

IDONAH SLADE PERKINS, PETITIONER, VS. THE DIRECTOR OF PRISONS, RESPONDENT.*G.R. No. 39676. June 30, 1933*

Ponente: ABAD SANTOS, J.

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The petitioner, Idonah Slade Perkins, was adjudged guilty of contempt by the Court of First Instance of Manila for disobedience of a final judgment thereof, dated August 4, 1930, requiring the petitioner (a) to render an accounting to her husband, Eugene Arthur Perkins, of all the conjugal property in her possession or under her control; (b) to convey, transfer, and deliver to her husband all such conjugal property as might result from said accounting; and (c) to execute in favor of her husband all such deeds and documents as might be necessary in order that her husband's title thereto might legally appear. The court ordered that the petitioner be imprisoned until she comply with the orders of the court contained in said judgment. On appeal, the order of commitment for contempt was affirmed by this court.[1]

The petitioner now claims, in effect, that her imprisonment under said order of commitment for contempt was unlawful, and that she is, therefore, entitled to be discharged by a writ of habeas corpus.

It would be prolix to dwell at length upon the nature and purpose of the great writ of habeas corpus. If we did so, we would have to trace its history back to the early struggles for individual rights and liberties. Suffice it to say, therefore, that in this jurisdiction, the writ of habeas corpus extends "to all cases of illegal confinement or detention by which any person is deprived of his liberty, or by which the rightful custody of any person is withheld from the person entitled thereto, except in cases expressly excepted." (Code of Civil Procedure, section 525.) But the statute also provides that the writ shall not be allowed "if it appears that the person alleged to be restrained of his liberty is in custody of an officer under process issued by a court or magistrate, or by virtue of a judgment or order of a court of record, and that the court or magistrate had jurisdiction to issue the process, render the judgment, or make the order." (Code of Civil Procedure, section 528.)

In the case at bar, it is admitted that the petitioner was in the custody of the respondent Director of Prisons by virtue of an order of commitment for contempt by the Court of First Instance of Manila. The question before us is, therefore, limited to an inquiry into the jurisdiction of the Court of First Instance of Manila to make the aforesaid order.

The power to punish for contempt is inherent in all courts; its existence is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the courts, and, consequently, to the due administration of justice. (Ex parte Terry, 128 U. S., 225; 32 Law. ed., 405; In re Kelly, 35 Phil., 944.) In *State vs. Magee Publishing Company* (38 A. L. R., 142. 144), the court said: "The exercise of this power is as old as the English history itself, and has always been regarded as a necessary incident and attribute of courts. Being a common-law power, inherent in all courts, the moment the courts of the United States were called into existence they became vested with it. It is a power coming to us from the common law, and, so far as we know,

has been universally admitted and recognized. (4 Lewis's Bl. Com., sec. 286, p. 1675; Oswald, Contempt, Canadian ed., pp. 1-3; 6 R. C. L., 489; State vs. Morrill, 16 Ark., 390; State ex rel. Rodd vs. Verage, 177 Wis., 295; 23 A. L. R., 491; 187 N. W., 830; and People ex rel. Brundage vs. Peters, 305 111., 223; 26 A. L. R., 16; 137 N. E., 118.) A splendid review of the origin and history of such power, supported by a wealth of authority, as well as its universal recognition, both at common law, and in the United States, may be found in State ex rel. Crow vs. Shepherd (177 Mo., 205; 99 Am. St. Rep., 624; 76 S. W., 79), to which the bar is referred."

Our statute expressly recognizes the power of the Courts of First Instance and of the judges thereof to punish contempts of court. It divides contempts into two kinds, namely: (1) Direct contempts, which may be published summarily; and (2) constructive contempts, which may be punished only after due hearing. A direct contempt under the statute is "misbehavior in the presence of or so near the court or judge as to obstruct the administration of justice, including the refusal of a person present in court to be sworn as a witness or to answer as a witness when lawfully required." (Code of Civil Procedure, section 231); and any of the following acts constitutes an indirect contempt, namely:

* * * * *

"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;

"2. Misbehavior of an officer of the court in the performance of his official duties, or in his official transactions;

"3. A failure to obey a subpoena duly served;

"4. The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of the court held by him.

"5. The person defeated in a civil action concerning the ownership or possession of real estate who, after having been evicted by the sheriff from the realty under litigation in compliance with the judgment rendered, shall enter or attempt to enter upon the same for the purpose of executing acts of ownership or possession or who shall in any manner disturb possession by the person whom the sheriff placed in possession of said realty." (Code of Civil Procedure, section 232, as amended.)

As to constructive contempts, section 236 of the Code of Civil Procedure provides that "the court shall then determine whether the accused is guilty of the contempt charged; and, if it be adjudged that he is guilty, he may be fined not exceeding one thousand pesos, or imprisoned not more than six months, or both. If the contempt consists in the violation of an injunction, the person guilty of such contempt may also be ordered to make complete restitution to the party injured by such violation." And section 237 further provides that "when the contempt consists of the omission to do an act, which is yet in power of the accused to perform, he may be imprisoned until he performs it."

The exercise of the power to punish contempt has a twofold aspect, namely: First, the proper punishment of the guilty party for his disrespect to the court or its order, and the second, to compel his performance of some act or duty required of him by the court, which he refuses to perform. (In re Chiles, 22 Wall., 157; 22 Law. ed., 819.) Due perhaps to this twofold aspect of the exercise of the power to punish them, contempts are classified as civil or criminal. A civil contempt has been defined as the failure to do something ordered to be done by a court or a judge in a civil case for the benefit of the opposing party therein; and a criminal contempt, as conduct that is directed against the authority and dignity of a court or of a judge acting judicially, as in unlawfully assailing or discrediting the authority and dignity of the court or judge, or in doing a duly forbidden act. Concerning the distinction between civil and criminal contempts, the court, in Hammond Lumber Co. vs. Sailors' Union of the

Pacific (167 Fed., 809), said: "The power to punish for contempt is universally recognized as one inherent in the very nature and purpose of courts of justice; it is coeval with their power to administer justice, and, while it may be in some respects limited, cannot be entirely taken away. It subserves at once the double office of protecting the dignity and authority of the tribunal and aiding in the enforcement of civil remedies, and may be exerted in either civil or criminal cases, or independently of either, and either solely for the preservation of the court's authority, or in aid of the rights of the litigant, or for both those purposes combined. By reason of this twofold attribute, proceedings in contempt are regarded as being in their nature anomalous—that is, possessed of characteristics which render them more or less difficult of ready or definite classification in the realm of judicial power; and this has led to their being aptly styled *sui generis*. That they are largely of a criminal nature, by reason of the power being one to convict and punish for wrong committed, is universally conceded; and yet that in some respects they partake, by reason of the ends subserved, of the nature of a civil remedy, is likewise recognized. This dual characteristic has given rise to many and bitter controversies in the courts, the difficulty being, in most cases, to determine when a particular proceeding assumes the criminal rather than the civil aspect, or when of both; and if the latter, which feature must control. * * * An examination of these cases will disclose that that court has from the first declared, and since consistently maintained, that contempt proceedings, while not to be regarded as in any sense a substitute for the ordinary criminal laws of the country (*Ex parte Debs*, 158 U. S., 564; 15 Sup. Ct. Rep., 900; 39 Law. ed., 1092), yet, by reason of the very nature of the power involved, they are in their essential characteristics to be deemed primarily criminal and punitive; that while they possess in a sense and for certain purposes a civil and remedial aspect, growing out of the fact that they may be invoked to coerce or aid in the enforcement of a private right or remedy, this aspect can only arise in any instance out of the nature and purpose of the punishment adjudicated, and then only to affect the question of how the judgment awarding such punishment may be reviewed. In other words, the result of those cases is that where the punishment imposed, whether against a party to the suit or a stranger, is wholly or primarily to protect and vindicate the dignity and power of the court, either by fine payable to the government, or by imprisonment, or both, it is deemed a judgment in a criminal case and subject to review only in the manner provided for review of judgments in criminal cases; but where the punishment is by fine directed to be paid to a party in the nature of damages for the wrong inflicted, or by imprisonment as a coercive measure to enforce the performance of some act for the benefit of the party, or in aid of the final judgment or decree rendered in his behalf, in such case the contempt judgment will, if made before final decree, be treated as in the nature of an interlocutory order, or, if made after final decree, as remedial in nature, and will be reviewed only on appeal from the final decree, or in such other mode as is appropriate to the review of judgments in civil cases. And certain it is, as will furthermore be seen, that the contention of complainant, that the nature of the contempt proceeding in any case necessarily partakes of the nature of the original action or proceeding out of which it arises, is wholly unfounded. The fact that a contempt has arisen in a civil action, such as this, in no way tends to characterize the nature of the proceeding for its correction. While it is true that it would be hard to imagine a contempt of a civil aspect arising in a criminal case, it is equally true that acts of contempt of a criminal aspect do—and must frequently—arise in actions of a purely civil character."

Another much-cited case is that of *In re Nevitt* (117 Fed., 448), wherein the court remarked: "Proceedings for contempts are of two classes,—those prosecuted to preserve the power and vindicate the dignity of the courts, and to punish for disobedience of their orders, and those instituted to preserve and enforce the rights of private parties to suits, and to compel obedience to orders and decrees made to enforce the rights and administer the remedies to which the court has found them to be entitled. The former are criminal and punitive in their nature, and the government, the courts, and the people are interested in their prosecution. The latter are civil, remedial, and coercive in their nature, and the parties chiefly in interest in their conduct and prosecution are the individuals whose private rights and remedies they were instituted to protect or enforce * * * A criminal contempt involves

no element of personal injury. It is directed against the power and dignity of the court, and private parties have little if any interest in the proceedings for its punishment. But if the contempt consists in the refusal of a party or a person to do an act which the court has ordered him to do for the benefit or the advantage of a party to a suit or action pending before it, and he is committed until he complies with the order, the commitment is in the nature of an execution to enforce the judgment of the court, and the party in whose favor that judgment was rendered is the real party in interest in the proceedings."

As applied to the present case, the distinction between civil and criminal contempts, is not an important consideration; and, except for the seriousness with which the point has been pressed, we would not have discussed it at some length. The question of whether the contempt for which the petitioner was committed is civil or criminal, does not affect either the jurisdiction or the power of the court in the premises. As stated by the court in *People ex rel. Brundage vs. Peters* (305 Ill., 223; 26 A. L. R., 16, 18, 19): "The principal reason for the classification seems to arise out of the form of the proceedings in the two classes of cases. In the one case the proceedings may be an incident to a pending suit and serve two purposes. In addition to vindicating the authority and dignity of the court, the proceedings may also advance the relief granted a party to the litigation. In the other class of contempts the application for punishment may be made in the name of the people. There is no difference in the power of the court to administer punishment in the two classes of contempts or in the penalty that may be inflicted. 'The dividing line between the acts constituting criminal and those constituting civil contempts¹ becomes indistinct in those cases where the two gradually merge into each other. In those cases contempts have been classified and punished by the courts in some jurisdictions as criminal contempts, and in others as civil contempts. Some courts adhere to the rule defining them as civil or criminal contempts, according to the character of the suit in which they occur, designating them as civil contempts if the original suit is a civil suit, and as criminal contempts if they arise in an original suit criminal in form. In most cases where they thus rest on the boundary line they are both civil and criminal contempts, and, so far as the rights of the contemnors are concerned, may be punished as either.' (*People vs. Elbert*, 287 Ill., 458; 122 N. E., 816.) " And in *Ex parte Grossman* (267 U. S., 87; 69 Law. ed., 527, 532), the Supreme Court of the United States, through Chief Justice Taft, said: "In the *Gompers* case this court points out that it is not the fact of punishment, but rather its character and purpose that makes the difference between the two kinds of contempts. For civil contempts, the punishment is remedial and for the benefit of the complainant, and a pardon cannot stop it. For criminal contempts, the sentence is punitive in the public interest to vindicate the authority of the court and to deter other like derelictions."

In the light of the principles above considered, it seems clear that the Court of First Instance of Manila had jurisdiction of the offense charged against the petitioner—contempt of court. It had jurisdiction of the person of the petitioner who was properly brought before the court. It had jurisdiction to hear the charge and the evidence against the petitioner. It had jurisdiction to hear and to decide upon the defenses offered by her.

The general rule is that when the court has jurisdiction by law of the offense charged and of the party who is so charged, its judgments, orders or decrees are not subject to collateral attacks by habeas corpus. The writ of habeas corpus can not be made to perform the function of a writ of error. (*Re Eckart*, 166 U. S., 481, 485; 41 Law. ed., 1085). In *Gutierrez Repide vs. Peterson* (3 Phil., 276), this court held that an order made by a court within the limits of its jurisdiction, even if erroneous, will not be set aside on habeas corpus.

We are now brought to consider the question of whether the petitioner has purged herself of contempt. It is claimed that she has already complied with the order of the Court of First Instance of Manila requiring her to render an accounting to her husband of all the conjugal property in her possession or under her control. There is nothing in the record to substantiate this claim. We have noticed her statement, made under oath, to the effect that "there is no conjugal property in her possession or under her control, and that, therefore, there is now no conjugal

property in her possession for delivery to the said defendant," meaning her husband. This is clearly not a compliance with the order for accounting. Compliance with that order must now be predicated on the findings made by the court in the order adjudging the petitioner guilty of contempt. In this order the court made the following findings:

"Son hechos probados y admitidos por la demandante que en su demanda presentada en esta causa y en el parrafo VII de la misma, enumero las propiedades que ella considero como gananciales o adquiridas durante su matrimonio con el demandado mediante el trabajo o esfuerzo comun de ambos, y en esta demanda se pedia la cesacion de la vida conyugal y la comunidad de bienes entre la demandante y el demandado, la separacion de cuerpos entre la demandante y el demandado, la disolucion y liquidacion de los bienes pertenecientes a la sociedad conyugal entre la demandante y el demandado, la entrega a la demandante de sus bienes propios o parafernales, la entrega a la demandante de la mitad de los bienes gananciales despues de liquidada la sociedad de gananciales, ademas de otras peticiones.

"Son tambien hechos probados y admitidos por la demandante acusada por desacato que ella tenia en su posesion o bajo su control, en la fecha de su demanda y en la fecha de la sentencia 4 de agosto de 1930, los siguientes bienes gananciales, incluidos entre los descritos en el parrafo VII de la demanda:

"El recibo o certificados correspondientes a 24,000 acciones de la Benguet Consolidated Mining Co. (avaloradas por la demandante en su demanda en la suma de P117,500);

"El recibo, del deposito de 60 piezas de muebles, deposito verificado por la demandante en la Luzon Brokerage Co.;

"El documento o titulo de la finca de California (avalorada en P44,000 en la demanda de la demandante);

"Una poliza de seguro (de las cuatro polizas descritas en el parrafo VII de la demanda);

"Los recibos del pago de amillaramiento;

"El informe del representante de los Estados Unidos sobre el pago de las contribuciones;

"Las alhajas, pieles y servicio de plata expresados en el inciso k, parrafo VII de la demanda;

"La poliza expresada en el inciso m, del parrafo VII de la demanda. (Pags. 275 y 276, n. t.)

"Estos son los hechos probados y admitidos por la demandante, acusada de desacato."

In order to purge herself of contempt, the petitioner must render a full and complete accounting to her husband of the conjugal properties mentioned in the order above quoted, and perform such other acts as are required under the judgment of the Court of First Instance of Manila of August 4, 1930.

We do not deem it necessary to pass upon the other questions raised by the petitioner, as we think they are too unsubstantial to require serious consideration.

It results that the petition for a writ of habeas corpus must be denied, and the petitioner will forthwith be recommitted to the respondent Director of Prisons, subject to the orders of the Court of First Instance of Manila. Costs shall be taxed against the petitioner. So ordered.

Avanceña, C. J., Street, Ostrand, and Imperial, JJ., concur.

[1] G. R. Nos. 35470, 35658. Slade Perkins vs. Perkins, 57 Phil., 205.

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