

THE PHILIPPINE RAILWAY CO., PETITIONER, VS. GERONIMO PAREDES, JUDGE OF FIRST INSTANCE OF ILOILO, AND PANAY AUTOBUS CO., RESPONDENTS.

G. R. No. 44983. March 31, 1936

Ponente: VILLA-REAL, J.

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VILLA-REAL, J.:

This petition for mandamus was filed by the Philippine Railway Co., to order the Honorable Geronimo Paredes or any judge presiding over the Court of First Instance of Iloilo, to approve, certify, and have forwarded to this court the bill of exceptions copy of which is attached to the petition, with costs to the respondents.

The pertinent facts gleaned from the petition and the documents attached thereto, which are necessary to rule upon the legal question raised herein are as follows:

In civil case No. 9563, The Philippine Railway Co., plaintiff, vs. Panay Autobus Co., defendant, of the Court of First Instance of Iloilo, an order was issued prohibiting said defendant Panay Autobus Co., its officers, manager, and employees to receive, carry and transport passengers in its trucks along the public thoroughfares of the municipalities of Iloilo and Capiz and between points where the Philippine Railway Co. operates, for less than one centavo per passenger for every kilometer travelled, unless otherwise authorized by the Public Service Commission. Believing that the respondent Panay Autobus Co. had disobeyed said permanent injunction, the petitioner the Philippine Railway Co., on June 1% 1935, filed a motion with the Court of First Instance of Iloilo praying that the said respondent Panay Autobus Co. be punished for contempt of court. The Panay Autobus Co. having answered said motion and the parties having been heard, the respondent judge, Geronimo Paredes, entered an order declaring that the Panay Autobus Co. had not violated the permanent injunction, and exonerating it. Not agreeable to said order of exoneration, the Philippine Railway Co. presented a motion for new trial based on the ground that the said order is contrary to law and to the weight of the evidence. The respondent judge denied said motion for new trial, and the Philippine Railway Co. excepted to said order of denial and presented a notice of appeal therefrom, submitting for the court's approval a bill of exceptions copy of which is attached as an integral part of the instant petition. The respondent judge, in an order of November 29, 1935, disapproved said bill of exceptions and dismissed the appeal on the ground that, under the provisions of section 232, paragraph 1, of the Code of Civil Procedure, in connection with the sections following, only the defendant Panay Autobus Co., as defendant, can appeal from a judgment of conviction, but not the complainant Philippine Railway Co. from adjudgment of acquittal.

For the purposes of this petition, the petitioner the Philippine Railway Co. filed a motion for reconsideration of the said order, which motion was denied.

The principal question of law to be decided in this petition is whether the alleged contempt of court with which the petitioner the Philippine Railway Co. charges the respondent Panay Autobus Co. is civil or criminal in nature.

In the case of *Slade Perkins vs. Director of Prisons* (58 Phil, 271), this court said:

"The exercise of the power to punish contempts has twofold aspect, namely (1) the proper punishment of the

guilty party for his disrespect to the court or its order; and (2) to compel his performance of some act or duty required of him by the court which he refuses to perform. Due to this twofold aspect of the exercise of the power to punish them, contempts are classified as civil or criminal. A civil contempt is the failure to do something ordered to be done by a court or a judge for the benefit of the opposing party therein; and a criminal contempt, is conduct directed against the authority and dignity of a court or of a judge, as in unlawfully assailing or discrediting the authority or dignity of the court or judge, or in doing a duly forbidden act. Where the punishment imposed, whether against a party to a suit or a stranger, is wholly or primarily to protect or vindicate the dignity and power of the court, either by the fine payable to the government or by imprisonment, or both, it is deemed a judgment in a criminal case. * * *

In 13 Corpus Juris, page 6, criminal and civil contempts are likewise defined as follows:

"Criminal contempt.—A criminal contempt is conduct that is directed against the dignity and authority of the court and may occur in either criminal or civil actions and special proceedings.

"Civil contempt.—Civil contempt consists in failing to do something ordered to be done by a court in a civil action for the benefit of the opposing party therein, and is, therefore, not an offense against the dignity of the court, but against the party in whose behalf the violated order is made. If, however, the contempt consists in doing a forbidden act, injurious to the opposite party, the contempt may be considered criminal."

In note 20, page 7, of the same volume the rule is discussed thus:

"Discussion of rule.—If the contempt consists in the refusal of a party to do something which he is ordered to do for the benefit or advantage of the opposite party, the process is civil, and he stands committed till he complies with the order. The order in such a case is not in the nature of a punishment, but is coercive, to compel him to act in accordance with the order of the court. If, on the other hand, the contempt consists in the doing of a forbidden act, injurious to the opposite party, the process is criminal, and conviction is followed by fine, or imprisonment, or both; and this is by way of punishment. In one case the private party is interested in the enforcement of the order, and, the moment he is satisfied, the imprisonment ceases. On the other hand, the state alone is interested in the enforcement of the penalty, it being a punishment which operates in *terrorem*, and by that means has a tendency to prevent a repetition of the offense in other similar cases. (*State vs. Knight*, 3 S. D., 509, 514; 54 N. W., 412; 44 Am. St. Rep., 809.)"

Under the doctrines above quoted, when a person fails to do something which a court or judge orders him to do for the benefit or advantage of the opposite party, and he is committed until he complies with the order, the contempt is civil in nature, because the order of commitment is not a punishment but a coercive measure to compel him to act pursuant to the court's order; but if, on the other hand, a person does an act which a court or judge forbids him to do and which is injurious to the opposite party, the contempt is criminal in nature, because his conviction is followed by imprisonment or fine, or both, by way of punishment.

In the case before us, the alleged contempt committed by the Panay Autobus Co. does not consist in disobeying an order requiring it to do something for the benefit and advantage of the Philippine Railway Co., which contempt is correctable by commitment until the order disobeyed is complied with, but in disobeying an order forbidding the doing of something injurious to the Philippine Railway Co., which disobedience can only be corrected by sentencing the party in contempt to prison or to pay a fine, or both. The first contempt is civil in nature, because the coercive commitment ceases as soon as the party in contempt complies with the order issued for the benefit and advantage of the adverse party, or when the latter waives the right sought to be enforced by the order. The second contempt is penal in nature, because the party aggrieved by the forbidden act in the order disobeyed cannot prevent the imposition of the corrective punishment or suspend it, once imposed, for while it is to his advantage, even indirectly, it is issued not to enforce a right which he may waive, but to prevent further injury to him, a remedy to which he is entitled through judicial proceedings, and the disobedience is a challenge to the

authority of the court and a contempt of its dignity, necessitating for the maintenance of the former and the vindication of the latter the imposition of a penalty of imprisonment or fine which serves at once as a punishment and as a warning. Having reached the conclusion that the contempt here in issue is criminal in nature, and the respondent Panay Autobus Co., having been absolved from the complaint, the complainant the Philippine Railway Co. cannot appeal from the judgment of acquittal, because the appeal, if permitted, would expose the said respondent twice in jeopardy of punishment for the same offense, in violation of the constitutional principle against a person being put twice in jeopardy of punishment for the same crime. (Sec. 3, Jones Law; Article III, section 1, subsection 20 of the Constitution of the Philippines; *In re Kepner*, 195 U. S., 100.)

In view of the foregoing considerations, we are of the opinion and so hold, that the disobedience to an order forbidding a public service company to collect a fare less than that authorized by the Public Service Commission constitutes criminal contempt.

Wherefore, finding no merit in the petition for mandamus, the same is hereby denied, with the costs to the petitioner. So ordered.

Avanceña, C, J., Abad Santos, Imperial, Diaz, Recto, and Laurel, JJ., concur.

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