Alcuaz v. PSBA*, G.R. No. 76353, 2 May 1988, 161 SCRA 7.

[12] *Contado v. Tan*, No. L-49299, 15 April 1988, 160 SCRA 404.

[13] *Alvarez v. Court of Appeals*, G.R. No. 59621, 23 February 1988, 158 SCRA 57.

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