

SECURITIES AND EXCHANGE COMMISSION CHAIRMAN PERFECTO R. YASAY, JR., ASSOCIATE COMMISSIONERS FE ELOISA C. GLORIA, EDIJER MARTINEZ AND ROSALINDA U. CASIGURAN, PETITIONERS, VS. MAN...

G.R. No. 129521. September 07, 1999

Ponente: PARDO, J.

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PARDO, J.:

The case before the Court is an appeal from a decision of the Court of Appeals[1] setting aside the order of the Securities and Exchange Commission (SEC)[2] declaring respondents guilty of contempt for disobeying a temporary restraining order issued to respondents to desist from holding a stockholders meeting of the Interport Resources Corporation.

The facts are as follows:

On June 28, 1996, SEC Chairman Yasay upon request of certain stockholders of Interport Resources Corporation, directed respondent Ricalde to submit to the SEC a list of stockholders and to set a definite time and place for the validation of proxies and nominations for directors of the firm.

On the same date, June 28, 1996, the SEC issued a temporary restraining order (TRO) enjoining the Interport Resources Corporation from holding the July 9, 1996 scheduled annual meeting of the stockholders.

Notwithstanding the SEC's TRO, the stockholders proceeded with the meeting on July 9, 1996, presided over by respondent Manalaysay.

On July 10, 1996, the SEC declared the stockholders meeting of Interport Resources Corporation held on July 9, 1996, null and void and directed respondents to appear before the SEC on July 15, 1996, at 3:00 p.m., to show cause why no disciplinary action should be taken against them or why they should not be cited in contempt.

At the hearing on July 15, 1996, respondent Manalaysay questioned the validity of the TRO as well as the contempt proceedings in light of the TRO issued by the Court of Appeals restraining the SEC from enforcing its TRO.[3]

After the hearing, on July 15, 1996, the SEC issued an order stating:

“x x x

“VIEWED in this light Atty. Cesar Manalaysay, Manuel D. Recto and Atty. Pelagio T. Ricalde are hereby DECLARED GUILTY OF CONTEMPT and are correspondingly ORDERED to pay a fine of TEN THOUSAND (P10,000.00) Pesos each upon finality of this Order for willfully disobeying and disregarding the July 8, 1996 Order of this Commission. Atty. Cesar Manalaysay is likewise BARRED from practicing his law profession before this commission for a period of sixty (60) days from date hereof and Mr. Recto and Atty. Ricalde are, by this ORDER, prohibited and barred from acting as President/Chairman and Secretary

respectively of Interport Resources, Inc. within the same period. This Order shall be immediately executory unless otherwise restrained by a court of competent jurisdiction.

“SO ORDERED.

“EDSA, Greenhills, Mandaluyong City.

“(s/t) PERFECTO R. YASAY, JR.

“Chairman

“(s/t) FE ELOISA C. GLORIA

Associate Commissioner

“(s/t) EDIJER A. MARTINEZ

“Associate Commissioner”[4]

In due time, respondents appealed from the aforesaid order to the Court of Appeals.

After due proceedings, on April 14, 1997, the Court of Appeals promulgated its decision reversing and setting aside the SEC order declaring respondents guilty of contempt. The dispositive portion reads:

“WHEREFORE, premises considered, respondents’ Order dated July 15, 1996, is hereby REVERSED and SET ASIDE.

“The cash bond of P50,000.00 may be withdrawn by petitioners.

“SO ORDERED. “(s/t) ARTEMIO G. TUQUERO

Associate Justice

“(s/t) ARTEMON D. LUNA

Associate Justice

“(s/t) HECTOR L. HOFILÉÑA

Associate Justice”[5]

On May 2, 1997, petitioners filed a motion for reconsideration of the decision. However, on June 11, 1997, the Court of Appeals denied the motion.

Hence, this appeal.

On September 10, 1997, the Court required respondents to comment on the petition within ten (10) days from notice.[6] On October 7, 1997, respondents filed their comment.[7] In the main, respondents submit that contempt is criminal in character and their exoneration from a charge of contempt amounts to an acquittal from which an appeal would not lie.[8]

At issue in this petition is whether or not the Court of Appeals erred, as a matter of law, in setting aside the order of the SEC finding respondents guilty of contempt for disobeying its temporary restraining order to desist from holding the annual stockholders meeting of the Interport Resources Corporation scheduled on July 9, 1996.

We agree with respondents that the charge of contempt partakes of the nature of a criminal offense.[9] The exoneration of the contemner from the charge amounts to an acquittal from which an appeal would not lie.

“A distinction is made between a civil and criminal contempt. Civil contempt is the failure to do something

ordered by a court to be done for the benefit of a party. A criminal contempt is any conduct directed against the authority or dignity of the court.[10]

Petitioners argue that the contempt committed by respondents was civil in nature, as the temporary restraining order the SEC issued was for the benefit of a party to a case. The contention is untenable.

“Civil contempt proceedings are generally held to be remedial and civil in their nature; that is, they are proceedings for the enforcement of some duty, and essentially a remedy for coercing a person to do the thing required.”[11] “In general, civil contempt proceedings should be instituted by an aggrieved party, or his successor, or someone who has a pecuniary interest in the right to be protected.”[12] If the contempt is initiated by the court or tribunal exercising the power to punish a given contempt, it is criminal in nature, and the proceedings are to be conducted in accordance with the principles and rules applicable to criminal cases. The State is the real prosecutor.[13]

“The real character of the proceedings in contempt cases is to be determined by the relief sought or by the dominant purpose. The proceedings are to be regarded as criminal when the purpose is primarily punishment, and civil when the purpose is primarily compensatory or remedial.”[14]

“But whether the first or the second, contempt is still a criminal proceeding in which acquittal, for instance, is a bar to a second prosecution. The distinction is for the purpose only of determining the character of punishment to be administered.”[15]

In this case, the contempt is not civil in nature, but criminal, imposed to vindicate the the dignity and power of the Commission; hence, as in criminal proceedings, an appeal would not lie from the order of dismissal of, or an exoneration from, a charge of contempt.”[16]

At any rate, the SEC order directing respondents to show cause why they should not be cited in contempt was highly improper. The Court of Appeals issued on July 8, 1996, a temporary restraining order against the order of the SEC of June 28, 1996 directing the Interport Resources Corporation to desist from holding the stockholders’ meeting on July 9, 1996. Contrary to the view of petitioners, the effect of the temporary restraining order of the Court of Appeals directing the SEC to desist from enforcing its own TRO was to allow such meeting to proceed as scheduled. More, the Court of Appeals in its final decision nullified the SEC’s order.[17] Hence, there was no willful disobedience to a lawful order of the SEC. Respondents were not guilty of contempt.

While the SEC is vested with the power to punish for contempt,[18] the salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle,[19] and on the corrective and not retaliatory idea of punishment.[20] The courts and other tribunals vested with the power of contempt must exercise the power to punish for contempt for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.[21]

In this case, the SEC issued the citation for contempt sua sponte. There was no charge filed by a private party aggrieved by the acts of respondents. Strictly speaking, there was no disobedience to the SEC’s temporary restraining order. The Court of Appeals enjoined that order. Consequently, respondents’ act in proceeding with the scheduled stockholders’ meeting was not contumacious as there was no willful disobedience to an order of the SEC.[22] The disobedience which the law punishes as constructive contempt implies willfulness. For, at bottom, contempt is a willful disregard or disobedience.[23]

The SEC was rather hasty in asserting its power to punish for contempt. The chairman and commissioners of the SEC must exercise the power of contempt judiciously and sparingly with utmost self- restraint.[24]

Finally, the penalty imposed exceeded those authorized in the powers of the SEC [25] in relation to the 1964 Revised Rules of Court as amended.[26] If the contempt was committed against a superior court or judge, the accused may be fined not exceeding thirty thousand pesos (P30,000.00) or imprisoned not more than six (6) months, or both. The SEC suspended respondent Manalaysay from the practice of law in the SEC, a power vested exclusively in the Supreme Court.[27]

WHEREFORE, the Court hereby DENIES the petition for review on certiorari and AFFIRMS the decision of the Court of Appeals in CA-G. R. SP No. 41400, promulgated on April 14, 1997.

No costs.

SO ORDERED.

Puno, Kapunan, and Ynares-Santiago, JJ., concur.

Davide, Jr., C.J., (Chairman), on official leave.

[1] Rollo, CA Decision, pp. 31-39, Justice Artemio G. Tuquero, ponente, and Justices Artemon D. Luna and Hector L. Hofileña, concurring.

[2] Annex “C”, Petition, Rollo, pp. 42-45.

[3] In CA-G. R. SP No. 41157, entitled Interport Resources, Inc. vs. SEC.

[4] Annex “C”, supra., at pp. 44-45.

[5] CA Decision, supra., at p. 39.

[6] Rollo, p. 55.

[7] Rollo, pp. 59-80.

[8] Comment, Rollo, at pp. 61- 62.

[9] Adorio vs. Bersamin, 273 SCRA 217 [1997].

[10] Moran, Comments on the Rules of Court, Vol. 3, 1997 ed. p. 445; Santiago vs. Anunciacion, Jr., 184 SCRA 118 [1990]; Converse Rubber Corp. vs. Jacinto Rubber and Plastic Co., Inc., 97 SCRA 158, 182-183 [1980].

[11] People vs. Godoy, 243 SCRA 64, 79 [1995].

[12] People vs. Godoy, supra, at p. 80.

[13] People vs. Godoy, supra.

[14] Remman Enterprises, Inc. vs. Court of Appeals, 268 SCRA 688, 697 [1997]; People vs. Godoy, supra.

[15] Santiago vs. Anunciacion, Jr., 184 SCRA 118, 121 [1990].

[16] Insurance Commissioner vs. Globe Assurance Co., Inc., 111 SCRA 202, 204 [1982].

[17] CA-G. R. SP No. 41157, Decision, promulgated on September 16, 1996.

[18] P. D. 902-A, Sec. 6 [e].

[19] Commissioner of Immigration vs. Cloribel, 127 Phil. 716 [1967].

[20] Nazareno vs. Barnes, 136 SCRA 57, 73 [1985]; Pacuribot vs. Lim, Jr., 275 SCRA 543 [1997].

[21] Austria vs. Masaquiel, 20 SCRA 1247, 1260 [1967]; Nazareno vs. Barnes, *supra*; Angeles vs. Gernale, Jr., 274 SCRA 10 [1997]).

[22] Dee vs. Securities and Exchange Commission, 199 SCRA 238 [1991].

[23] Commissioner of Immigration vs. Cloribel, *supra*.

[24] De Guia vs. Guerrero, 234 SCRA 625, 630 [1994]; Fontelera vs. Amores, 70 SCRA 37, 43 [1976]; Pacuribot vs. Lim, Jr., *supra*.

[25] P. D. 902-A, Section 6 [e].

[26] Rule 71, Section 6, 1964 Revised Rules of Court, as amended (See Administrative Circular No. 22-95, dated October 11, 1995; In re: Ventura O. Ducat, 269 SCRA 615 [1997])

[27] Article VIII, Section 5 [5], Constitution.

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