

**HON. MEDEL ARNALDO B. BELEN, IN HIS OFFICIAL CAPACITY AS
PRESIDING JUDGE OF THE REGIONAL TRIAL COURT, BRANCH 36,
4TH JUDICIAL REGION, CALAMBA CITY, PETITIONER, VS. JOSEF
ALBERT ...**

G.R. No. 184487. February 27, 2013

Ponente: REYES, J.

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REYES, J.:

This petition for review on certiorari, under Rule 45 of the Rules of Court, seeks to reverse and set aside the Decision[1] dated July 3, 2008 of the Court of Appeals (CA) in CA-G.R. SP No. 101081 finding petitioner Medel Arnaldo Belen (Judge Belen) guilty of indirect contempt in his capacity as the Presiding Judge of the Regional Trial Court (RTC) of Calamba City, Laguna, Branch 36, and imposing upon him the penalty of fine in the amount of P30,000.00.

Likewise assailed is the CA Resolution dated August 27, 2008[2] denying reconsideration.

The Facts

The antecedents of the instant controversy are the same as the ensuing factual milieu that gave rise to A.M. No. RTJ-10-2216,[3] an administrative case filed by respondent State Prosecutor Josef Albert Comilang (State Prosecutor Comilang) against Judge Belen, viz:

State Prosecutor Comilang, by virtue of Office of the Regional State Prosecutor (ORSP) Order No. 05-07 dated February 7, 2005, was designated to assist the Office of the City Prosecutor of Calamba City in the prosecution of cases. On February 16, 2005, he appeared before Judge Belen of the RTC of Calamba City, Branch 36, manifesting his inability to appear on Thursdays because of his inquest duties in the Provincial Prosecutor's Office of Laguna. Thus, on February 21, 2005, he moved that all cases scheduled for hearing on February 24, 2005 before Judge Belen be deferred because he was set to appear for preliminary investigation in the Provincial Prosecutor's Office on the same day.

Instead of granting the motion, Judge Belen issued his February 24, 2005 Order in Criminal Case No. 12654-2003-C entitled *People of the Philippines v. Jenelyn Estacio* ("Estacio Case") requiring him to (1) explain why he did not inform the court of his previously-scheduled preliminary investigation and (2) pay a fine of P500.00 for the cancellation of all the scheduled hearings.

In response, State Prosecutor Comilang filed his Explanation with Motion for Reconsideration, followed by a Reiterative Supplemental Motion for Reconsideration with Early Resolution. On May 30, 2005, Judge Belen directed him to explain why he should not be cited for contempt for the unsubstantiated, callous and reckless charges extant in his Reiterative Supplemental Motion, and to pay the postponement fee in the amount of P1,200.00 for the 12 postponed cases during the February 17, 2005 hearing.

In his comment/explanation, State Prosecutor Comilang explained that the contents of his Reiterative Supplemental Motion were based on "his personal belief made in good faith and with grain of truth."

Nonetheless, Judge Belen rendered a Decision dated December 12, 2005 finding State Prosecutor Comilang liable for contempt of court and for payment of P20,000.00 as penalty. His motion for reconsideration having been denied on February 16, 2006, he filed a motion to post a supersedeas bond to stay the execution of the said Decision, which Judge Belen granted and fixed in the amount of P20,000.00.

On April 12, 2006, State Prosecutor Comilang filed with the Court of Appeals (CA) a petition for certiorari and prohibition with prayer for temporary restraining order and/or writ of preliminary injunction docketed as CA-G.R. SP No. 94069 assailing Judge Belen's May 30, 2005 Order and December 12, 2005 Decision in the Estacio Case. On April 24, 2006, the CA issued a temporary restraining order (TRO) enjoining Judge Belen from executing and enforcing his assailed Order and Decision for a period of 60 days, which was subsequently extended with the issuance of a writ of preliminary injunction.

Notwithstanding the TRO, Judge Belen issued an Order on September 6, 2007 requiring State Prosecutor Comilang to explain his refusal to file the supersedeas bond and to appear on September 26, 2007 to explain why he should not be cited indirect contempt of court. In his Compliance, State Prosecutor Comilang cited the CA's injunctive writ putting on hold all actions of the RTC relative to its May 30, 2005 Order and December 12, 2005 Decision during the pendency of CA-G.R. SP No. 94069. He also manifested that he was waiving his appearance on the scheduled hearing for the indirect contempt charge against him.

Nevertheless, Judge Belen issued an Order dated September 26, 2007 directing State Prosecutor Comilang to explain his defiance of the subpoena and why he should not be cited for indirect contempt. Judge Belen likewise ordered the Branch Clerk of Court to issue a subpoena for him to appear in the October 1, 2007 hearing regarding his failure to comply with previously-issued subpoenas on September 18, 2007, and on October 8, 2007 for the hearing on the non-filing of his supersedeas bond. State Prosecutor Comilang moved to quash the subpoenas for having been issued without jurisdiction and in defiance to the lawful order of the CA, and for the inhibition of Judge Belen.

In an Order dated October 1, 2007, Judge Belen denied the motion to quash subpoenas, held State Prosecutor Comilang guilty of indirect contempt of court for his failure to obey a duly served subpoena, and sentenced him to pay a fine of P30,000.00 and to suffer two days' imprisonment. He was also required to post a supersedeas bond amounting to P30,000.00 to stay the execution of the December 12, 2005 Decision.

Aggrieved, State Prosecutor Comilang filed a complaint-affidavit on October 18, 2007 before the Office of the Court Administrator (OCA) charging Judge Belen with manifest partiality and malice, evident bad faith, inexcusable abuse of authority, and gross ignorance of the law in issuing the show cause orders, subpoenas and contempt citations, in grave defiance to the injunctive writ issued by the CA. x x x.[4] (Citations omitted and emphasis ours)

On June 26, 2012, the Court resolved A.M. No. RTJ-10-2216 finding Judge Belen guilty of grave abuse of authority and gross ignorance of the law, and meting upon him the penalty of dismissal from service.[5]

Simultaneous with the filing of the administrative case, State Prosecutor Comilang also filed before the CA a petition to cite Judge Belen in contempt of court docketed as CA-G.R. SP No. 101081. State Prosecutor Comilang averred that by issuing the Orders dated September 6, 2007, requiring him to explain his failure to post a supersedeas bond, and September 26, 2007, requiring him to explain why he should not be cited for contempt for such refusal, Judge Belen openly defied the CA's injunctive writ restraining him from implementing the RTC issuances of May 30, 2005 and December 12, 2005 which cited State Prosecutor Comilang for contempt.

On July 3, 2008, the CA found Judge Belen guilty of indirect contempt for his disobedience of or resistance to lawful court orders as sanctioned in Section 3, Rule 71 of the Rules of Court. Judge Belen moved for reconsideration, but the motion was denied. Hence, the present recourse.

Judge Belen asserts that he was deprived of his right to due process because the CA proceeded to rule on the petition for contempt without considering his Comment thereon.

He further argues that he did not intend to disrespect the authority of the CA as he merely misinterpreted the import of the injunctive writ. According to him, the writ enjoined him from enforcing, executing and implementing the RTC Order dated May 30, 2005 and Decision dated December 12, 2005; it did not prohibit or restrain him from asking an explanation from State Prosecutor Comilang for his non-compliance with the order for the posting of a supersedeas bond which he himself sought in order to hold in abeyance the RTC Decision of December 12, 2005 pending appellate review.

The Court's Ruling

The petition has partial merit.

It must be stressed that Judge Belen's dismissal from service as adjudged in A.M. No. RTJ-10-2216 cannot serve to bar a review of his conviction for indirect contempt.

A single act may offend against two or more distinct and related provisions of law and thus give rise to criminal as well as administrative liability.[6] A.M. No. RTJ-10-2216 was the administrative aspect while the instant case is the criminal facet of Judge Belen's act of issuing the Orders dated September 6, 2007 and September 26, 2007. Both proceedings are distinct and independent from the other such that the disposition in one case does not inevitably govern the resolution of the other case/s and vice versa.[7]

Nonetheless, the Court stands by its pronouncement in A.M. No. RTJ-10-2216 that the subject act of Judge Belen was contemptuous, for the reason that:

(I)n requiring State Prosecutor Comilang to explain his non-filing of a supersedeas bond, in issuing subpoenas to compel his attendance before court hearings relative to the contempt proceedings, and finally, in finding him guilty of indirect contempt for his non-compliance with the issued subpoenas, Judge Belen effectively defeated the status quo which the writ of preliminary injunction aimed to preserve.

x x x x

x x x Moreover, refusal to honor an injunctive order of a higher court constitutes contempt, x x x.[8] (Citations omitted)

However, the Court finds that his conviction for indirect contempt was procedurally defective because he was not afforded an opportunity to rebut the contempt charges against him.

Under Sections 3[9] and 4[10] of Rule 71 of the Rules of Court, the following procedural requisites must be satisfied before the accused may be punished for indirect contempt: (1) there must be an order requiring the respondent to show cause why he should not be cited for contempt; (2) the respondent must be given the opportunity to comment on the charge against him; and (3) there must be a hearing and the court must investigate the charge and consider respondent's answer. Of these requisites, the law accords utmost importance to the third as it embodies one's right to due process. Hence, it is essential that the alleged contemner be granted an opportunity to meet the charges against him and to be heard in his defenses.[11]

Prior to the issuance of its Decision dated July 3, 2008 convicting Judge Belen of indirect contempt, the CA issued a Resolution on February 15, 2008, which succinctly reads: "Considering the report of the Judicial Records Division dated February 07, 2008 that no comment has been filed as per docket book entry, the Court RESOLVES to consider the Petition to Cite for Contempt SUBMITTED for resolution." [12]

The records, however, reveal the contrary. As certified by CA Clerk of Court, Atty. Teresita R. Marigomen, the

Comment of Judge Belen is appended in the rollo of CA-G.R. SP No. 101081 commencing on page 56 thereof.[13] Registry Receipt No. 140 of the Calamba Post Office further shows that the Comment was filed on January 29, 2008.[14] In fact, upon receipt of the CA Resolution dated February 15, 2008, Judge Belen submitted on March 3, 2008 a Manifestation to the CA clarifying that he has already filed his Comment.[15]

Even if the Resolution dated February 15, 2008 can be justified by the fact that the Comment reached the CA's receiving section only on February 28, 2008,[16] the CA judgment convicting Judge Belen was rendered on July 3, 2008 or at a time when the Comment was already at the Court's wherewithal. There was thus no reason for the CA to disregard the Comment by reiterating in its Decision dated July 3, 2008 that "[o]n February 15, 2008, the instant Petition was considered submitted for decision without [Judge Belen's] comment." [17]

While the essence of due process consists in giving the parties an opportunity to be heard, it also entails that when the party concerned has been so notified and thereafter complied with such notification by explaining his side, it behooves the court to admit the explanation and duly consider it in resolving the case. Despite the patent evidence, however, that the petitioner submitted his Comment and that it has been incorporated in the rollo of CA-G.R. SP No. 101081, the CA unjustifiably ignored the same.

The conclusive declaration in A.M. RTJ-10-2216 that Judge Belen's disobedience to the CA's injunctive writ constitutes indirect contempt of court cannot serve as a basis for the Court to be indifferent to or ignore the obvious violation of his right to be heard, state his defenses and explain his side. 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.[18]

All told, based on the circumstances disclosed in the records, the CA failed to dutifully afford Judge Belen his right to be heard. Such failure consists of a serious procedural defect that effectively nullifies the indirect contempt proceedings.

WHEREFORE, premises considered, the instant Petition is GRANTED. The Decision dated July 3, 2008 and Resolution dated August 27, 2008 of the Court of Appeals in CA-G.R. SP No. 101081 are hereby REVERSED and SET ASIDE.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Abad,[*] JJ., concur.

[*] Additional member per Raffle dated February 15, 2010 vice Associate Justice Martin S. Villarama, Jr.

[1] Penned by Associate Justice Noel C. Tijam, with Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Teresita Dy-Liacco Flores, concurring; rollo, pp. 45-52.

[2] Id. at 53.

[3] State Prosecutors II Josef Albert T. Comilang and Ma. Victoria Suñega-Lagman v. Judge Medel Arnaldo B. Belen, Regional Trial Court, Branch 36, Calamba City, June 26, 2012, 674 SCRA 477.

[4] Id. at 479-482.

[5] The dispositive portion of the Decision reads:

WHEREFORE, respondent Judge Medel Arnaldo B. Belen, having been found guilty of grave abuse of authority and gross ignorance of the law, is DISMISSED from the service, with forfeiture of all benefits except accrued leave credits, if any, and with prejudice to reemployment in the government or any subdivision,

agency or instrumentality thereof, including government-owned and controlled corporations and government financial institutions. He shall forthwith CEASE and DESIST from performing any official act or function appurtenant to his office upon service on him of this Decision.

Let a copy of this Decision be attached to the records of Judge Medel Arnaldo B. Belen with the Court.

SO ORDERED. (Id. at 490-491.)

[6] *People v. Sandiganbayan* (First Division), G.R. No. 164577, July 5, 2010, 623 SCRA 147, 161.

[7] *Id.*

[8] *Supra* note 3, at 487-488.

[9] 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 x.

[10] 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.

[11] *Esperida v. Jurado, Jr.*, G.R. No. 172538, April 25, 2012, 671 SCRA 66, 72-73.

[12] *Rollo*, p. 63.

[13] *Id.* at 65-66.

[14] *Id.* at 54-62.

[15] *Id.* at 64.

[16] *Id.* at 66.

[17] *Id.* at 49.

[18] *Regalado v. Go*, G.R. No. 167988, February 6, 2007, 514 SCRA 616, 632.

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