

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE MAXIMO G.W. PADERANGA, REGIONAL TRIAL COURT,
BRANCH 38, MISAMIS ORIENTAL, CAGAYAN DE ORO CITY,
RESPONDENT.**

A.M. NO. RTJ-01-1660 (IN CONNECTION WITH G.R. NO. 139519). August 25, 2005

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

The administrative case before us stems from the directive issued by this Court in its Decision promulgated on January 24, 2001 in G.R. No. 139519 entitled *Conchito J. Oclarit vs. Judge Maximo G.W. Paderanga, Judge, Regional Trial Court, Misamis Oriental*,^[1] requiring the Office of the Court Administrator (OCA) of this Court to file an administrative charge against herein respondent for gross misconduct and grave abuse of authority.

The factual antecedents as recited in this Court's Decision in G.R. No. 139519 are as follows:

Petitioner [referring to Atty. Conchito J. Oclarit] is a lawyer engaged in the private practice of law principally in the City of Cagayan de Oro and the province of Misamis Oriental.

At times material hereto, petitioner was counsel for the plaintiffs in the case entitled, spouses Gregorio and Pelegrina Babatido v. Elnora and Teodoro Abella, et. al., Civil Case No. 99-194, Regional Trial Court, Misamis Oriental, Branch 38, Cagayan de Oro City. Judge Maximo G.W. Paderanga was the presiding judge, Regional Trial Court, Misamis Oriental, Branch 38.

On June 1, 1999, the aforecited case was scheduled for continuation of pre-trial before the lower court. The case was first heard on pre-trial on April 30, 1999. In that hearing, petitioner filed a motion to approve compromise agreement entered into by the parties pointing out that the compromise agreement was reached before a barangay captain. Counsel for the defendants opposed the motion because the defendants were placed in a disadvantageous condition, arguing that the case was before the court not before the barangay. The court ruled that the compromise agreement was not before the barangay captain but before the court. The parties settled before the barangay captain. At this point, petitioner informed the court that the compromise agreement was signed and was explaining further when the court told him repeatedly to "shut up." Then petitioner requested the court to stop shouting at him. The court rhetorically asked: "why should the court precisely not cite you for contempt for doing that," that is, for settling the case before the barangay captain.

Consequently, the presiding judge cited petitioner in contempt of court and imposed on him a fine of P1,000.00. Petitioner remarked that the presiding judge was becoming very arrogant. In reply to that, respondent judge declared: "I will put you in jail. Get a policeman." At that moment, the court issued a verbal order holding petitioner for direct contempt of court and sentencing petitioner to serve one (1) day in jail and to pay a fine of P1,000.00. Petitioner indicated that he would challenge the ruling. Then, respondent judge issued a "detention commitment" to the Jail Warden, City Jail, Cagayan de Oro City, committing the person of petitioner Conchito J. Oclarit for direct contempt.

The next day, with petitioner in jail, he received a copy of the written order declaring him in direct contempt of

court and sentencing him to pay a fine of P1,000.00 and also to serve one (1) day in jail. He was released after serving one (1) day in jail. Apparently, he also paid the fine of P1,000.00.[2]

In said case, this Court held that:

... respondent judge gravely abused his discretion in declaring petitioner guilty of direct contempt of court, sentencing him to pay a fine of P1,000.00 and to serve one day in jail. It was respondent judge who first shouted successively at petitioner to "shut up." When petitioner persisted in making his explanation, the court declared him in direct contempt, to the extent of stating that the judge had "absolute power." The lawyer's remarks explaining his position in the case under consideration do not necessarily assume the level of contumely that justifies the court to exercise the power of contempt. Courts must be slow to punish for direct contempt. This drastic power must be used sparingly in cases of clearly contumacious behavior in facie curiae. The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts 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.

Accordingly, this Court disposed of the case as follows:

IN VIEW WHEREOF, the Court GRANTS the petition and renders judgment declaring VOID the order finding petitioner guilty of direct contempt of court in Civil Case No. 99-194, and sentencing him to pay a fine of P1,000.00 and to serve one (1) day in jail. The court orders respondent judge to reimburse petitioner the sum of P1,000.00, not out of the amount paid by petitioner to the court but from his own funds. The Court regrets that petitioner had to serve time in jail by a despotic act of respondent judge.

The Court orders the Court Administrator, Supreme Court, to file an administrative charge against respondent Judge Maximo G.W. Paderanga, Regional Trial Judge, Regional Trial Court, Misamis Oriental, Branch 38, Cagayan de Oro City, for gross misconduct and grave abuse of authority, within fifteen (15) days from notice.

This decision is immediately executory.

Costs against respondent Judge.

SO ORDERED.[3]

In compliance with the directive of the Court, the OCA, in a complaint dated October 4, 2001, charged Judge Paderanga with gross misconduct and grave abuse of authority.[4] In the same administrative complaint, the OCA, through Deputy Court Administrator Christopher O. Lock, prayed that respondent be required to file his comment and that the case be submitted to an Associate Justice of the Court of Appeals (CA) for investigation, report and recommendation.[5]

On November 21, 2001, this Court issued a resolution requiring respondent to file his Comment to the administrative complaint filed by the OCA.[6] Respondent failed to comply.

In a Resolution dated January 12, 2004, this Court, noting respondent's failure to file his comment, directed the latter to report whether he had complied with the Decision of this Court dated January 24, 2001, and if in the affirmative, submit proof of compliance therewith; and to show cause why he should not be disciplinarily dealt with or held in contempt for failure to file comment on the administrative complaint filed against him, and to submit the required comment, ten (10) days from notice thereof.[7]

In his Compliance with Manifestation with Request and Clarification, respondent, through counsel, informed the Court of his compliance with the Court's Decision of January 24, 2001. As to his failure to file his comment to the administrative complaint filed by the OCA, respondent reasoned out that neither he nor his counsel received or

was furnished a copy of the said complaint.[8]

On May 24, 2004, this Court issued another resolution stating among others that:

The Court notes from the registry return cards for the Resolution of November 21, 2001, which required respondent judge to comment on the administrative complaint for gross misconduct and gross abuse of authority filed by the Office of the Court Administrator, that copies of said resolution were received by respondent judge as well as Arcol and Musni Law Offices on an unstated date in December 2001 and December 19, 2001, respectively. The records do not show whether copies of the administrative complaint were attached to the copies of the resolutions received by them. However, even assuming that copies of the complaint were inadvertently omitted, respondent judge or his counsel should have immediately called the attention of the Court to the omission. It is only after they have received the Court's Resolution dated January 12, 2004 that they informed the Court that they have not received a copy of the complaint, thereby unduly delaying the proceedings and resolution of this administrative matter.

In view thereof, the Court Resolves to:

a)

NOTE the compliance of respondent judge with the directive in the Decision dated January 24, 2001 to reimburse petitioner Conchito J. Oclarit the amount of P1,000.00;

b)

DECLARE the explanation for failure to file comment on the administrative complaint NOT SATISFACTORY and to ADMONISH Judge Paderanga and Atty. Arcol to be more prudent in dealing with the Court;

c)

DIRECT the Division Clerk of Court to furnish Judge Paderanga and Arcol and Musni Law Offices with copies of administrative complaint; and

d)

REQUIRE Judge Paderanga to file COMMENT thereon within a non-extendible period of ten (10) days from receipt hereof, with warning that upon failure to file his comment within said period, he shall be deemed to have waived his right to comment and the complaint of the Office of the Court Administrator shall be deemed submitted for resolution of the Court.

SO ORDERED.[9]

On July 28, 2004, respondent filed his Comment.[10]

On September 22, 2004, this Court issued a resolution referring the instant matter to Justice Magdangal M. de Leon of the CA for investigation, report and recommendation.[11]

In conformity with the directive of this Court, Justice de Leon set the case for preliminary conference and required the parties to submit their pre-trial briefs.[12]

Respondent and private complainant Atty. Oclarit submitted their pre-trial briefs, respectively.[13] In his brief, respondent manifested his willingness to enter into an amicable settlement or alternative mode of dispute resolution.

In the initial hearing conducted on January 13, 2005, respondent reiterated his willingness to enter into a settlement with the private complainant. Accordingly, Justice de Leon reset the hearing to February 24, 2005 to

give the parties opportunity and time to explore the possibility of settlement.[14]

On February 22, 2005, Atty. Oclarit submitted a Manifestation with an attached Affidavit of Desistance explaining his desire to be permitted to desist from pursuing the complaint against respondent.[15]

The following day, or on February 23, 2005, respondent filed his own Manifestation with Motion indicating that he and private complainant Oclarit "have come to terms and thus, without going further into the merits of the case, in their honest intention in good faith to have peace of mind, have expressed their desire and decided to put an amicable closure to their controversy." [16]

Consequently, both parties did not appear during the scheduled hearing on February 24, 2005.

In his Report and Recommendation dated April 8, 2005, Justice de Leon came up with the following evaluation of the case, pertinent portions of which read as follows:

Notwithstanding the desistance of private complainant from participating in this administrative case, coupled with respondent Judge's affirmation that they have long come to terms, a determination of the veracity of the administrative charge against respondent Judge must still be made.

.....

Indeed, respondent Judge's action in forthwith declaring and punishing Atty. Oclarit in direct contempt of court constituted misconduct and an abuse of authority. The same was all the more highlighted by his failure to state in the written order of direct contempt the specific cause thereof. Respondent Judge's defense that his resort to such a drastic action was prompted by the manner by which Atty. Oclarit argued as to the propriety of submitting for approval a compromise agreement reached before a Barangay Captain is not well-taken.

.....

There was nothing in the records to show that Atty. Oclarit was disrespectful to the trial court at the inception of the hearing where respondent Judge cited Atty. Oclarit in direct contempt of court. Atty. Oclarit was only trying to explain the propriety of obtaining a settlement before a Barangay Captain but respondent Judge would not listen. The Supreme Court even found that it was respondent Judge who first shouted successively at Atty. Oclarit to "shut up", an act unbecoming of an impartial and a neutral judge.

Respondent Judge should have given Atty. Oclarit the opportunity to fully present his side and only if his explanation was found unmeritorious or his manner clearly spiteful should respondent Judge have acted according to what was called for by the circumstances. A lawyer's remarks explaining his position in a case under consideration do not necessarily assume the level of contempt that justifies the court to exercise the power of contempt.

Although Atty. Oclarit might have also addressed the trial court in a way not altogether tolerable, respondent Judge was not justified in resorting to drastic action especially like in this case where the measure taken involved a deprivation of liberty. More than anyone else in the hierarchy of court personnel, "Judges are enjoined to behave at all times to promote public confidence in the impartiality of the judiciary."

Of course, respondent Judge, like any other normal person might have also been carried away by his emotions. Even Atty. Oclarit, in his Affidavit of Desistance, acknowledged that "fazed by the tense and emotionally charged atmosphere of opposing counsels vigorously arguing their propositions and raising their voices, (so that) Judge Paderanga, having been carried away by his own emotions, also got involved by raising his voice and losing his temper.' However, respondent Judge's 'noble position in the bench demands from him courteous speech in and out of the court. Judges are demanded to be always temperate, patient and courteous both in conduct and in language. A judge can take comfort in the thought that to suffer occasional outburst is a price that those who sit in judgment of other people's fates must at times pay.

Nonetheless, after a judicious examination of the records, the undersigned believes that the misconduct and the abuse of authority by respondent Judge were not gross and grave as charged. What is apparent is that respondent Judge merely adopted an erroneous measure designed to counter what he perceived was an outright defiance of the court's authority. The same does not approximate gross misconduct or grave abuse of authority.[17]

Accordingly, Justice de Leon recommended that respondent be reprimanded for drastically resorting to his contempt powers with a warning that a repetition of similar acts will be dealt with more severely.[18]

This Court does not entirely agree with the findings of the investigating Justice but adopts the recommended penalty for the infraction committed by respondent.

Respondent judge is being charged with grave abuse of authority and gross misconduct for having unjustifiably used his contempt powers.

It must be noted that the present administrative case did not reach the stage of a full-blown investigation owing to the manifestation by Atty. Oclarit and respondent of their willingness to put an amicable closure to the instant case and for their failure to present evidence and attend the hearings set by the investigating Justice. However, we agree with Justice de Leon that the withdrawal of the complaint or the execution of an affidavit of desistance does not automatically result in the dismissal of the instant administrative case. Thus, we have held in *Pineda vs. Pinto*[19] that:

"an affidavit of desistance by a complainant in an administrative case against a member of the judiciary does not divest the Supreme Court of its jurisdiction to investigate the matters alleged in the complaint or otherwise to wield its disciplinary authority because the Court has an interest in the conduct and behavior of its officials and employees and in ensuring the prompt delivery of justice to the people. Its efforts in that direction cannot thus be frustrated by any private arrangement of the parties. Neither can the disciplinary power of this Court be made to depend on a complainant's whims. To rule otherwise would undermine the discipline of court officials and personnel."[20]

Hence, we shall proceed to determine whether or not respondent is guilty of gross misconduct and grave abuse of authority on the basis of the findings of this Court in G.R. No. 139519, the Comment of respondent, and the Report and Recommendation of Justice de Leon.

It would be worth to reiterate this Court's pronouncement in G.R. No. 139519, to wit:

"In this case, the court did not state the specific cause for declaring petitioner guilty of direct contempt of court. Indeed, it would seem that the court cited petitioner for direct contempt of court for submitting such compromise agreement for approval though the compromise was reached before a barangay captain. As we said, there is nothing contumacious in such act. However, the impression of lawyers in the courtroom at that time was that the presiding judge was irked because petitioner shouted back and banged the table as petitioner charged the presiding judge with arrogance. This incident is not recorded in the transcript, leaving us in doubt if it occurred. It is apparent, however, that the presiding judge continuously ordered petitioner to 'shut up.'

Even then, an order of direct contempt is not immediately executory or enforceable. The contemner must be afforded a reasonable remedy to extricate or purge himself of the contempt. Thus, in the 1997 Rules of Civil Procedure, as amended, the Court introduced a new provision granting a remedy to a person adjudged in direct contempt by any court. Such person may not appeal therefrom, but may avail himself of certiorari or prohibition. In such case, the execution of the judgment shall be suspended pending resolution of such petition provided the contemner files a bond fixed by the court which rendered the judgment and conditioned that he will abide by and perform the judgment should the petition be decided against him.

In fact, petitioner asked the court presided over by respondent judge to fix a bail for his temporary liberty

pending the filing of a petition for certiorari. This written motion was filed on the first hour the very next day. It was timely filed because the written order of contempt was issued only the next day and given to petitioner when he was in jail. The respondent judge did not act on the motion. By such inaction, respondent judge deprived petitioner of an effective relief from an order of direct contempt of court. This is a violation of the Rules on contempt of court. Under Rule 65, 1997 Rules of Civil Procedure, as amended, petitioner has sixty (60) days within which to file his petition.

We find that respondent judge gravely abused his discretion in declaring petitioner guilty of direct contempt of court, sentencing him to pay a fine of P1,000.00 and to serve one day in jail. It was respondent judge who first shouted successively at petitioner to 'shut up.' When petitioner persisted in making his explanation, the court declared him in direct contempt, to the extent of stating that the judge had 'absolute power.' The lawyer's remarks explaining his position in the case under consideration do not necessarily assume the level of contumely that justifies the court to exercise the power of contempt."^[21]

Accordingly, we find no error in Justice de Leon's finding that there is nothing on record to evidence Atty. Oclarit's contumacious behavior towards respondent or the office or court he represents. In fact, respondent himself, in his Comment, admits that "the proceedings on June 1, 1999 started rather cordially, and went on with no discernible or perceptible recriminations."^[22] Respondent further acknowledges that "[t]here were no recriminatory retorts, much less, serious diatribes thrown either way between Atty. Oclarit and respondent, or between Atty. Oclarit and Atty. Bacal...."^[23] Nonetheless, respondent claimed that his patience and forbearance were stretched to the hilt because of "Atty. Oclarit's act of discourtesy towards the court" which consisted of his persistent interruptions while respondent was talking. Granting that Atty. Oclarit may indeed have committed acts of discourtesy towards the court, we likewise agree with Justice de Leon that these acts do not justify respondent from immediately resorting to his contempt powers, without even giving Atty. Oclarit the benefit of a warning, considering that the penalty imposed was deprivation of liberty in addition to fine. It has time and again been stressed that besides the basic equipment of possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety and self-restraint which are indispensable qualities of every judge.^[24] A judge anywhere should be the last person to be perceived as a petty tyrant holding imperious sway over his domain.^[25]

Indeed, Rule 3.04 of the Code of Judicial Conduct states that:

A judge should be patient, attentive and courteous to all lawyers, especially the inexperienced, to litigants, witnesses, and others appearing before the court. A judge should avoid unconsciously falling into the attitude of mind that the litigants are made for the courts instead of the courts for the litigants.

In *Sison vs. Caoibes, Jr.*,^[26] this Court held that:

"the power to declare a person in contempt of court and in dealing with him accordingly is an inherent power lodged in courts of justice, to be used as 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, offensive personalities, and contumacious refusal to comply with court orders. Indeed, the power of contempt is power assumed by a court or judge to coerce cooperation and punish disobedience, disrespect or interference with the court's orderly process by exacting summary punishment. The contempt power was given to the courts in trust for the public, by tradition and necessity, in as much as respect for the courts, which are ordained to administer the laws which are necessary to the good order of society, is as necessary as respect for the laws themselves. And, as in all other powers of the court, the contempt power, however plenary it may seem, must be exercised judiciously and sparingly. A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties."^[27]

Hence, we have held that the role of a judge in relation to those who appear before his court must be one of

temperance, patience and courtesy.[28] A judge who is commanded at all times to be mindful of his high calling and his mission as a dispassionate and impartial arbiter of justice is expected to be "a cerebral man who deliberately holds in check the tug and pull of purely personal preferences which he shares with his fellow mortals." [29]

In the present case, respondent judge's act of unceremoniously citing Atty. Oclarit in contempt while declaring himself as having "absolute power" is a clear evidence of his unjustified use of the authority vested upon him by law. He has lost sight of the fact that the power to cite persons in contempt is at his disposal 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.[30] Respondent is guilty of grave abuse of authority.[31]

This Court also finds respondent guilty of simple misconduct. Misconduct is defined as any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause.[32] It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[33] Respondent may not be held guilty of gross misconduct because the term "gross" connotes something "out of all measure; beyond allowance; not to be excused; flagrant; shameful." [34] In the present case, respondent's actuations, while condemnable, are not totally inexcusable as he has also been provoked by the seemingly defiant attitude of Atty. Oclarit. Hence, this Court only finds him guilty of simple misconduct.

As to the imposable penalty, we cannot mete out the sanctions provided under Rule 140 of the Rules of Court as amended by A.M. No. 01-8-10-SC, which took effect on October 1, 2001, because the respondent judge's infractions were committed on June 1, 1999. Nonetheless, this Court has not been blind to the improper use by judges of the erstwhile inherent power of contempt which, in fine, amounts to grave abuse of authority.[35]

In the present case, considering that respondent judge is not to be totally blamed for his reaction to the apparently belligerent attitude of Atty. Oclarit, and since there is no showing that respondent has been previously charged and found guilty of the same or similar administrative offense, we find it proper to impose on him the penalty of reprimand, as recommended by Justice de Leon, with stern warning that the commission of the same or similar acts in the future will be dealt with more severely.

WHEREFORE, respondent Judge Maximo G.W. Paderanga is found guilty of grave abuse of authority and simple misconduct. He is hereby REPRIMANDED and STERNLY WARNED that repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Puno, (Chairman), Callejo, Sr., Tinga, and Chico-Nazario, JJ., concur.

[1] 350 SCRA 260 (2001).

[2] Id., pp. 261-262.

[3] Id., p. 265.

[4] Rollo, p. 1.

[5] Id., pp. 2-3.

[6] Id., p. 14.

- [7] Id., p. 17.
- [8] Id., p. 18.
- [9] Id., pp. 24-25.
- [10] Id., p. 27.
- [11] Id., p. 50.
- [12] Id., p. 52.
- [13] Id., pp. 78 and 82.
- [14] Id., p. 96.
- [15] Id., p. 101.
- [16] Id., p. 111.
- [17] Id., pp. 141-144.
- [18] Id., p. 146.
- [19] A.M. No. RTJ-04-1851, October 13, 2004, 440 SCRA 225.
- [20] Id., pp. 232-233.
- [21] Supra, pp. 263-265.
- [22] Rollo, p. 33.
- [23] Id., p. 34.
- [24] Rodriguez vs. Bonifacio, A.M. No. RTJ-99-1510, November 6, 2000, 344 SCRA 519, 535.
- [25] Ibid.
- [26] A.M. No. RTJ-03-1771, May 27, 2004, 429 SCRA 258.
- [27] Id., p. 265.
- [28] Ibid.
- [29] Ibid.
- [30] Nazareno vs. Barnes, No. L-59072, April 25, 1984, 136 SCRA 57, 70.
- [31] Sison vs. Caoibes, Jr., supra, p. 268.
- [32] Dadizon vs. Asis, A.M. No. RTJ-03-1760, January 15, 2004, 419 SCRA 456, 460.
- [33] Id., pp. 460-461.
- [34] Manaois vs. Leomo, A.M. No. MTJ-03-1492, August 26, 2003, 409 SCRA 596, 604, citing Yap vs. Inopiquez, Jr., A.M. No. MTJ-02-1431, May 9, 2003, 403 SCRA 141.
- [35] Sison vs. Caoibes, supra, p. 268.

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