

**IN THE MATTER OF THE INTESTATE ESTATE OF ROSARIO OLBA,
DECEASED. CONTEMPT PROCEEDINGS AGAINST ANTONIO FRANCO.
ANTONIO FRANCO, APPELLANT.***G.R. No. 45405. April 13, 1939*

Ponente: MORAN, J.

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On October 6, 1935, the Court of First Instance of Manila, acting upon petition of appellant, Antonio Franco, as administrator of the intestate estate of the deceased Rosario Olba, authorized the sale or mortgage of any or all the properties of said deceased for urgent payment of certain expenses of administration. Pursuant to this authority, appellant sold the interest of the estate in a parcel of land for P1,900. This sale was, upon report thereof, forthwith approved by the court. Thereafter, the heirs, except Clara Lopez de Ylagan, moved for the vacation of the court's orders authorizing and approving the sale, alleging lack of notice of the proceedings. The lower court acceded to this petition, setting aside the orders in question. To protect the interests of the parties concerned, the court on May 7, 1936, ordered appellant to deposit with the clerk of court, within three days from notice, the aforementioned sum of P1,900. Appellant, instead of complying with the order, filed an answer thereto on May 11, 1936, alleging that he intended to negotiate, and in effect had negotiated, with the purchasers of the property for the return to them of their money without the court's intervention; that he considered it highly oppressive for the court to interfere with him in the details of his administration from which it had detached its jurisdiction; and that it was not the first incident in which he was "bullied into submission of his prerogatives" by the court.

On June 2, 1936, appellant in his behalf and the purchasers of the land, addressed a joint petition before the court, alleging, among others, that it has by and between them been agreed that appellant would return to them the sum of P1,900. The court, in an order dated June 6, 1936, deferred consideration of this petition pending the deposit of the amount with the clerk of court as required of the appellant in the order of May 7, 1936, and reiterated its order for such deposit within three days from notice with the admonition that if appellant failed to do so, the court would proceed against him in accordance with law. In a later order dated June 10, 1936 the court required appellant to appear personally before it on June 12, 1936 at 11.30 a. m. on the matter of the deposit. Appellant instead of appearing on said date filed an answer, praying that the order for deposit be suspended pending adjudication of his petition for certiorari in the Court of Appeals and of the action instituted against him by the purchasers for the recovery of the amount of P1,900. Thereafter, he filed his expenses of administration in which it appeared that he had spent the sum in question or part thereof.

On June 20, 1936, the court directed the sheriff to place appellant under arrest until he produced the money. Appellant, under custody of the sheriff, appeared before the court and stated that he could not make the deposit as he had spent the money. Whereupon, the court directed the release of appellant and ordered him to show cause why he should not be punished for contempt (1) for having spent instead of depositing with the clerk of court the sum of P1,900 as required in its order of May 7th; and (2) for his failure to appear before the court on June 12, 1936. To this appellant filed an answer alleging, by way of defense, that, by spending the money instead of

depositing it, he did not disobey the order of May 7th; and, that he did not appear on June 12th because he could not produce the money.

At the trial, appellant rested his case on the strength of defenses set out in his answer. The court thereupon rendered judgment finding him guilty of contempt and sentenced him to imprisonment of one month. Further, he was ordered to appear before the court on September 8, 1936, to show cause why he should not be punished for contempt for having used insolent and highly disrespectful language in the pleading filed by him on May 11, 1936. This pleading is the one above-mentioned wherein appellant said that he "considers it highly oppressive for the court to interfere in details of which the court itself, in its sound judgment detached its jurisdiction," and that "this is not the first incident in which the undersigned administrator was bullied into submission of his prerogatives" by the court. On September 8, 1936, appellant filed an answer disclaiming any intention to insult the court and alleged that the language employed by him while strong was not disrespectful and that the same "was addressed to and not against the court." On the day set for the hearing, appellant appeared and relied upon his written answer for his defense. The court again adjudged him guilty of contempt and sentenced him to pay a fine of P200 or suffer subsidiary imprisonment in case of insolvency.

To these two condemnatory orders appellant interposed the present appeal.

After an examination of the whole record before us, we find the two orders of the lower court in full accord with law and the facts. The only important question raised by the appellant is that in which he contends that the lower court acted without jurisdiction in requiring him to deposit the amount of P1,900. It is urged that, as the sale was set aside, the amount of P1,900 ceased to be the property of the intestate of Rosario Olba and, consequently, the court had no jurisdiction over that sum. This argument, however, overlooks the fact that it was by order and authority of the court that appellant made the sale and received the purchase price. And, although the orders authorizing and approving the sale were later annulled, there can be no denying the fact that the appellant received and was in possession of the money as an agent of the court. The power, therefore, of the court to order him to deposit the money is beyond question. Accordingly, his continuous disobedience to repeated orders of the court to that effect is contempt. His several excuses, one of them being that he himself would return the money to the purchaser, thus making the court understand that he had the money intact in his hands, only to admit at last that he could not make the deposit because he had spent the money, do not constitute a lawful justification thereof. Besides, no excuse was given for his non-appearance in court on June 12, 1936, at 11.30 a. m. The fact that he did not appear because he had no money to produce, is no excuse. The contempt is thus patent. This is in connection with the first order" appealed from.

With respect to the second order, there can be no doubt that the language used by appellant in his pleading filed on May 11, 1936, is insolent, disrespectful and contemptuous. A mere disclaimer of any intentional disrespect by appellant is no ground for exoneration. His intent must be determined by a fair interpretation of the language by him employed. He cannot escape responsibility by claiming that his words did not mean what any reader must have understood them as meaning.

Accordingly, with the only modification that the punishment for the first contempt be reduced to P200 with subsidiary imprisonment in case of insolvency at the rate of one day for every P2.50 of the fine unpaid, the two orders are hereby affirmed, with costs against appellant.

Avanceña, C. J., Villa-Real, Imperial, Diaz, Laurel, and Concepcion, JJ., concur.

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