ROMEO T. AQUINO, PETITIONER, VS. JENNIFER NG, RESPONDENT.

G.R. NO. 155631. July 27, 2007

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

Petitioner assails in the present petition for review on certiorari the Decision dated January 31, 2002 and Resolution dated October 9, 2002, rendered by the Court of Appeals (CA) in CA-G.R. SP No. 61464 sustaining the Order dated October 3, 2000 issued by the Regional Trial Court (RTC) of Pasay City, Branch 231 in Civil Case No. 98-0870, finding petitioner guilty of indirect contempt.

Civil Case No. 98-0870 is an action for Collection of Sum of Money with Damages filed by respondent against Doughmix, Inc. (Doughmix), represented by petitioner as its General Manager.[1] In its Decision dated August 23, 1999,[2] the RTC held Doughmix liable to respondent in the amount of P360,357.00 plus legal interest, attorney's fees and costs of suit. The RTC Decision became final and executory for failure of Doughmix to file a notice of appeal on time and pay the appropriate docket fees. Upon motion of respondent, the RTC, in its Order dated October 12, 1999, granted the issuance of a writ of execution.

It appears, however, that the writ of execution was returned unsatisfied. Respondent then filed a motion to recall petitioner, asking for the appearance of petitioner for a conference before the RTC.[3] The RTC granted respondent's motion and ordered petitioner to appear before it on December 9, 1999. Petitioner, however, failed to appear on said date, prompting respondent to file a motion to cite him in contempt.[4]

In an Order dated March 15, 2000, the RTC granted respondent's motion and cited petitioner for indirect contempt. The dispositive portion of the Order reads:

> WHEREFORE, considering the foregoing, defendant's General Manager in the person of Romeo Aquino is hereby found guilty of indirect contempt under Section 3(B) of Rule 71, Rules of Court and is sentenced to be imprisoned until he obeys the Order, an act still within his power to perform, in accordance with Section 8 of Rule 71, Rules of Court.
>
> SO ORDERED.[5]

Subsequently, said Order was recalled and set aside by the RTC per its Order dated May 29, 2000 when petitioner appeared and testified before it on said date and gave the address of Doughmix.[6]

Failing to implement the writ of execution, and it appearing that petitioner furnished an incorrect address of Doughmix, respondent filed a "Motion to Reinstate the Contempt Order Against the Defendant." The RTC then conducted a summary hearing where petitioner claimed that he made an honest mistake in giving a wrong address of Doughmix.

In the assailed Order dated October 3, 2000, the RTC reiterated its ruling finding petitioner in contempt, as follows:

> In a summary hearing in connection with plaintiff's Motion to Reinstate Contempt Order, Romeo Aquino

> appeared and stated in his defense that he made an honest mistake in telling the new address of defendant Doughmix. But this Court is not convinced. Based on the record of the testimony in open court, it appears that he was firm as he stated in no uncertain and unequivocal manner the said address leading this Court to conclude that he deliberately intended to foil or frustrate the implementation of the Writ of Execution.
>
> Wherefore, in view thereof, plaintiff's motion is hereby granted. Let the Order dated March 15, 2000 be reinstated and an alias Writ of Execution of the decision of this case be issued and implemented forthwith.
>
> SO ORDERED.[7]

Thus, petitioner filed a special civil action for certiorari with the CA, questioning the orders issued by the RTC.

In a Decision dated January 31, 2002, the CA dismissed the petition for lack of merit.[8] Petitioner filed a motion for reconsideration, but this was denied by the CA in a Resolution dated October 9, 2002.[9]

Hence, the present petition under Rule 45 of the Rules of Court, setting forth the following assignment of errors:

> A.
>
> THE COURT OF APPEALS COMMITTED SERIOUS ERROR OF LAW WHEN IT FAILED TO REALIZE THAT PETITIONER HAD MADE AN HONEST MISTAKE IN GIVING THE WRONG ADDRESS OF DOUGHMIX CORPORATION DURING THE HEARING ON 29 MAY 2000. IT FAILED TO CONSIDER THAT THE PETITIONER NEVER INTENDED TO FOIL OR FRUSTRATE THE IMPLEMENTATION OF THE WRIT OF EXECUTION IN CIVIL CASE NO. 98-0870, AS ADEQUATELY DEMONSTRATED DURING THE HEARING HELD ON 16 AUGUST 2000 WHEN PETITIONER ADMITTED HIS MISTAKE AND SUPPLIED THE CORRECT ADDRESS OF DOUGHMIX CORPORATION.
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> B.
>
> THE HONORABLE COURT COMMITTED SERIOUS ERROR OF LAW IN FINDING NO GRAVE ABUSE OF DISCRETION WAS COMMITTED BY PUBLIC RESPONDENT WHEN IT ISSUED THE ORDER DATED 3 OCTOBER 2000, GRANTING RESPONDENT'S MOTION TO REINSTATE THE CONTEMPT ORDER CONSIDERING THAT (1) THE INCIDENTS WHICH ARE BEING USED TO JUSTIFY THE ISSUANCE OF THE CONTEMPT ORDERS STEM FROM DIFFERENT AND SEPARATE FACTUAL ANTECEDENTS, AND (2) THE RESPONDENT'S REMEDY, IF ANY, WAS TO FILE A SEPARATE AND/OR NEW PETITION TO HAVE PETITIONER CITED ANEW FOR CONTEMPT, AND FOR THAT REASON, THE SAME CONSTITUTED A VIOLATION OF PETITIONER'S RIGHT TO DUE PROCESS.
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> C.
>
> EVEN ASSUMING ARGUENDO THAT THE ORDER OF RESPONDENT JUDGE COULD BE VALIDLY REINSTATED, THE HONORABLE COURT COMMITTED SERIOUS ERROR WHEN IT REFUSED TO ACKNOWLEDGE THAT THE PENALTY COMMITTING PETITIONER TO PRISON, UNTIL SUCH TIME THAT HE OBEYED THE ORDER OF THE COURT, WAS UNREASONABLY HARSH, SEVERE, OPPRESSIVE AND CONTRARY TO LAW.[10]

The petition has merit.

There is grave abuse of discretion when a court acts in a capricious, whimsical, arbitrary or despotic manner in the exercise of its judgment, as when the assailed order is bereft of any factual and legal justification.[11] In this case, it may be that the RTC had factual bases for finding petitioner guilty of indirect contempt of court; nevertheless, the Court finds that its Order dated October 3, 2000, together with the reinstated Order dated March 15, 2000, should be struck down for having been rendered in complete disregard of the Rules.

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Section 3, Rule 71 of the 1997 Rules of Civil Procedure, as amended, specifically outlines the procedural requisites before one may be punished for indirect contempt, to wit: (1) the filing of a written charge and (2) the opportunity to be heard given to the accused himself or his counsel.

Specifically, Section 4 of the same Rule provides how the case for indirect contempt may be commenced:

> Section 4.-Proceedings for indirect contempt may be initiated motu proprio by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.
>
> In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision. (Emphasis and underscoring supplied)

Based on the foregoing provision, indirect contempt can be initiated motu proprio by the court itself or by filing a verified petition with full compliance with the requirements therefor.

In the present case, petitioner's first indirect contempt citation was initiated by respondent through a mere "Motion to Cite Defendant in Contempt."[12]

After the RTC recalled the contempt citation, respondent initiated anew another contempt charge against petitioner by filing a "Motion to Reinstate the Contempt Order Against the Defendant."[13]

Since the Rules specifically provide that a charge for indirect contempt shall be commenced by a verified petition,[14] it was erroneous for the RTC to have entertained and granted respondent's motions.

In Land Bank of the Philippines v. Listana, Sr.,[15] the Court categorically stated that the requirement of a verified petition is mandatory, viz.:

> The requirement of a verified petition is mandatory. Justice Florenz D. Regalado, Vice-Chairman of the Revision of the Rules of Court Committee that drafted the 1997 Rules of Civil Procedure explains this requirement:
>
> - This new provision clarifies with a regulatory norm the proper procedure for commencing contempt proceedings. While such proceeding has been classified as a special civil action under the former Rules, the heterogeneous practice, tolerated by the courts, has been for any party to file a mere motion without paying any docket or lawful fees therefor and without complying with the requirements for initiatory pleadings, which is now required in the second paragraph of this amended section.
>
> x x x x x x x x x
>
> Henceforth, except for indirect contempt proceedings initiated motu proprio by order of or a formal charge by the offended court, all charges shall be commenced by a verified petition with full compliance with the requirements therefor and shall be disposed of in accordance with the second paragraph of this section. (Emphasis supplied)

On such flaw alone, the CA seriously erred in affirming the assailed Orders of the RTC. The trial court exceeded its authority when it entertained respondent's motions which are not in compliance with the dictates of the Rules.

Moreover, the RTC failed to observe the standards of due process when it first cited petitioner for contempt of

court. It must be stressed that indirect contempt proceedings partake of the nature of a criminal prosecution; hence, strict rules that govern criminal prosecutions also apply to a 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.[16]

The records do not bear any indication that petitioner was afforded an opportunity to rebut the charges against him when he was first charged by respondent with contempt. While petitioner was able to oppose respondent's motion, inasmuch as an indirect contempt charge partakes of the nature of a criminal charge, conviction cannot be had merely on the basis of written pleadings.[17] There is no question that petitioner's disobedience to the RTC's lawful order constitutes indirect contempt of court. This, however, was not a license for the RTC to disregard petitioner's rights. It should have held a hearing in order to provide petitioner with the opportunity to state his defense and explain his side. A hearing affords the contemner the opportunity to adduce before the court documentary or testimonial evidence in his behalf. The hearing will also allow the court a more thorough evaluation of the defense of the contemner, including the chance to observe the accused present his side in open court and subject his defense to interrogation from the complainants or the court itself.[18]

With regard to the second contempt charge, it appears that the RTC conducted a summary hearing. The Court, however, finds that, while the RTC may have had valid reasons to cite petitioner in contempt, nevertheless, it was a serious error and an act of grave abuse of discretion for the RTC to merely reinstate its Order dated March 15, 2000. As correctly argued by petitioner, the two contempt charges arose from different factual antecedents. The first contempt citation originated from petitioner's failure to appear during the hearing held on December 9, 1999 despite due notice. On the other hand, the second contempt citation was a result of petitioner's furnishing the court an incorrect address of Doughmix.

Moreover, the Order dated March 15, 2000 provided for the penalty of imprisonment until such time petitioner obeys the order of the court requiring him to attend the hearing. Obviously, said Order cannot be made applicable to petitioner's second indirect contempt citation, since it was issued by the RTC in order to compel petitioner to comply with its order, a circumstance which is absent in the second citation.

Petitioner also correctly pointed out that the Order dated October 3, 2000, which reinstated the Order dated March 15, 2000, does not provide for the condition that petitioner must comply with "in order to free himself from imprisonment."[19]

The Court held in Rodriguez v. Bonifacio:

> 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.
>
> Viewed vis-à-vis 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 with the end in view of utilizing the same for correction and preservation of the dignity of the court, not for retaliation or vindication. x x x[20]

WHEREFORE, the petition is GRANTED. The Decision dated January 31, 2002 and Resolution dated October 9, 2002 of the Court of Appeals are SET ASIDE. The Orders dated March 15, 2000 and October 3, 2000, issued by the Regional Trial Court of Pasay City, Branch 231, are NULLIFIED.

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SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

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[1] CA rollo, pp. 12-14.

[2] Id. at 15-16.

[3] Id. at 31-32.

[4] Id. at 34-35.

[5] Id. at 17-18.

[6] Id. at 19.

[7] Id. at 20.

[8] Id. at 17.

[9] Id. at 187-188.

[10] Rollo, pp. 14-15.

[11] The Senate Blue Ribbon Committee v. Majaducon, 455 Phil. 61, 71 (2003).

[12] CA rollo, pp. 34-35.

[13] Rollo, pp. 248-250.

[14] Nedia v. Laviña, A.M. No. RTJ-05-1957, September 26, 2005, 471 SCRA 10, 17; Rodriguez v. Bonifacio, 398 Phil. 441, 462 (2000).

[15] 455 Phil. 750, 758-759 (2003).

[16] Bruan v. People of the Philippines, G.R. No. 149428, June 4, 2004, 431 SCRA 90, 96.

[17] Soriano v. Court of Appeals, G.R. No. 128938, June 4, 2004, 431 SCRA 1, 8.

[18] Soriano v. Court of Appeals, supra note 17, at 8.

[19] Rollo, p. 243.

[20] Rodriguez v. Bonifacio, supra note 14, at 468.

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