

**ISABELO ESPERIDA, LORENZO HIPOLITO, AND ROMEO DE BELEN,
PETITIONERS, VS. FRANCO K. JURADO, JR., RESPONDENT.**

G.R. No. 172538. April 25, 2012

Ponente: PERALTA, J.

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PERALTA, J.:

This is a petition for review on certiorari assailing the Resolution[1] dated March 2, 2006 denying the Motion for Extension of Time to File Answer filed by petitioners Isabelo Esperida, Lorenzo Hipolito, and Romeo de Belen, and the Resolution[2] dated April 19, 2006 denying petitioners' Omnibus Motion and Second Motion for Extension, of the Court of Appeals in CA-G.R. SP No. 90525.

The factual and procedural antecedents are as follows:

On February 5, 2001, petitioners Isabelo Esperida, Lorenzo Hipolito, and Romeo de Belen filed a Complaint for illegal dismissal against respondent Franco K. Jurado, Jr. before the Labor Arbiter.

On March 14, 2002, the Labor Arbiter rendered a Decision[3] in favor of petitioners, declaring that they have been illegally dismissed and awarding them their corresponding backwages and separation pay. Respondent appealed the decision before the National Labor Relations Commission (NLRC), but the latter issued a Resolution[4] dismissing the appeal and affirming the decision of the Labor Arbiter in toto.

Aggrieved, respondent sought recourse before the Court of Appeals (CA) docketed as CA-G.R. SP No. 81118. On December 13, 2004, the CA rendered a Decision[5] dismissing the petition and affirming the assailed Resolution of the NLRC. Respondent then filed a motion for reconsideration of the decision, which was eventually denied in the Resolution[6] dated September 27, 2005.

However, during the pendency of the motion for reconsideration, or on July 21, 2005, respondent filed before the CA a Petition to Declare Petitioners in Contempt of Court[7] against the petitioners. In the said petition, respondent sought to declare herein petitioners guilty of indirect contempt of court on the basis of their alleged acts of dishonesty, fraud, and falsification of documents to mislead the CA to rule in their favor in CA-G.R. SP No. 81118.

Finding the petition to be sufficient in form and substance, the CA issued a Resolution[8] ordering herein petitioners to file their Answer within 15 days from notice, showing cause why they should not be adjudged guilty of indirect contempt of court.

On February 8, 2006, counsel for petitioners filed his entry of appearance, together with a motion for extension of time, seeking that petitioners be granted 15 days from February 3, 2006, or up to February 18, 2006, within which to submit their Answer to the petition.

On March 2, 2006, the CA issued one of the assailed Resolutions[9] denying the motion for extension, to wit:

The entry of appearance filed by mail by Atty. Daniel F. Furaque is NOTED.

The motion for extension filed together with the entry of appearance, seeking for the respondents fifteen (15) days from February 3, 2006 within which to submit their answer to the petition, is DENIED, considering that it was mailed only on February 8, 2006 despite the last day to file being on February 3, 2006, and considering that it did not contain any explanation why it was not served and filed personally.

The case is now deemed submitted for resolution sans the answer of respondents Isabelo E. Esperida, Lorenzo Hipolito, and Romeo de Belen.

SO ORDERED.[10]

On February 21, 2006, petitioners filed a Second Motion for Extension,[11] alleging that the Answer to the petition is due on February 18, 2006, but due to counsel's work load, they are praying that they be allowed to submit their Answer until February 28, 2006.

On March 20, 2006, petitioners' counsel also filed an Omnibus Motion (For Reconsideration of the March 02, 2006 Resolution; and For Admission of Respondent's Answer),[12] reasoning that the late filing of the motion for extension was because counsel was so tied up with the preparations of equally important paper works and pleadings for the other cases which he is also handling. Counsel explained that he failed to give instructions to his liaison officer to mail the motion on the same day. Also, personal service was not possible due to the considerable distance between the parties' respective offices. Ultimately, petitioners, through counsel, prayed that the Resolution be set aside and their Answer,[13] which is attached to said Omnibus Motion, be admitted.

On April 19, 2006, the CA issued the other assailed Resolution,[14] denying both the Omnibus Motion and Second Motion for Extension for lack of merit.

In denying the motions, the CA ratiocinated that petitioners did not file their Answer within the reglementary period and clearly disregarded the rules of procedure. Petitioners' plea for liberality is, therefore, undeserving of any sympathy.

Hence, the petition assigning the following errors:

I.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN DENYING PETITIONERS' MOTIONS FOR EXTENSION;

II.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN CONSIDERING THE CASE SUBMITTED FOR DECISION WITHOUT GIVING PETITIONERS THEIR INHERENT AND INALIENABLE RIGHT TO DUE PROCESS OF LAW; and

III.

WHETHER OR NOT THE HONORABLE COURT OF APPEALS ERRED IN DENYING BOTH THE MOTION FOR RECONSIDERATION AND MOTION FOR ADMISSION OF PETITIONERS' ANSWER.[15]

Petitioners argue that the reasoning advanced by its counsel in failing to submit their Answer on time, and their failure to submit the Explanation why their answer was not served personally, erases any legal defect or impediment for the admission of their Answer by the CA. Petitioners maintain that the CA should have practiced liberality in interpreting and applying the rules in the interest of justice, fair play and equity.

Petitioners contend that if their Answer would not be considered and appreciated in the disposition of the case,

they will be adjudged guilty of falsification and misrepresentation without being afforded an opportunity to explain their side of the controversy, in gross violation of their constitutional right to due process of law.

On his part, respondent maintains that the CA did not err in denying petitioners' motions and that they were not denied due process of law. Moreover, respondent avers that even if petitioners' Answer was not admitted, it does not mean that they will unceremoniously be adjudged in contempt of court. It only means that the contempt proceedings will commence without petitioners' Answer, in accordance with the Rules.

The petition is meritorious.

Sections 3[16] and 4,[17] Rule 71 of the Rules of Court, specifically outlines the procedural requisites before the accused may be punished for indirect contempt. First, there must be an order requiring the respondent to show cause why he should not be cited for contempt. Second, the respondent must be given the opportunity to comment on the charge against him. Third, there must be a hearing and the court must investigate the charge and consider respondent's answer. Finally, only if found guilty will respondent be punished accordingly.[18] The law requires that there be a charge in writing, duly filed in court, and an opportunity given to the person charged to be heard by himself or counsel. What is most essential is that the alleged contemner be granted an opportunity to meet the charges against him and to be heard in his defenses. This is due process, which must be observed at all times.[19]

The case of *Mutuc v. Court of Appeals*[20] is instructive as to what due process means in contempt proceedings. This Court stated:

There is no question that the "essence of due process is a hearing before conviction and before an impartial and disinterested tribunal" x x x but due process as a constitutional precept does not always, and in all situations, require a trial-type proceeding x x x. The essence of due process is to be found in the reasonable opportunity to be heard and submit any evidence one may have in support of one's defense. x x x "To be heard" does not only mean verbal arguments in court; one may be heard also through pleadings. Where opportunity to be heard, either through oral arguments or pleadings, is accorded, there is no denial of procedural due process.[21]

In the case at bar, petitioners were indeed given ample opportunity to file their Answer. In denying petitioners' Omnibus Motion and Second Motion for Extension, the CA ratiocinated that the justifications advanced by petitioners do not warrant the grant of liberality in the application of the Rules and their omissions are unpardonable and should not be tolerated.[22]

It must be stressed, however, 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.[23] Moreover, in contempt proceedings, if the answer to the contempt charge is satisfactory, the contempt proceedings end.[24]

In the present recourse, petitioners plead for the liberal application of the Rules. Admittedly, in their Omnibus Motion before the appellate court, petitioners' counsel acknowledged his shortcomings in complying with the resolution of the court and took full responsibility for such oversight and omission. Petitioners' counsel also reasoned that the lack of personal service of the motion for extension was due to the considerable distance between the parties' respective offices and that the failure of filing the motion for extension on time was due to the fact that counsel's liaison officer failed to follow his instructions. Indeed, counsel's liaison officer attested such facts in his Explanation/Affidavit,[25] which was attached to the Omnibus Motion. More importantly, also attached to the Omnibus Motion was petitioners' Answer to the petition to cite them in contempt.

It is settled that "subsequent and substantial compliance may call for the relaxation of the rules of procedure."[26]

Time and again, this Court has held that a strict and rigid application of technicalities must be avoided if it tends to frustrate rather than promote substantial justice.[27] Considering the nature of contempt proceedings and the fact that petitioners actually filed their Answer, albeit belatedly, the CA should have been more liberal in the application of the Rules and admitted the Answer.

Moreover, this Court finds that the CA also erred in considering the case deemed submitted for resolution sans the answer[28] of petitioners without setting and conducting a hearing on a fixed date and time on which petitioners may personally, or through counsel, answer the charges against them.

In contempt proceedings, the prescribed procedure must be followed.[29] To be sure, since an indirect contempt charge partakes the nature of a criminal charge, conviction cannot be had merely on the basis of written pleadings.[30] A respondent in a contempt charge must be served with a copy of the motion/petition. Unlike in civil actions, the Court does not issue summons on the respondent. While the respondent is not required to file a formal answer similar to that in ordinary civil actions, the court must set the contempt charge for hearing on a fixed date and time on which the respondent must make his appearance to answer the charge. On the date and time of the hearing, the court shall proceed to investigate the charges and consider such answer or testimony as the respondent may make or offer. The mode of procedure and rules of evidence therein are assimilated to criminal prosecutions. If he fails to appear on that date after due notice without justifiable reason, the court may order his arrest, just like the accused in a criminal case who fails to appear when so required. The court does not declare the respondent in a contempt charge in default.[31]

Clearly, the contempt case against petitioners is still in the early stage of the proceedings. The proceedings have not reached that stage wherein the court below has set a hearing to provide petitioners with the opportunity to state their defenses. Verily, 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.[32] In fine, the proper procedure must be observed and petitioners must be afforded full and real opportunity to be heard.

WHEREFORE, premises considered, the petition is GRANTED. The Resolutions dated March 2, 2006 and April 19, 2006 of the Court of Appeals are REVERSED and SET ASIDE. The Court of Appeals is ORDERED to admit petitioners' Answer.

The case shall not be deemed submitted for resolution until a hearing is conducted in accordance with the Rules. The Court of Appeals is DIRECTED to resume the proceedings below with dispatch.

SO ORDERED.

Velasco, Jr., (Chairperson), Abad, Mendoza, and Perlas-Bernabe, JJ., concur.

[1] Penned by Associate Justice Lucas P. Bersamin (now a member of this Court), with Associate Justices Renato C. Dacudao and Celia C. Librea-Leagogo, concurring; rollo, pp. 27-28.

[2] Id. at 31-34.

[3] CA rollo, pp. 106-111.

[4] Id. at 112-114.

[5] Rollo, pp. 70-84.

[6] CA rollo, pp. 131-132.

[7] Rollo, pp. 53-63.

[8] Id. at 86.

[9] Rollo, pp. 27-28.

[10] Id.

[11] CA rollo, pp. 27-28.

[12] Rollo, pp. 36-40.

[13] CA rollo, pp. 43-57.

[14] Rollo, pp. 31-34.

[15] Id. at 16.

[16] SEC. 3. Indirect contempt to be punished after charge and hearing. - After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt: x x x

[17] 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.

[18] In the Matter of the Contempt Orders against Lt. Gen. Jose M. Calimlim and Atty. Domingo A. Doctor, Jr., G.R. No. 141668, August 20, 2008, 562 SCRA 393, 399.

[19] Bruan v. People, G.R. No. 149428, June 4, 2004, 431 SCRA 90, 95.

[20] Mutuc v. Court of Appeals, G.R. No. 48108, September 26, 1990, 190 SCRA 43.

[21] Id. at 49. (Citations omitted.)

[22] Rollo, pp. 32-34.

[23] Aquino v. Ng, G.R. No. 155631, July 27, 2007, 528 SCRA 277, 284.

[24] Paredes-Garcia v. Court of Appeals, G.R. No. 120654, September 11, 1996, 261 SCRA 693, 707.

[25] CA rollo, pp. 36-37.

[26] Security Bank Corporation v. Indiana Aerospace University, 500 Phil. 51, 60 (2005).

[27] Jaro v. CA, G.R. No. 127536, February 19, 2002, 377 SCRA 282, 298.

[28] Rollo, pp. 27-28.

[29] Nazareno v. Barnes, G.R. No. L-59072, April 25, 1984, 136 SCRA 57, 71.

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

[31] Bruan v. People, *surpra* note 19, at 96.

[32] Aquino v. Ng, *supra* note 23, at 285.

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