

**ALFREDO CHANCO, AS ADMINISTRATOR OF THE ESTATE OF
MAXIMO MADRILEJOS AND AGUSTINA RUTOR, PLAINTIFF AND
APPELLEE, VS. ANACLETA MADRILEJOS, DEFENDANT AND
APPELLANT.**

G.R. No. 3899. December 16, 1907

Ponente: JOHNSON, J.

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JOHNSON, J.:

From the record in this case it appears that some time on or about the day of , the plaintiff commenced an action in the Court of First Instance of the Province of Romblon against the defendant, asking for the following remedy:

"First. The partition of all the property which appears in the inventory, made up and subscribed by the defendant herself, between the plaintiff and the defendant.

"Second. That an accounting be rendered by the defendant with regard to the other property existing, or which has existed, in her possession belonging exclusively to the married couple Maximo Madrilejos and Agustina Rutor, and which does not appear in the inventory made up and signed by the aforesaid Anacleta Madrilejos.

"Third. An equitable indemnity for damages suffered on account of the retention of said property, inasmuch as the same had been claimed several times, the computation thereof to be made from the date of the first claim.

"Fourth. Such costs as may accrue in the present proceedings."

To this complaint the defendant filed an answer, after having presented a demurrer, which contained a general and special denial and prayed for affirmative relief against the plaintiff.

After hearing all of. the parties and the evidence which was adduced during the trial of the cause, the lower court rendered a decision in which the following appears as the dispositive part:

"Reserving to the plaintiff all the lawful rights to demand from Anacleta an accounting for the whole of the property belonging to the copartnership that went into her possession, and the payment of Maximo's share, by due process of law and in. due course, this action should, in my opinion, be dismissed, and the defendant, Anacleta, is entitled to recover costs. Such portion of the costs which accrued prior to the administrator becoming a party to the suit should be recovered from Feliciano Rutor, and such costs as accrued after Chanco, the administrator, was a party to the suit should be recovered from him as the administrator of the estate of Maximo; therefore, judgment is entered in accordance with the foregoing. Let the complaint be dismissed without prejudice, with the costs against the defendant as stated above."

From this decision of the lower court the plaintiff appealed to the Supreme Court, the result of which appeal appears recorded in Volume V, Philippine Reports, page 319, in which the court held (p. 323):

"The judgment appealed from should be reversed and the cause sent back to the trial court, wherein judgment will be rendered in accordance herewith, and such necessary orders entered as may be proper to secure an accounting and distribution of the property under administration, as prayed in the complaint, together with

such other relief as may be just and proper."

The cause was duly returned to the lower court. On the 25th (23d) day of April, 1903, and before the first appeal was brought Jo this court, the Hon. Henry C. Bates, judge of said court, made the following order:

"The defendant is hereby ordered to deliver to this court as soon as possible all and every one of the documents, books, and papers of any kind proving the ownership and possession of all the property left at the time of their death by Maximo Madrilejos or Agustina Rutor."

To this order the defendant made the following answer:

"At Romblon, on the 27th day of April, 1903, Anacleta Madrilejos, having been duly summoned, appeared before me, the clerk of this court, and I then informed her of the foregoing order of the judge, and in answer thereto she stated that she was not in possession of documents of any kind in connection with the property left by the late Maximo Madrilejos and Agustina Rutor, because, after the first inventory of said property was made, and upon agreement to divide the same in three parts, and by reason of the confidence which the respondent had in the family of the plaintiff, Peliciano Rutor, who lived in the house of the said deceased, they being at the time upon friendly terms, the trunk that contained the documents remained in said house, and the respondent only took with her to her own house the trunk which contained the clothes of her late brother, Maximo, and said trunk was taken away from her by Jose M. Caballero and his friends when they made a new inventory. This is what she deposed and in proof whereof she signed the same in my presence. (Signed) Anacleta Madrilejos. (Signed) Bonifacio Madrilejos, deputy clerk."

On the 16th day of August, 1906, after the return of the record from this court in the original appeal, the attorney for the plaintiff presented a motion in the lower court asking that the judgment of the Supreme Court be executed. On the 17th day of August, 1906, the Hon. Jose C. Abreu, then judge of said judicial district, made the following order:

"It is ordered that the said defendant, Anacleta Madrilejos, forthwith deliver to the said administrator, Alfredo Chanco, all the property held by her appertaining exclusively to the married couple Maximo Madrilejos and Agustina Rutor, and that the said defendant appear before this court on the 24th day of August, 1906, at 8 a. m., and render an accounting concerning the whole of said property"

On the same day the said Hon. Jose C. Abreu made the following order, based upon the order of the 23d day of April, 1903, by the Hon. Henry C. Bates, then judge of that court:

"Order of the court.—In view of the motion filed by the plaintiff asking that the defendant be summoned to appear in this court and show cause, if any, why she should not be convicted for contempt, for not having delivered to the clerk of this court the books, documents, and papers pertaining to the said estate in accordance with the order issued by the judge, Hon. Henry C. Bates, under date of the 23d of April, 1903;

"It is ordered that the said defendant, Anacleta Madrilejos, appear in this court on the 20th day of August, 1906, at 8 a. m., to show cause, if any, why she should not be convicted of contempt for not having complied with said order of the Hon. Judge Bates, dated April 23, 1906 (1903)."

On the 20th day of August, 1906 the defendant appeared and made the following answer to the order of the court:

"Affidavit—Now comes the defendant in compliance with the order of this court dated August 17, 1906, and respectfully sets forth:

"1. That she has not in her possession nor holds any kind of books, documents, or papers pertaining to the estate of the late Maximo Madrilejos and Agustina Rutor.

"2. That she did not have in her possession prior to said time such books, documents, or papers belonging to

said estate; because the trunk that contained them has always been in the house of the deceased Madrilejos-Rutor wherein lived Eugenia and Pedro Rutor, the children of Feliciano Rutor, brother to the late Agustina Rutor, the family of Feliciano Rutor having the custody of the said trunk.

"And that for the above reasons the respondent believes that she can not be held liable for contempt for not complying with the subpoena duces tecum issued by this court in the proceedings in civil action No. 14.

"In witness whereof, these presents are sworn to and signed in Romblon, on August 20, 1906.

(Signed) "ANACLETA MADRILEJOS."

After the filing of this said answer on the part of the defendant, and on the same day, the attorney for the plaintiff, C. W. Ney, filed a complaint against the defendant in said cause, accusing her of the offense of contempt of court, in which complaint the said attorney stated:

First. That he is attorney for the plaintiff in said cause.

Second. That the defendant, Anacleta Madrilejos, has in her possession various books, documents, and papers belonging to the above-mentioned estate.

Third. That on the 23d day of April, 1903, the court ordered the said defendant to immediately deliver to the plaintiff all said documents, books, and papers.

Fourth. That the said defendant had not complied with the said order and falsely denied that she had any of the said books, documents, or papers to deliver and requested that the court proceed against the said defendant for contempt.

Upon this complaint, the lower court, on the same day, ordered the said defendant to appear before the court on the 24th day of August, 1906, at 8 o'clock a. m., to show why she should not be proceeded against for said offense. On the day named in said order, to wit, the 24th day of August, 1906, at 8 o'clock a. m., the defendant appeared before the said judge and made the statement that she did not have in her possession any of the property of said estate and that therefore she could not render an accounting concerning the same; whereupon the said attorney, C. W. Ney, presented another complaint against the defendant, asking that she be proceeded against for her failure to comply with the above order of the 17th day of August, 1906, and on the same day the Hon. Jose C. Abreu ordered the defendant to appear immediately before him and show why she should not be punished for contempt.

These two complaints were duly heard by the lower court, each party presenting proof. After hearing the evidence adduced by the respective parties, the court upon the 29th day of August rendered a decision upon each complaint, under the provisions of section 232 of the Code of Civil Procedure, ordering that the defendant be detained in prison until she was willing to comply with the two orders of the court, the first made by the Hon. Henry C. Bates, dated the 23d of April, 1903, and the other made by the Hon. Jose C. Abreu on the 17th of August, 1906. From these decisions of the lower court the defendant appealed to this court and the question presented is, Was the defendant guilty of the offense of desacato (contempt) in view of all the facts presented in the record?

Section 232 of the Code of Procedure in Civil Actions provides as follows:

"A person guilty of any of the following acts may be punished as for contempt:

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

It will be noted that this section contains the provision that the disobedience or resistance must be to a lawful order; in other words, the order must be in accordance with law. The court has no authority to punish for

disobedience or resistance of an order which was made without authority. (People vs. O'Neil, 47 Cal., 109; Ex Parte William Hollis, 59 Cal., 405; Brown vs. Moore, 61 Cal., 432; Ex Parte W. A. Brown, 97 Cal., 83.)

It will be remembered that the original action in this case was an ordinary action by the plaintiff as administrator against the defendant, and therefore the procedure applicable thereto is the procedure marked out by the code in ordinary actions. The proceedings were not in accordance with section 709 and section 710 of the Code of Procedure in Civil Actions. If the plaintiff desired to obtain possession of documents which were supposed to be in the possession of the defendant, it was his duty to proceed by the proper form of subpoena and not by the method followed in this particular case.

We are of the opinion, and so hold, that there is no justification in law, under the form of action which the plaintiff brought against the defendant, to sustain the orders which the lower court made and for the violation of which the defendant was punished for contempt, and therefore the orders of the lower court in both of the contempt proceedings, ordering that the defendant be confined in prison until such orders should be complied with, are hereby revoked, and, without any finding as to costs, it is so ordered.

Arellano, C. J., Torres, Mapa, Carson, Willard, and Tracey, JJ., concur.

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