

ATTY. SALOME D. CAÑAS, PETITIONER, VS. HON. LERIO C. CASTIGADOR (IN HIS CAPACITY AS MUNICIPAL TRIAL COURT JUDGE OF THE MUNICIPALITY OF GENERAL TRIAS, PROVINCE OF CAVITE) AND PRO...

G.R. No. 139844. December 15, 2000

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

For alleged failure to comply with orders requiring the surrender of a vehicle involved in Criminal Case No. 3890, petitioner was cited for indirect contempt, fined One Hundred Pesos (P100.00) and ordered imprisoned for thirty (30) days by respondent judge. In a special civil action for certiorari, docketed as CA-G.R. SP No. 43045, the orders of respondent judge was sustained by the Seventh Division[1] of the appellate court.

The antecedent facts are matters of record or are otherwise uncontroverted.

On May 1, 1996, a vehicular accident occurred along Governor's Drive, Barangay San Francisco, General Trias, Cavite involving a Mitsubishi Lancer (box-type model 1982) bearing Plate No. PHY-142 driven by one Amado Praxedes and an Isuzu truck bearing Plate No. PKS-757 with trailer bearing Plate No. NUM-394 owned by and registered under the name of Isagani R. Medina (Medina) and driven by Nestor V. Guevarra (Guevarra).

On account of the incident, on May 20, 1996, a criminal complaint entitled, "People of the Philippines v. Nestor Guevarra y Valmonte" for reckless imprudence resulting in serious physical injuries and damage to property was filed with the Municipal Trial Court of General Trias, Cavite and docketed as Criminal Case No. 3890.

On May 21, 1996, petitioner, as counsel of Medina, filed with the MTC of General Trias, Cavite a motion[2] for the release of the Isuzu trailer truck with Plate No. PKS-757 and trailer Plate No. NUM-394, where she averred, among others, that -

- Movant also undertakes to produce the accused before this Honorable Court on May 23, 1996 in order to post bail for his temporary liberty and to secure the release of his driver's license which he really needs in his job as driver of the same truck.
- Undersigned counsel further guarantees that failure on her part to produce the accused on May 23 will subject the release of the same vehicle to be recalled.

The records disclose that on May 23, 1996, petitioner and accused Guevarra appeared before the Municipal Trial Court at around 5:25 p.m. on account of heavy traffic. Finding that the respondent judge was no longer there, petitioner wrote a note[3] addressed to respondent judge informing him of her appearance and that of accused Guevarra. In the said note, petitioner indicated her office address as "c/o Pepsi Cola Products, Phils., San Fernando, Pampanga."

On July 17, 1996, an order for the issuance of a warrant of arrest against accused Guevarra was issued by

respondent judge,[4] and bail was fixed at Two Thousand Pesos (P2,000.00).

On August 14, 1996, respondent judge issued the first challenged Order[5] recalling his earlier Order dated May 21, 1996, wherein he directed the release of the trailer owned by Medina. The said order required petitioner "or any person in possession or control" to surrender the trailer to the court.

The records reveal, however, that the said Order was not received by petitioner and the same was later sent back to the trial court[6] because the address written on the envelope was "c/o Pepsi Cola Products, Phils., San Fernando Plant," instead of "San Fernando, Pampanga." [7]

On September 11, 1996, respondent judge issued a second Order reiterating his recall of the subject trailer.[8] In addition, the Order directed "the Chief of Police of General Trias, Cavite, or any officer of the law, to seize, impound and surrender to this Court an Isuzu trailer truck/tractor with Plate No. PKS-757." [9]

Again, it appears that petitioner never received a copy of the said September 11, 1996 Order and the same was also returned to the trial court because the address appearing on the envelope indicated that it was to be sent to petitioner at "c/o Pepsi Cola, Phils., San Fernando Plant" instead of "San Fernando, Pampanga."

On September 26, 1996, respondent prosecutor filed a motion to declare petitioner in contempt of court, without furnishing petitioner a copy thereof,[10] for her continued defiance of the September 11, 1996 Order, alleging -

That on September 11, 1996, the Honorable Court issued an Order the dispositive portion of which read[s]:

WHEREFORE, for failure of Atty. Salome Cañas to produce [the] accused in Court, the release of [the] vehicle is hereby recalled.

Said Order was sent to Atty. Salome Cañas but up to the present, said counsel has not surrendered the vehicle nor has she produced the accused in Court as condition for the release of said vehicle in blatant defiance of the Court Order dated September 11, 1996.

On the same date, respondent judge issued an order setting the aforementioned motion of respondent prosecutor for hearing on October 8, 1996 at 8:30 a.m.[11]

As what happened to the two Orders of August 14, 1996 and September 11, 1996 earlier issued, respondent judge's Order dated September 26, 1996 was never received by petitioner because the address was "c/o Pepsi Cola, Phils., San Fernando Plant."

Owing to the incorrect address indicated in the envelope containing the September 26, 1996 Order, petitioner failed to attend the hearing set on October 8, 1996. During the proceedings on said date, Adelina Palomo-Medina, the wife of petitioner's client, informed the court that petitioner was abroad and would be back by the end of November 1996. Respondent judge noted that there was no return of service allegedly sent to petitioner and thus, in open court, reset the hearing to December 3, 1996 at 8:30 a.m.[12]

Again on account of the incorrect address indicated on the envelope, petitioner was unable to receive a copy of the October 8, 1996 Order and thus was not able to attend the December 3, 1996 hearing. At the scheduled hearing, respondent judge issued an Order considering the motion to declare petitioner in contempt of court submitted for resolution.[13]

On December 5, 1996, respondent judge issued the challenged order finding petitioner guilty of indirect contempt of court, imposing on her a fine of One Hundred Pesos (P100.00) and ordering her imprisonment for thirty (30) days.[14] On the same day, respondent judge issued a warrant for petitioner's arrest.[15]

On January 7, 1997, petitioner filed a "Motion to Lift Warrant of Arrest, Motion to Set Aside Order dated

December 5, 1996; and Motion for Reconsideration of Orders dated August 14, 1996; and September 11, 1996."[16]

Fearing that she would be arrested any time because of the warrant of arrest which was not recalled by respondent judge, petitioner filed a petition for review on certiorari on January 15, 1997, which was subsequently amended on January 17, 1997.[17]

On May 28, 1999, the Seventh Division of the Court of Appeals promulgated its assailed Decision sustaining the Order of respondent judge. A motion for reconsideration thereto was subsequently denied by the appellate court in its assailed Resolution of August 24, 1999.

Hence, this petition on the following grounds:

- THE COURT OF APPEALS DISREGARDED WELL-DEFINED PRINCIPLES IN THE APPLICATION OF PROCEDURAL LAW WHEN IT DISREGARDED HIGHER INTERESTS OF JUSTICE AND THE PRESENCE OF COMPELLING CIRCUMSTANCES WHEN IT HELD THAT THE CIRCUMSTANCES DID NOT JUSTIFY A LIBERAL APPLICATION OF THE RULES AND A DISREGARD OF THE ALLEGED PROCEDURAL LAPSES COMMITTED BY PETITIONER.
- THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN HOLDING THAT PETITIONER WAS NOT DEPRIVED OF DUE PROCESS AND THAT HER CONSTITUTIONAL RIGHT TO BE INFORMED OF THE CHARGES AGAINST HER, RELATIVE TO THE CONTEMPT PROCEEDINGS AGAINST HER WAS NOT VIOLATED.
- THE HONORABLE COURT OF APPEALS DISREGARDED WELL-DEFINED PRINCIPLES RELATIVE TO THE POWER TO CITE IN CONTEMPT WHEN IT PERPETUATED THE ERROR OF THE RESPONDENT JUDGE FINDING PETITIONER TO BE IN CONTEMPT OF COURT BY UPHOLDING SUCH ORDER.

The primordial issue to be resolved is whether or not petitioner is properly cited for indirect contempt by respondent judge.

The Court finds the conduct of respondent judge highly improper for the following reasons:

First, the degree of restraint respondent should have observed in the exercise of his contempt powers leaves much to be desired, considering that the same bears with it the taint of personal hostility and passion against the party to whom it is directed. Time and again magistrates have been reminded that -

...the salutary rule is that the power to punish for contempt must be exercised on the preservative not vindictive principle,[18] and on the corrective not retaliatory idea of punishment.[19] The courts and other tribunals vested with the power of contempt must exercise the power 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.[20]

Besides the basic equipment of possessing the requisite learning in the law, a magistrate must exhibit that hallmark judicial temperament of utmost sobriety[21] and self-restraint which are indispensable qualities of every judge.[22] A judge anywhere should be the last person to be perceived as petty tyrant holding imperious sway over his domain. Such an image is, however, evoked by the acts of respondent judge in this case.

It has time and again been stressed that the role of a judge in relation to those who appear before his court must be one of temperance, patience and courtesy.[23] 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[24] 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."[25]

Judges have been admonished to observe judicial decorum which requires that a magistrate must at all times be temperate in his language[26] refraining from inflammatory or excessive rhetoric[27] or from resorting "to the language of vilification." [28] In this regard, Rule 3.04 of the Code of Judicial Conduct states that -

Rule 3.04. 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.

Respondent judge needs to be reminded that government service is people-oriented.[29] Patience is an essential part of dispensing justice and courtesy is a mark of culture and good breeding.[30] Belligerent behavior has no place in government service where personnel are enjoined to act with self-restraint and civility at all times even when confronted with rudeness and insolence.[31]

Second, it is imperative that judges be conversant with basic legal principles. The Code of Judicial Conduct, in fact, enjoins judges to "be faithful to the law and maintain professional competence." [32] Respondent judge owes it to the public and to the legal profession to know the law he is supposed to apply in a given controversy.[33]

A judge is called upon to exhibit more than just a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles and [be] aware of well-settled authoritative doctrines. He should strive for excellence exceeded only by his passion for truth, to the end that he be the personification of justice and the Rule of Law.[34]

In this case, respondent judge displayed a deplorable deficiency in his grasp of the basic principles governing contempt. As defined, indirect contempt is one committed out of or not in the presence of the court that tends to belittle, degrade, obstruct or embarrass the court and justice.[35]

There is no question that disobedience or resistance to a lawful writ, process, order, judgment or command of a court or injunction granted by a court or judge constitutes indirect contempt.[36] Section 3, Rule 71, of the then Revised Rules of Court provides for the mode of commencing proceedings for indirect contempt, to wit:

SEC. 3. Indirect contempts to be punished after charge and hearing.- After charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt:

x x x x x x x x

(b) Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge . . . (emphasis supplied)

x x x x x x x x

The case of *Nazareno v. Barnes*[37] interpreted a "written charge" to mean that either: 1.] an order requiring the person to be charged with contempt to show cause why he should not be punished for contempt, be issued by the court; or 2.] a petition for contempt by way of a special civil action under Rule 71 be initiated in order for contempt proceedings to prosper. The first procedure applies only where the indirect contempt is committed against a court or judge possessed and clothed with contempt powers. The second, if the contemptuous act was committed not against a court nor a judicial officer with authority to punish for contemptuous acts.

It becomes readily apparent vis-à-vis the foregoing legal yardsticks that the "Motion to Declare Atty. Salome D. Cañas in Contempt of Court" dated September 25, 1996,[38] filed by respondent prosecutor, hardly fits the mold of the requisite "written charge" contemplated by Section 3, Rule 71. A circumspect scrutiny of the motion will

show that it generally alludes to an alleged defiance by petitioner of the September 11, 1996 Order of respondent judge which, however, did not require any act to be performed by petitioner. The same must be said of the September 26, 1996 Order which merely set the motion for hearing without ordering the petitioner to show cause why she should not be punished for contempt.

It must be borne in mind in this regard that strict compliance with the aforecited guidelines is mandatory considering that proceedings against a person alleged to be guilty of contempt, as in this case, are commonly treated as criminal in nature.[39] Indeed, criminal contempt proceedings should be conducted in accordance with the principles and rules applicable to criminal cases in that -

. . . Strict rules that govern criminal prosecutions apply to prosecution for criminal contempt; the accused is to be afforded many of the protections provided in regular criminal cases; and proceedings under statutes governing them are to be strictly construed.[40]

Third, even assuming for the nonce that the motion to declare petitioner in contempt be considered as having complied with the "written charge" rule, as enunciated in *Nazareno v. Barnes*, compliance with this guideline will not cure the motion of its inherent legal infirmity considering that it does not cover the Order dated August 14, 1996 of respondent judge. The said motion dated September 25, 1996[41] reads:

That on September 11, 1996, the Honorable Court issued an Order which read (sic):

WHEREFORE, for failure of Atty. Salome Cañas to produce accused in Court, release of the vehicle is hereby recalled.

Said order was sent to Atty. Salome Cañas but up to the present, said counsel has not surrendered the vehicle nor she has not (sic) produced the accused in Court as condition for the release of said vehicle in blatant defiance of the Court Order dated September 11, 1996.

WHEREFORE, for continues (sic) defiance of the lawful Order of the Honorable Court, it is respectfully prayed that said Atty. Salome D. Cañas be declared in contempt of court. x x x

Hence, the motion clearly covers only the September 11, 1996 Order of respondent judge and does not include the Order of August 14, 1996 which directed petitioner to immediately surrender the subject trailer truck to the court. Granting *arguendo* that respondent judge properly followed the procedure for conducting contempt proceedings, the same can not validate a finding that petitioner should be cited for contempt for alleged defiance of the August 14, 1996 Order precisely because respondent prosecutor's motion only referred to petitioner's alleged disobedience of the September 11, 1996 Order.

Fourth, again assuming for the sake of argument that a proper charge in writing accusing petitioner of committing acts constituting indirect contempt was filed, this fact will not cure the proceedings of its taint of irregularity because the records show that there was no previous hearing afforded petitioner. To restate what has been pointed out earlier, in cases of indirect contempt, the contemnor "may be punished only after a charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel,"[42] and without a hearing, an order citing a person for indirect contempt violates petitioner's right to due process.[43]

No such opportunity was afforded petitioner in this case. A cursory perusal of the motion to cite petitioner for contempt filed on September 26, 1996 by respondent prosecutor shows that it does not contain any notice of hearing. On this score alone, said motion should have been denied outright for being a mere scrap of paper much more so in the context of contempt proceedings which are criminal in character.

The lack of notice of hearing, however, is not the only legal infirmity on this issue because, as earlier shown, the registered mail containing copies of the respondent judge's order dated August 14, 1996 and September 11, 1996

never reached petitioner as they were returned to sender (RTS) because of the imprecise and incomplete address, "c/o Pepsi Cola Products, Phils., Inc., San Fernando Plant" stamped on the envelope.[44] For the appellate court to fault petitioner for her failure to receive the lower court's processes is unfair or unreasonable because it cannot be gainsaid that her address was clearly stated in her handwritten note dated May 23, 1996[45] addressed to respondent judge.

Fifth, the appellate court affirmed respondent judge's contempt order against petitioner for her alleged failure to comply with her undertakings in the Motion for Release,[46] the pertinent portions of which read as follows:

- Movant also undertakes to produce the accused before this Honorable Court on May 23, in order to post a (sic) bail for his temporary liberty and to secure the release of his driver's license which he really needs in his job as driver of the same truck.
- Undersigned counsel further guarantees that failure on her part to produce the accused on May 23, will subject the release of the same vehicle to be recalled. (*italics supplied*)

There can be no mistaking the clear import of the foregoing averments of petitioner. As clearly shown above, the only undertaking which can be found in the motion for release is an undertaking to produce the accused on May 23, 1996, which she actually did albeit tardily because of the heavy traffic at the time. It then becomes apparent that respondent judge erred in issuing the Order of August 14, 1996 commanding petitioner to surrender the vehicle to the court because the consequence of petitioner's failure to produce the accused on May 23, 1996 would be for the court to issue an order recalling the release of the vehicle and not for the petitioner who is not even its custodian to produce and return it.

Lastly, petitioner can not be cited for contempt for defying respondent judge's September 11, 1996 Order because its dispositive portion clearly commands the "Chief of Police of Gen. Trias, Cavite or any other officer of the law," not petitioner, "to seize, impound and surrender" to the trial court the subject vehicle. A party can not be held in indirect contempt for disobeying or not following an order which is not addressed to him. In parallel or similar cases, it was held:

The writ of possession was directed not to complainant, but to the Sheriff . . . As the writ did not command the complainant to do anything, complainant could not be held guilty of disobedience of or resistance to a lawful writ, process, order, judgment or command of a court.[47]

Contempt of court has been distinctly described as an offense against the State and not against the judge personally. To reiterate, a judge must always remember that the power of the court to punish for contempt should be exercised for purposes that are not personal, because that power is intended as a safeguard, not for judges as persons, but for the functions they exercise.[48]

Viewed in the light of the foregoing circumscription of a court's power to punish for contempt, it bears stressing that the court must exercise the power of contempt judiciously and sparingly with utmost self-restraint,[49] with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication.[50] In this case, respondent judge failed to observe the procedure expressly spelled out by Section 3, Rule 71.

As stated earlier, a judge is called upon to exhibit more than a cursory acquaintance with statutes and procedural rules; it is imperative that he be conversant with basic legal principles.[51] Canon 4 of the Canon of Judicial Ethics requires that a judge should be studious of the principles of law and Canon 18 mandates that he should administer his office with due regard to the integrity of the system of the law itself, remembering that he is not a depositary of arbitrary power, but a judge under the sanction of law.[52]

"Observance of the law which he is bound to know and sworn to uphold is required of every judge.[53] When the law is sufficiently basic, a judge owes it to his office to simply apply it;[54] anything less than that would be constitutive of gross ignorance of the law."[55] In short, when the law is so elementary, not to be aware of it constitutes gross ignorance of the law.[56]

WHEREFORE, in view of all the foregoing, the challenged Decision of the Court of Appeals dated May 28, 1999 and its Resolution dated August 24, 1999 in CA-G.R. SP No. 43045, as well as the assailed Order of respondent judge dated December 5, 1996 in Criminal Case No. 2890, are hereby REVERSED and SET ASIDE. The motion to declare petitioner in contempt of court is DENIED.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and Pardo, JJ., concur.

[1] Per Associate Justice B.A. Adefuin-De La Cruz, ponente, with Associate Justices Fermin A. Martin, Jr. and Presbitero J. Velasco, concurring.

[2] Id., p. 129.

[3] Id., p. 132.

[4] Id., p. 133.

[5] Id., p. 134.

[6] Id., p. 135.

[7] Id., p.132.

[8] Id., pp. 136-137.

[9] Id., p. 137.

[10] Id., p. 138.

[11] Id., p. 139.

[12] Id., p. 141.

[13] Id., p. 142.

[14] Id., pp. 144-145.

[15] Id., p. 146.

[16] Id., pp. 147-149.

[17] Id., pp. 87-105.

[18] Commissioner on Immigration v. Cloribel, 127 Phil. 716 [1967].

[19] Nazareno v. Barnes, 136 SCRA 57 [1985]; Pacuribot v. Lim, Jr., 275 SCRA 543 [1997].

[20] Yasay, Jr. v. Recto, G.R. No. 129521, 7 September 1999, 313 SCRA 739, citing Austria v. Masaquiel, 20 SCRA 1247 [1967]; Angeles v. Gernale, 274 SCRA 10 [1997] and Nazareno v. Barnes, supra.; Panado v. CA, 298 SCRA 110 [1998].

- [21] *Martinez v. Pahimulin*, 116 SCRA 136 [1982].
- [22] *Ferrer v. Maramba*, 290 SCRA 44 [1998].
- [23] See *Delgra, Jr. v. Gonzales*, 31 SCRA 237 [1970]; *Laguio v. Diaz*, 104 SCRA 689 [1981]; *Retuya v. Equipilag*, 91 SCRA 416 [1979].
- [24] *Royeca v. Animas*, 71 SCRA 1 [1976].
- [25] *Azucena v. Munoz*, 33 SCRA 722 [1970].
- [26] *Turqueza v. Hernando*, 97 SCRA 483 [1980].
- [27] *Royeca v. Animas*, *supra.*, p. 6.
- [28] *Ibid.*, p. 9.
- [29] *De Luna v. Ricon*, 250 SCRA 1 [1995].
- [30] *Pineda E.L., Legal and Judicial Ethics*, pp. 354-355 [1995].
- [31] *Quiroz v. Orfila*, 272 SCRA 324 [1997].
- [32] Canon 3, Rule 3.01.
- [33] *Bacar v. De Guzman, Jr.*, 271 SCRA 328 [1997].
- [34] *Juana Marzan-Gelacio v. Judge Alipio v. Flores*, Branch 20, RTC, Vigan, Ilocos, Sur, A.M. No. RTJ-99-1488, 20 June 2000, p. 8; *Ajeno v. Insierto*, 71 SCRA 166 [1976]; *Ubongen v. Mayo*, 99 SCRA 30 [1980]; *Libarios v. Dabalos*, 199 SCRA 48 [1991]; *Lim v. Domagas*, 227 SCRA 258 [1993]; *Cuaresma v. Aguilar*, 226 SCRA 73 [1993].
- [35] *Guerrero v. Villamor*, 179 SCRA 355 [1989].
- [36] *Industrial and Transport Equipment, Inc. v. NLRC*, 284 SCRA 144 [1998], citing *Abad v. Somera*, 187 SCRA 75 [1990].
- [37] 136 SCRA 57 [1985].**
- [38] *Rollo*, p. 138.
- [39] *Yasay v. Recto*, *supra*; *Lee Yick Hon v. Collector of Customs*, 41 Phil. 548 [1921].
- [40] *Remnan Enterprises, Inc. v. CA*, 268 SCRA 688 [1997], citing *People v. Godoy*, 243 SCRA 64 [1995].
- [41] *Rollo*, p. 138.
- [42] *Wicker v. Arcangel*, *supra*.
- [43] See *Defalobos v. Aquilizan*, 150 SCRA 55 [1987].
- [44] *Rollo*, pp. 135, 137.
- [45] *Ibid.*, 132.
- [46] *Rollo*, p. 129.
- [47] *Barrete v. Amila*, 230 SCRA 219 [1994]; *Lipata v. Tutaan*, 124 SCRA 877 [1983].

[48] Angeles v. Gernale, 274 SCRA 10 [1997].

[49] Terry v. People, G.R. No. 136203, 16 September 1999, 314 SCRA 669; Fontelera v. Amores, 70 SCRA 37 [1976] and Pacuribot v. Lim, supra.

[50] Esmeralda-Baroy v. Peralta, 287 SCRA 1 [1998].

[51] Teresa Jason v. Judge Briccio C. Ygana, et al., A.M. No. RTJ-00-1543, 4 August 2000, p. 9.

[52] Ibid.

[53] Hermo v. De la Rosa, 299 SCRA 68 [1998].

[54] Bacor v. De Guzman, 271 SCRA 328 [1997].

[55] Carlos B. Creer v. Concordio L. Fabillar, Acting Judge, MCTC, Giporlos-Quinapundan, Eastern Samar, A.M. No. MTJ-99-1218, 14 August 2000, p. 8.

[56] People v. Serrano, G.R. No. 135451, 30 September 1999, 315 SCRA 686, citing Cortes v. Agcaoili, supra., citing Agcaoili v. Ramos, 229 SCRA 705 [1994].

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