

## **LEOPOLDO FACINAL AND SANCHA O. FACINAL, PETITIONERS, VS. HONORABLE JUDGE AGAPITO I. CRUZ, RAMON DASAL AND DOMINGO DASAL, RESPONDENTS.**

*G.R. No. 50618. September 02, 1992*

Ponente: NOCON, J.

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### **NOCON, J.:**

This is a petition for certiorari and mandamus to annul and set aside the orders[1] dated September 15, 1978,[2] November 6, 1978,[3] December 14, 1978[4] and February 5, 1979[5] of the then Court of First Instance of Capiz, 11th Judicial District, Branch III in Civil Case No. M-177 (R-53) and CA-G.R. No. 13641-CR in granting probation to private respondents Ramon Dasal and Domingo Dasal.

It appears on record that petitioners Leopoldo and Sancha Facinal are owners of a parcel of land consisting of a fishpond covered by Tax Declaration No. 2075 and situated at Sapián, Capiz with a total area of one hundred and three (103) hectares, more or less.

Sometime in 1957, a portion of the aforesaid property consisting of twenty (20) hectares, more or less, was leased to Clodualdo Jamora and Luciana Orbion for a term of ten (10) years from the date of the execution of the lease contract or until December 31, 1966.

Upon the expiration of the lease contract, Clodualdo Jamora and Isagani Jamora, who subsequently acquired the leasehold rights of Luciana Orbion, refused to vacate the leased property despite repeated demands from the petitioner Leopoldo Facinal.

On January 15, 1968, petitioners filed a complaint for unlawful detainer against Clodualdo Jamora and Isagani Jamora with the Municipal Court of Sapián, Capiz in Civil Case No. M-177 (R-53). After due hearing or on September 30, 1969, a decision was rendered, the dispositive portion of which reads:

"IN VIEW OF THE FOREGOING, judgement is hereby rendered, ordering the defendant Clodualdo Jamora and Isagani Jamora and all persons claiming under them to vacate the premises mentioned and described in the Complaint and sentencing the said defendants to pay the plaintiffs[s] the sum of SEVEN HUNDRED FIFTY PESOS (P750.00) yearly for the use and occupation of the fishpond in question, beginning January 1, 1963 until they vacate and surrender the same to the plaintiff[s] and to jointly and severally pay to plaintiffs attorney's fees in the amount of P1,000.00 plus the costs of this action. The counterclaim of the defendants, Clodualdo Jamora and Isagani Jamora is dismissed for lack of merit."[6]

On October 17, 1969, the trial court issued a writ of execution for the aforementioned judgement.

On December 12, 1969, the sheriff, acting on said writ of execution, ordered private respondent Ramon Dasal, who claims to be the lessee of Clodualdo Jamora, and the caretakers of Ramon Dasal namely: Domingo Dasal and Primo Acevedo, to vacate immediately the premises, which they did, and thereafter, placed petitioners in possession of the land in question.

Sometime in January, 1970, Clodualdo Jamora, Isagani Jamora, Ramon Dasal, Domingo Dasal and Primo Acevedo re-entered the fishpond in question after the same had been delivered to petitioners and refused to vacate said premises. Consequently, petitioners instituted contempt proceeding against them with the then Court of First Instance of Capiz as an incident to the appealed case interposed by Clodualdo Jamora and Isagani Jamora from the decision of the Municipal Court of Sapan, Capiz, which found Clodualdo Jamora, Ramon Dasol and Domingo Dasol guilty of indirect contempt in a decision dated September 10, 1971, the dispositive portion of which reads:

“WHEREFORE, IN VIEW OF THE FOREGOING, this court finds Clodualdo Jamora, Isagani Jamora, Ramon Dasal and Domingo Dasal guilty of indirect contempt committed against the Municipal Court of Sapan, Capiz, defined and penalized in paragraph (b), Section 3, Section 6 and 7, Rule 71, Revised Rules of Court, beyond reasonable doubt, and hereby renders judgement imposing upon each of them, as principals, a fine of P100.00 with subsidiary imprisonment in case of insolvency at the rate of P8.00 per day AND imprisonment of thirty ( 30) days and until such time that said respondents shall have vacated and delivered the physical possession of the property in litigation to the plaintiffs and to pay the costs. Primo Acevedo, for lack of sufficient evidence against him and on grounds of reasonable doubt, is hereby acquitted of this charge.”[7]

Meanwhile, the Court of First Instance of Capiz dismissed the appeal interposed by Clodualdo Jamora and Isagani Jamora from the decision of the Municipal Court of Sapan in the unlawful detainer case in view of their failure to pursue their appeal and said decision became final.

On November 19, 1972, private respondents Ramon Dasal and Domingo Dasal together with Alfredo Aringo, Jimmy Aringo, Antonio Olano and Ciriaco Jamora de Alano, entered the subject property and emptied the fishpond of crabs, shrimps and other fishes for which private respondents Ramon Dasal and Domingo Dasal were convicted for qualified theft in a decision dated November 3, 1975 by the Court of First Instance of Capiz.

Sometime in March, 1973, private respondents filed a criminal case against petitioner Leopoldo Facinal who had to go to Manila to seek redress and was subsequently cleared by the Military Tribunal in a summary investigation conducted by the latter.

Upon his return to the subject property, petitioner found private respondents Dasals and their men to have reentered said property again and petitioner spouses had to go to the court for the issuance of an alias writ of execution which was granted on April 2, 1974. Thereafter, petitioners were placed in possession of the subject property as shown in the Sheriff's Return Service dated April 22, 1974.

On April 23, 1974, private respondents accompanied by their men and several heavily armed PC soldiers reentered the subject property and violently drove out petitioners who have been in actual and physical possession of said property compelling the latter to file another contempt proceeding against private respondents on June 23, 1974 with the Court of First Instance of Capiz.

On July 8, 1977, the Court of Appeals[8] affirmed the trial court's Order in finding respondents Ramon Dasal and Domingo Dasal guilty of indirect contempt.

After the record of CA-G.R. No. 13641-CR was remanded to the court of origin, private respondents applied for probation with said court which was denied on June 15, 1978 on the following grounds, to wit:

"This Court in its Order dated February 16, 1978 has made it a condition for the grant of probation the vacation and physical delivery of the property in litigation to plaintiff Leopoldo Facinal. Without said delivery, respondents would be in a state of continuous defiance of the decision which has become final and executory, and the terms of imprisonment of the decision affirmed in CA GR No. 13641-CR by the Court of Appeals might be more than 6 years as the decision states "imprisonment of thirty days and until such time that said

respondents shall have vacated and delivered the physical possession of the property in litigation to plaintiffs".

"Since no delivery of the property in litigation has been shown, the Court is constrained to deny as it hereby denies the petition for probation of RAMON DASAL and DOMINGO DASAL who are hereby committed to prison for the period stated in the decision in CA-G.R. No. 13641 dated July 8, 1977." [9]

Upon private respondents' Motion for Reconsideration, the trial court granted said motion in an Order dated September 15, 1978, the pertinent portion of which reads:

"It therefore, become [sic] indubitable that Leopoldo Facinal was in possession of the property in litigation sometime between January 1970 and April 23, 1973 [1974]. Hence after the contemptuous acts committed by the Dasals in the second week of January, Leopoldo Facinal again repossessed the property in litigation. If he was already in possession why should possession be ordered delivered again to him? But Leopoldo Facinal was again dispossessed of the property --- the Dasals were not found in the decision of the Court of Appeals guilty of contempt for this subsequent dispossession.

"ACCORDINGLY, the order of this Court dated January 15, 1978 denying probation to petitioners is reconsidered and set aside, and another is hereby entered granting probation subject to the conditions contained in the corresponding order." [10]

On November 6, 1978, the trial court denied petitioners' Motion for Reconsideration.

Acting on petitioners' notice of appeal, respondent judge on December 14, 1978, disapproved said appeal on the ground that an order granting probation is non-appealable.

On February 5, 1979, respondent judge denied petitioners' Motion for Reconsideration which was filed on December 29, 1978.

Hence, this petition alleging grave abuse of discretion on the part of the respondent judge in granting probation to private respondents notwithstanding the fact that private respondents are still in possession of the subject property.

We find the petition meritorious.

Although private respondents would ordinarily be entitled to probation after their conviction in a contempt proceedings since they are not expressly disqualified under the probation law, considering however that their conviction was the result of their continued defiance of the court's order, private respondents have not shown that repentance nor a predisposition to rehabilitation or reformation which the probation law sought to achieve. They have defied the Court's order not only once or twice but five times, showing their contempt and disrespect for court orders and processes.

Section 2 of Presidential Decree No. 968 provides:

"SEC. 2. Purpose -- This Decree shall be interpreted so as to:

“(a) promote the correction and rehabilitation of an offender by providing him with individualized treatment;

“(b) provide an opportunity for the reformation of a penitent offender which might be less probable if he were to serve a prison sentence; and

“(c) prevent the commission of offenses.”

Clearly, therefore, the purpose of probation is reformatory in nature and not preventive and is to be exercised primarily for the benefit of organized society and only incidentally for the benefit of the accused. [11]

On the other hand, the punishment for contempt of court is a remedial, preservative or coercive act, rather than a

vindictive or punitive one, and is imposed for the benefit of complainant or the other party to the suit who has been injured, and its object is to compel obedience to, or the performance of, the court's orders or decrees, which the contemnor refuses to obey although able to do so, and thus, to secure, preserve, vindicate, enforce, or advance the rights of such private parties, as well as to vindicate the court's authority.[12]

In the instant case, private respondents were declared in contempt of court when they repeatedly refused to comply with the final decision of the trial court which ordered them to vacate the subject property.

In granting private respondent's application for probation, respondent judge noted that while admittedly private respondents are still in possession of the subject property, petitioners were also in possession of said property between January, 1970 and April 23, 1974, consequently, the respondent judge is of the opinion that the subsequent re-entry of the private respondents in the subject property should be the subject matter of another contempt proceeding since this subsequent dispossession is not the act for which the respondents were held in contempt for. The condition, therefore, imposed by the trial court as a pre-requisite for the approval of respondents' probation, that is, that respondents vacate and deliver the subject property to the petitioners would not be applicable.

We do not share respondent judge's opinion on the matter, inasmuch as the private respondents have not yet complied with the final decision of the court below, as they are still in possession of the subject property. Respondent judge should not have granted probation to the private respondents until the latter have permanently vacated and delivered said property to petitioners. Precisely, because of private respondents blatant refusal to obey the final order of the court that they were cited for indirect contempt.

To require petitioners to file another contempt proceeding against private respondents for subsequent dispossession would not only be time consuming but would practically condone the continuous defiance by private respondents of a final decision of a court of record. As long as private respondents have not complied with the orders of the Court they are in a state of indirect contempt. They cannot make a mockery of court processes and get away with it.

Procedural rules are intended only as an aid to justice and not as a means for its frustration. Technicalities should always give way to the realities of the situation and should not in any way adversely affect the substantial rights of a party as in the case at bar. As aptly observed by the petitioners in its memorandum:

"[T]o require petitioners to proceed still with their motion for contempt which they filed in 1974 and still pending up to the present is to require them to undergo a vicious cycle with no end at sight draining their stamina and finances. Previous alias writ of execution had already proved inutile. Private respondents had no care for them. Their conviction for qualified theft did not reduce their obstinacy and audacity.

"Courts sit as ones of equity and justice. It would be in conformity with its assigned task if this Honorable Court reverses respondent judge Order of September 15, 1978 allowing private respondents probation notwithstanding their noncompliance of their civil liability to petitioners, i.e., to vacate the subject fishpond. For in so doing and allowing probation only until such time private respondents surrender the premises in question to petitioners, the following shall have been achieved:

"1. It emphasizes that ejectment suit is summary in character and in a short period of time for its termination, the winning party must enjoy the fruit of his victory.

"Unlike in this case, the ejectment proceeding started in 1968, it has yet to end although petitioners have long won their legal battle against private respondents who to date have been in possession of the fishpond and enjoying the fruits thereof. The summary character of petitioners' ejectment suit will be further frustrated if they being in their twilight years, die without it being ended by them being restored into possession of the

property in question.

“2. Public policy will be served. It will give finis to the case sparing parties especially herein petitioners from tension and anxiety of court litigations. This is not to mention that they will be relieved from the consequential and pernicious effect of their being drained of their stamina and resources.

"As clearly shown, the ejectment proceeding which started in 1968 by petitioners against private respondents despite the former having won therein has ramified into various contentious litigations, criminal or otherwise, yet, to date, although victorious, they have yet to wait for a miracle in order that they can take back possession of their property.

“3. The rule of law will be upheld. Private respondents succeeded in frustrating judicial orders because for one reason or another they had, and still they have, the support of unscrupulous government officials and abusive Military men. Judicial declaration of this Honorable Courts requiring private respondents to surrender possession of the premises to petitioners before they should be allowed probation wilt delineate the demarcation line up to which government officials and military men in Capiz would act. In such a way also, it will uphold the supremacy of the civilian over the military.”[13]

Furthermore, this court has always held that in meritorious cases, a liberal not literal interpretation of the rules becomes imperative and technicalities should not be resorted to in derogation of the intent of the rules which is the proper and just determination of litigations.”[14] To require otherwise would render nugatory the efficacy of a final decision and make a mockery of our judicial processes since the losing party can always use technicality to circumvent the enforcement of a decision as in the case at bar.

WHEREFORE, the petition is hereby granted and the questioned Orders of the respondent judge are hereby set aside. Respondent Judge is further ordered to execute the contempt Order of September 10, 1971 until private respondents shall have vacated the land in litigation. Costs against private respondents.

**SO ORDERED.**

Narvasa, C.J., (Chairman), Padilla, and Regalado, JJ., concur.  
Melo, J., no part.

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[1] Penned by Judge Agapito I. Cruz.

[2] Rollo, pp. 66-70.

[3] Id., at p. 77.

[4] Id., at p. 83.

[5] Id., at p. 86.

[6] Rollo, p. 32.

[7] Id., at pp. 29-30.

[8] CA-G.R. No. 13641-CR with Justice Lorenzo Relova as ponente and Justice Ricardo C. Puno and Justice Guardson R. Lood, concurring.

[9] Id., at p. 46.

[10] Id., at pp. 66, 69-70.

[11] Tolentino vs. Alconcel, 121 SCRA 92.

[12] Victorino vs. Espiritu, No. L-17735, July 30, 1962.

[13] Rollo, p. 198.

[14] Lim vs. Court of Appeals, 188 SCRA 23.

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