

MA. CONCEPCION L. REGALADO, PETITIONER, VS. ANTONIO S. GO, RESPONDENT.

G.R. No. 167988. February 06, 2007

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-167988/>

CHICO-NAZARIO, J.:

This is a Petition for Review on Certiorari under Rule 45 of the Rules of Court, of the Resolution[1] dated 30 August 2004 of the Court of Appeals, finding petitioner Ma. Concepcion L. Regalado (Atty. Regalado) guilty of indirect contempt. Likewise assailed in this petition is the Resolution[2] denying her Motion for Reconsideration. The dispositive portion of the Resolution reads:

WHEREFORE, Atty. Ma. Concepcion Regalado of De Borja Medialdea Bello Guevarra and Gerodias Law Offices is declared GUILTY of INDIRECT CONTEMPT and is ordered to pay a fine of Five Thousand Pesos (P5,000), with a STERN WARNING that a repetition of the same or similar acts in the future will be dealt with more severely. The imposed fine should be paid to this Court upon finality hereof.

Let a copy of this resolution be furnished the Bar Confidant (sic), the Integrated Bar of the Philippines and the Court Administrator for investigation and possible administrative sanction.[3]

The present controversy stemmed from the complaint of illegal dismissal filed before the Labor Arbiter by herein respondent Antonio S. Go against Eurotech Hair Systems, Inc. (EHSI), and its President Lutz Kunack and General Manager Jose E. Barin.

In a Decision[4] dated 29 December 2000, the Labor Arbiter ruled that respondent Go was illegally dismissed from employment, the decretal portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered as follows:

- Declaring [EHSI, Kunack and Barin] guilty of illegal dismissal;
- Considering that reinstatement would not be feasible because of strained relations, [EHSI, Kunack and Barin] are ordered to pay [herein respondent Go] backwages in the amount of Php900,000.00 (Php60,000 x 15 months), separation pay of Php180,000.00 (one month pay for every year of service = Php60,000 x 3 years);
- Ordering [EHSI, Kunack and Barin] to pay [respondent Go] Php500,000.00 as moral damages;
- Ordering [EHSI, Kunack and Barin] to pay [respondent Go] Php300,000 as exemplary damages;
- Ordering the payment of ten percent (10%) of the total monetary award as attorney's fees in the sum of Php188,000.00.

All other claims are hereby dismissed for lack of merit.

On appeal to the National Labor Relations Commission (NLRC), EHSI, Kunack and Barin employed the legal services of De Borja Medialdea Bello Guevarra and Gerodias Law Offices where herein petitioner Atty. Regalado

worked as an associate.[5]

On 11 June 2001, the NLRC rendered a Decision[6] reversing the Labor Arbiter's decision and declaring that respondent Go's separation from employment was legal for it was attended by a just cause and was validly effected by EHSI, Kunack and Barin. The dispositive part of the decision reads:

WHEREFORE, the appealed decision is set aside. The complaint below is dismissed for being without merit.

For lack of patent or palpable error, the Motion for Reconsideration interposed by respondent Go was denied by the NLRC in an Order[7] dated 20 December 2001.

Aggrieved, respondent Go elevated the adverse decision to the Court of Appeals which was docketed as CA-G.R. SP No. 69909 entitled, Antonio S. Go v. National Labor Relations Commission, Eurotech Hair Systems, Inc., Lutz Kunack and Jose Barin.

On 9 July 2003, the Court of Appeals promulgated a Decision[8] setting aside the ruling of the NLRC and reinstating the decision of the Labor Arbiter adjudging EHSI, Kunack and Barin guilty of illegal dismissal. The appellate court thus ordered EHSI, Kunack and Barin to pay respondent Go full backwages, separation pay, moral and exemplary damages. The fallo of the decision reads:

WHEREFORE, the petition for certiorari is GRANTED. The assailed decision of the NLRC promulgated on July 30, 2001 and its Order dated December 20, 2001 are SET ASIDE while the decision of Labor Arbiter Waldo Emerson R. Gan dated December 29, 2000 declaring the dismissal of [herein respondent Go] as illegal is hereby REINSTATED with the modification that [EHSI] is hereby Ordered to pay [respondent Go]:

- His full backwages from the time of his illegal dismissal until the finality of this decision;
- Separation pay equal to one month pay for every year of service;
- Moral damages in the amount of P50,000.00; and
- Exemplary damages in the amount of P20,000.00

The award of attorney's fees is DELETED.

EHSI, Kunack and Barin were able to receive a copy of the decision through registered mail on 17 July 2003 while respondent Go received his copy on 21 July 2003.[9]

On 16 July 2003, after the promulgation of the Court of Appeals decision but prior to the receipt of the parties of their respective copies, the parties decided to settle the case and signed a Release Waiver and Quitclaim[10] with the approval of the Labor Arbiter. In view of the amicable settlement, the Labor Arbiter, on the same day, issued an Order[11] dismissing the illegal dismissal case with prejudice. The order thus reads:

In view of the Release, Waiver and Quitclaim voluntarily executed by the [herein respondent] Antonio S. Go, let the instant case be as it is hereby DISMISSED WITH PREJUDICE.

The execution of the compromise agreement was attended by the counsel for EHSI, Kunack and Barin, petitioner Atty. Regalado, and respondent Go, but in the absence and without the knowledge of respondent Go's lawyer.[12]

After the receipt of a copy of the Court of Appeals decision, respondent Go, through counsel, filed, on 29 July 2003, a Manifestation with Omnibus Motion[13] seeking to nullify the Release Waiver and Quitclaim dated 16 July 2003 on the ground of fraud, mistake or undue influence. In the same motion, respondent Go, through counsel, moved that petitioner Atty. Regalado be made to explain her unethical conduct for directly negotiating with respondent Go without the knowledge of his counsel. The motion thus prays:

WHEREFORE, premises considered, it is most respectfully prayed for the Honorable Court to declare Null and Void the dismissal of the instant (sic), with prejudice, by Labor (sic) Waldo Emerson Gan, as well as the Release Waiver and Quitclaim dated July 16, 2003 signed by [herein respondent Go] for having been obtained through mistake, fraud or undue influence committed by [EHSI, Kunack and Barin] and their counsels (sic).

It is likewise prayed for [EHSI, Kunack and Barin's] counsel, particularly Atty. Ma. Concepcion Regalado, to be required to explain why no disciplinary action should be taken against them (sic) for their (sic), unethical conduct of directly negotiating with [respondent Go] without the presence of undersigned counsel, and for submitting the Release, Waiver and Quitclaim before Labor Arbiter Waldo Emerson Gan knowing fully well that the controversy between [respondent Go] and [EHSI] is still pending before this Honorable Court.

[Respondent Go] likewise prays for such other relief [as may be] just and equitable under the premises.[14]

For their part, EHSI, Kunack and Barin submitted a Manifestation and Motion with Leave of Court[15] praying that CA-G.R. SP No. 69909 be considered settled with finality in view of the amicable settlement among the parties which resulted in the dismissal of respondent Go's complaint with prejudice in the Labor Arbiter's Order dated 16 July 2003.

In addition, EHSI, Kunack and Barin also filed a Motion for Reconsideration[16] with an ad cautelam that in case of unfavorable action on their foregoing Manifestation and Motion, the appellate court should reconsider its decision dated 9 July 2003.

Acting on the motions, the appellate court issued a Resolution[17] on 19 November 2003 annulling the Order of the Labor Arbiter dated 16 July 2003 for lack of jurisdiction. It also denied for lack of merit EHSI, Kunack and Barin's Motion for Reconsideration Ad Cautelam. In the same resolution, petitioner Atty. Regalado was ordered to explain why she should not be cited for contempt of court for violating Canon 9 of the Canons of Professional Ethics. The decretal portion of the Resolution reads:

WHEREFORE, premises considered, the Manifestation with Omnibus Motion is PARTIALLY GRANTED. The order of Labor Arbiter Gan dismissing the case with prejudice is hereby declared NULL and VOID for lack of jurisdiction. [EHSI, Kunack and Barin's] counsel, [herein petitioner] Atty. Ma. Concepcion Regalado is ordered to SHOW CAUSE within five (5) days from receipt of this Resolution why she should not be cited for contempt of court for directly negotiating with [herein respondent Go] in violation of Canon 9 of the Canons of Professional Ethics. On the other hand, the Motion for Reconsideration Ad Cautelam is hereby denied for lack of merit.

EHSI, Kunack and Barin thus filed a Petition for Review on Certiorari before this Court, assailing the Court of Appeals decision promulgated on 9 July 2003 and its Resolution dated 19 November 2003, denying their Motion for Reconsideration. The case is cognized by another division of this Court.

For her part, petitioner Atty. Regalado submitted a Compliance[18] and explained that she never took part in the negotiation for the amicable settlement of the illegal dismissal case with respondent Go which led to the execution of a compromise agreement by the parties on 16 July 2003. EHSI, Kunack and Barin, through a Mr. Ragay, a former EHSI employee and a close ally of respondent Go, were the ones who negotiated the settlement.

Further, petitioner Atty. Regalado maintained that she never met personally respondent Go, not until 16 July 2003, when the latter appeared before the Labor Arbiter for the execution of the Release Waiver and Quitclaim. Petitioner Atty. Regalado claimed that she was in fact apprehensive to release the money to respondent Go because the latter cannot present any valid identification card to prove his identity. It was only upon the assurance of Labor Arbiter Gan that Antonio S. Go and the person representing himself as such were one and the same, that the execution of the agreement was consummated.

Considering the circumstances, petitioner Atty. Regalado firmly stood that there was no way that she had directly dealt with respondent Go, to the latter's damage and prejudice, and misled him to enter into an amicable settlement with her client.

On 30 August 2004, the Court of Appeals issued a Resolution[19] disregarding petitioner Atty. Regalado's defenses and adjudging her guilty of indirect contempt under Rule 71 of the Revised Rules of Court. As declared by the appellate court, even granting arguendo that petitioner Atty. Regalado did not participate in the negotiation process, she was nonetheless under the obligation to restrain her clients from doing acts that she herself was prohibited to perform as mandated by Canon 16 of the Canons of Professional Ethics. However, instead of preventing her clients from negotiating with respondent Go who was unassisted by his counsel, Atty. Regalado actively participated in the consummation of the compromise agreement by dealing directly with respondent Go and allowing him to sign the Release Waiver and Quitclaim without his lawyer.

Undaunted, petitioner Atty. Regalado filed a Motion for Reconsideration which was also denied by the appellate court for lack of merit.[20]

Hence, this instant Petition for Review on Certiorari,[21] raising the following issues:

I.

WHETHER OR NOT THE COURT OF APPEALS COMPLETELY VIOLATED PETITIONER'S CONSTITUTIONAL RIGHTS.

II.

WHETHER OR NOT THE COURT OF APPEALS TOTALLY DISREGARDED THE MANDATORY PROVISION OF RULE 71 OF THE 1997 RULES OF CIVIL PROCEDURE.

III.

WHETHER OR NOT THE COURT OF APPEALS COMMITTED A MANIFEST ERROR OF LAW IN RULING THAT PETITIONER IS ESTOPPED FROM CHALLENGING ITS AUTHORITY TO ENTERTAIN THE CONTEMPT CHARGES AGAINST HER.

IV.

WHETHER OR NOT THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN DISREGARDING THE OVERWHELMING EVIDENCE ON RECORD TO EFFECT THAT PETITIONER DID NOT COMMIT ANY CONTUMACIOUS CONDUCT.

V.

WHETHER OR NOT THE COURT OF APPEALS ACTED WITH GRAVE ABUSE OF DISCRETION AND COMMITTED A GROSS MISAPPRECIATION OF FACTS IN FINDING THE PETITIONER GUILTY OF INDIRECT CONTEMPT ON THE BASIS OF THE CONFLICTING, UNCORROBORATED, AND UNVERIFIED ASSERTIONS OF THE RESPONDENT.

Considering that the issues raised herein are both questions of law and fact, and consistent with our policy that this Court is not a trier of facts, we shall address only the pure questions of law and leave the factual issues, which are supported by evidence, as found by the appellate court. It is an oft-repeated principle that in the exercise of the Supreme Court's power of review, the Court is not a trier of facts and does not normally undertake the re-examination of the evidence presented by the contending parties during the trial of the case considering that the findings of facts of the Court of Appeals, if supported by evidence, are conclusive and binding upon this

Court.[22]

Contempt of court is a defiance of the authority, justice or dignity of the court; such conduct as tends to bring the authority and administration of the law into disrespect or to interfere with or prejudice parties litigant or their witnesses during litigation.[23] It is defined as disobedience to the Court by acting in opposition to its authority, justice, and dignity. It signifies not only a willful disregard or disobedience of the court's orders, but such conduct as tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice.[24]

The power to punish for contempt is inherent in all courts and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice.[25]

Thus, contempt proceedings has a dual function: (1) vindication of public interest by punishment of contemptuous conduct; and (2) coercion to compel the contemnor to do what the law requires him to uphold the power of the Court, and also to secure the rights of the parties to a suit awarded by the Court.[26]

In our jurisdiction, the Rules of Court penalizes two types of contempt, namely direct contempt and indirect contempt. [27]

Direct contempt is committed in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, and includes disrespect toward the court, offensive personalities toward others, or refusal to be sworn or answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so.[28]

On the other hand, Section 3, Rule 71 of the Rules of Court enumerates particular acts which constitute indirect contempt, thus:

- (a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;
- (b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;
- (c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;
- (d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;
- (e) Assuming to be an attorney or an officer of a court, and acting as such without authority;
- (f) Failure to obey a subpoena duly served;
- (g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings. (Emphasis supplied.)[29]

Section 4, Rule 71 of the same Rules provides how proceedings for indirect contempt should be commenced, thus:

SEC. 4. How proceedings commenced. - 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 the 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. (Emphases supplied.)

As can be gleaned above, the provisions of the Rules are unequivocal. Indirect contempt proceedings may be initiated only in two ways: (1) *motu proprio* by the court; or (2) through a verified petition and upon compliance with the requirements for initiatory pleadings. Procedural requirements as outlined must be complied with.

There is no doubt that the complained acts of Atty. Regalado would fall under paragraphs (a) and (d) of Section 3, Rule 71, as in fact, she was adjudged guilty of indirect contempt. But were the proceedings conducted in convicting petitioner done in accordance with law?

In the instant case, the indirect contempt proceedings was initiated by respondent Go through a Manifestation with Omnibus Motion.[30] It was based on the aforesaid Motion that the appellate court issued a Resolution[31] dated 19 November 2003, requiring petitioner Atty. Regalado to show cause why she should not be cited for contempt.

Clearly, respondent Go's Manifestation with Omnibus Motion was the catalyst which set everything in motion and led to the eventual conviction of Atty. Regalado. It was respondent Go who brought to the attention of the appellate court the alleged misbehavior committed by petitioner Atty. Regalado. Without such positive act on the part of respondent Go, no indirect contempt charge could have been initiated at all.

Indeed, the appellate court itself, in its Resolution dated 30 August 2004, made categorical findings as to how the contempt charge was initiated, to wit:

In the present case, [respondent's Go] Manifestation With Omnibus Motion which led to our 19 November 2003 Resolution requiring Atty. Regalado to explain why she should not be cited for contempt, x x x.[32]

We cannot, therefore, argue that the Court of Appeals on its own initiated the indirect contempt charge without contradicting the factual findings made by the very same court which rendered the questioned resolution.

It is true in *Leonidas v. Judge Supnet*,[33] this Court ruled that the contempt proceedings was considered commenced by the court *motu proprio* even if the show cause order came after the filing of the motions to cite for contempt filed by the adverse party. The Decision thus reads:

Thus, independently of the motions filed by the Tamondong Spouses, it was the Pasay MTC which commenced the contempt proceedings *motu proprio*. No verified petition is required if proceedings for indirect contempt are initiated in this manner, and the absence of a verified petition does not affect the procedure adopted.

It is true that the Tamondong Spouses did file a Motion To Cite Plaintiff For Contempt Of Court, dated May 17, 2000. In this pleading they prayed that Union Bank be declared in indirect contempt of court for its disobedience to the Pasay MTC's Order dated May 9, 2000. This Order dated May 9, 2000 specifically directed Union Bank to "return immediately to the defendants the replevied motor vehicle." However, the Tamondong Spouses' unverified motion dated May 17, 2000 cannot invalidate the contempt proceedings because these proceedings were initiated by respondent judge *motu proprio* in accordance with Section 4, Rule 71 of the

1997 Rules of Civil Procedure.

This above-cited case, however, has no application in the case at bar for the factual milieu of the cases are different from each other. In *Leonidas*, there was an order of the court that was utterly violated by Union Bank. Thus, even in the absence of the motion of spouses Tamondong to cite Union Bank in contempt, the court a quo on its own can verily initiate the action. In the present case, the appellate court could not have acquired knowledge of petitioner Atty. Regalado's misbehavior without respondent Go's Manifestation with Omnibus Motion reiterating the alleged deceitful conduct committed by the former.

Having painstakingly laid down that the instant case was not initiated by the court *motu proprio* necessitates us to look into the second mode of filing indirect contempt proceedings.

In cases where the court did not initiate the contempt charge, the Rules prescribe that a verified petition which has complied with the requirements of initiatory pleadings as outlined in the heretofore quoted provision of second paragraph, Section 4, Rule 71 of the Rules of Court, must be filed.

The manner upon which the case at bar was commenced is clearly in contravention with the categorical mandate of the Rules. Respondent Go filed a Manifestation with Omnibus Motion, which was unverified and without any supporting particulars and documents. Such procedural flaw notwithstanding, the appellate court granted the motion and directed petitioner Atty. Regalado to show cause why she should not be cited for contempt. Upon petitioner Atty. Regalado's compliance with the appellate court's directive, the tribunal proceeded in adjudging her guilty of indirect contempt and imposing a penalty of fine, completely ignoring the procedural infirmities in the commencement of the indirect contempt action.

It bears to stress that the power to punish for contempt is not limitless. It must be used sparingly with caution, restraint, judiciousness, deliberation, and due regard to the provisions of the law and the constitutional rights of the individual. [34]

The limitations in the exercise of the power to punish for indirect contempt are delineated by the procedural guidelines specified under Section 4, Rule 71 of the Rules of Court. Strict compliance with such procedural guidelines is mandatory considering that proceedings against person alleged to be guilty of contempt are commonly treated as criminal in nature.[35]

As explained by Justice Florenz Regalado,[36] the filing of a verified petition that has complied with the requirements for the filing of initiatory pleading, is mandatory, and thus states:

1. This new provision clarifies with a regularity norm the proper procedure for commencing contempt proceedings. While such proceeding has been classified as special civil action under the former Rules, the heterogenous practice tolerated by the courts, has been for any party to file a motion without paying any docket or lawful fees therefore 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

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 therefore and shall be disposed in accordance with the second paragraph of this section.

Time and again we rule that the use of the word "shall" underscores the mandatory character of the Rule. The term "shall" is a word of command, and one which has always or which must be given a compulsory meaning, and it is generally imperative or mandatory.[37]

In *Enriquez v. Enriquez*,^[38] this Court applied the word "shall" by giving it mandatory and imperative import and ruled that non-compliance with the mandatory requirements of the Rules goes into the very authority of the court to acquire jurisdiction over the subject matter of the case, thus:

"However, the 1997 Rules of Civil Procedure, as amended, which took effect on July 1, 1997, now require that appellate docket and other lawful fees must be paid within the same period for taking an appeal. This is clear from the opening sentence of Section 4, Rule 41 of the same rules that, "(W)ithin the period for taking an appeal, the appellant shall pay to the clerk of court which rendered the judgment or final order appealed from, the full amount of the appellate court docket and other lawful fees."

x x x x

Time and again, this Court has consistently held that payment of docket fee within the prescribed period is mandatory for the perfection of an appeal. Without such payment, the appellate court does not acquire jurisdiction over the subject matter of the action and the decision sought to be appealed from becomes final and executory.^[39] (Emphases supplied.)

In *United States v. de la Santa*,^[40] which bears parallelism in the instant case, we held:

The objection in this case is not, strictly speaking, to the sufficiency of the complaint, but goes directly to the jurisdiction of the court over the crime with which the accused was charged. x x x. (Emphasis supplied.)

Even if the contempt proceedings stemmed from the main case over which the court already acquired jurisdiction, the Rules direct that the petition for contempt be treated independently of the principal action. Consequently, the necessary prerequisites for the filing of initiatory pleadings, such as the filing of a verified petition, attachment of a certification on non-forum shopping, and the payment of the necessary docket fees, must be faithfully observed.^[41]

We now proceed to the issue of estoppel raised by the Court of Appeals. When petitioner Atty. Regalado brought to the attention of the appellate court through a Motion for Reconsideration the remedial defect attendant to her conviction, the Court of Appeals, instead of rectifying the palpable and patent procedural error it earlier committed, altogether disregarded the glaring mistake by interposing the doctrine of estoppel. The appellate court ruled that having actively participated in the contempt proceedings, petitioner Atty. Regalado is now barred from impugning the Court of Appeals jurisdiction over her contempt case citing the case of *People v. Regalario*.^[42]

We do not agree.

Laches is defined as the "failure or neglect for an unreasonable and unexplained length of time, to do that which, by exercising due diligence, could or should have been done earlier, it is negligence or omission to assert a right within a reasonable length of time, warranting a presumption that the party entitled to assert it either has abandoned it or declined to assert it."^[43]

The ruling in *People v. Regalario*^[44] that was based on the landmark doctrine enunciated in *Tijam v. Sibonghanoy*^[45] on the matter of jurisdiction by estoppel is the exception rather than the rule. Estoppel by laches may be invoked to bar the issue of lack of jurisdiction only in cases in which the factual milieu is analogous to that in the cited case. In such controversies, laches should have been clearly present; that is, lack of jurisdiction must have been raised so belatedly as to warrant the presumption that the party entitled to assert it had abandoned or declined to assert it.^[46]

In *Sibonghanoy*,^[47] the defense of lack of jurisdiction was raised for the first time in a motion to dismiss filed by the Surety^[48] almost 15 years after the questioned ruling had been rendered.^[49] At several stages of the proceedings, in the court a quo as well as in the Court of Appeals, the Surety invoked the jurisdiction of the said

courts to obtain affirmative relief and submitted its case for final adjudication on the merits. It was only when the adverse decision was rendered by the Court of Appeals that it finally woke up to raise the question of jurisdiction.[50]

Clearly, the factual settings attendant in *Sibonghanoy* are not present in the case at bar. Petitioner Atty. Regalado, after the receipt of the Court of Appeals resolution finding her guilty of contempt, promptly filed a Motion for Reconsideration assailing the said court's jurisdiction based on procedural infirmity in initiating the action. Her compliance with the appellate court's directive to show cause why she should not be cited for contempt and filing a single piece of pleading to that effect could not be considered as an active participation in the judicial proceedings so as to take the case within the milieu of *Sibonghanoy*. Rather, it is the natural fear to disobey the mandate of the court that could lead to dire consequences that impelled her to comply.

The provisions of the Rules are worded in very clear and categorical language. In case where the indirect contempt charge is not initiated by the courts, the filing of a verified petition which fulfills the requirements on initiatory pleadings is a prerequisite. Beyond question now is the mandatory requirement of a verified petition in initiating an indirect contempt proceeding. Truly, prior to the amendment of the 1997 Rules of Civil Procedure, mere motion without complying with the requirements for initiatory pleadings was tolerated by the courts.[51] At the onset of the 1997 Revised Rules of Civil Procedure, however, such practice can no longer be countenanced.

Evidently, the proceedings attendant to the conviction of petitioner Atty. Regalado for indirect contempt suffered a serious procedural defect to which this Court cannot close its eyes without offending the fundamental principles enunciated in the Rules that we, ourselves, had promulgated.

The other issues raised on the merits of the contempt case have become moot and academic.

WHEREFORE, premises considered, the instant Petition is GRANTED. The indirect contempt proceedings before the Court of Appeals is DECLARED null and void.

SO ORDERED.

Ynares-Santiago, (Chairperson), Austria-Martinez, and Callejo, Sr., JJ., concur.

[1] Penned by Associate Justice Perlita J. Tria-Tirona with Associate Justices Conrado M. Vasquez, Jr. and Edgardo F. Sundiam, concurring, rollo, pp. 69-76.

[2] *Id.* at 78-80.

[3] *Id.* at 76.

[4] *Id.* at 60-65.

[5] *Id.* at 95, 185.

[6] *Id.* at 186-202.

[7] *Id.* at 147-149.

[8] *Id.* at 233-246.

[9] *Id.* at 69.

[10] *Id.* at 215-216.

[11] *Id.* at 217.

[12] Id. at 70.

[13] Id. at 81-88.

[14] Id. at 83-84.

[15] Id. at 218-228.

[16] Id. at 247-265.

[17] Id. at 90-93.

[18] Id. at 94-114.

[19] Id. at 69-76.

[20] Id. at 78-80.

[21] Id. at 11-67.

[22] *Insular Life Assurance Company, Ltd. v. Court of Appeals*, G.R. No. 126850, 28 April 2004, 428 SCRA 79, 85-86.

[23] 12 Am. Jur. 389, as cited in *Halili v. Court of Industrial Relations*, 220 Phil. 507, 526 (1985).

[24] 17 C.J.S. 4, as cited in *Heirs of Trinidad de Leon Vda. de Roxas v. Court of Appeals*, G.R. No. 138660, 5 February 2004, 422 SCRA 101, 114.

[25] *Ruiz v. Judge How*, 459 Phil. 728, 738 (2003).

[26] *Penfield Company of California v. Securities and Exchange Commission*, 330 U.S. 585, 67 S.Ct. 918 (1947), as cited in *Ceniza v. Wistehuff, Sr.*, G.R. No. 165734, 16 June 2006, 491 SCRA 148, 165.

[27] *Montenegro v. Montenegro*, G.R. No. 156829, 8 June 2004, 431 SCRA 415, 423.

[28] Id.

[29] Id.

[30] Id. at 81-88.

[31] Id. at 90-93.

[32] Id. at 73.

[33] 446 Phil. 53, 69-70 (2003).

[34] *Ruiz v. Judge How*, *supra* note 25 at 739.

[35] *Atty. Cañas v. Judge Castigador*, 401 Phil. 618, 630 (2000).

[36] REMEDIAL LAW COMPEDIUM (Seventh Revised Edition), p. 808 as cited in *Land Bank of the Philippines v. Listaña, Sr.*, 455 Phil. 750 (2003).

[37] *Lacson v. San Jose-Lacson*, 133 Phil. 884, 895 (1968), as cited in *Enriquez v. Enriquez*, G.R. No. 139303, 25 August 2005, 468 SCRA 77, 84.

[38] Id.

[39] Id. at 83-85.

[40] 9 Phil. 22, 26 (1907).

[41] Nedia v. Laviña, A.M. No. RTJ-05-1957, 26 September 2005, 471 SCRA 10, 17.

[42] People v. Regalario, G.R. No. 101451, 23 March 1993, 220 SCRA 368.

[43] Oca v. Court of Appeals, 428 Phil. 696, 702 (2002).

[44] Id.

[45] Tijam v. Sibonghanoy, 22 Phil. 29 (1968).

[46] Francel Realty Corporation v. Sycip, G.R. No. 154684, 8 September 2005, 469 SCRA 424, 430.

[47] Tijam v. Sibonghanoy, supra note no. 45.

[48] Manila Surety and Fidelity Co., Inc. (Surety), the bonding company of defendants Spouses Magdaleno Sibonghanoy and Lucia Baguio in Tijam v. Sibonghanoy (id.).

[49] Calimlim v. Ramirez, 204 Phil. 25 (1982).

[50] Tijam v. Sibonghanoy, supra note no. 45.

[51] Id.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.