

NOE C. BAJA, PETITIONER, VS. HONORABLE JUDGE ANTONIA CORPUZ MACANDOG AND JULIAN MUÑEZ, RESPONDENTS.*G.R. No. 60007. February 29, 1988*

Ponente: SARMIENTO, J.

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The petitioner instituted in the then Court of First Instance, now Regional Trial Court, of Negros Occidental[1] a civil case for specific performance of contract and damages against the private respondent, defendant therein. In his complaint, the petitioner alleged that one of the conditions in the contract of lease entered into between him as lessor and the private respondent as lessee was that the latter should pay the real estate taxes on the leased land; and this same condition was re-stated in their second contract of lease; that the petitioner later discovered that the private respondent had failed to pay the said taxes amounting to more than P4,000.00, and still refused to pay the same despite the petitioner's demand.

After receipt of a copy of the complaint, the private respondent filed a "Manifestation" in court stating that he had already paid the realty taxes that were due on the land, as evidenced by a xerox copy of the official receipt issued by the municipal treasurer of Escalante, Negros Occidental, and that he prayed, therefore, for the dismissal of the complaint. Acting on this "Manifestation," the respondent Judge issued one of the questioned orders, dated July 24, 1981, which states:

Acting on the Manifestation dated July 17, 1981 filed by Julian Muñoz, defendant of the above-entitled case, stating among others that he had already paid the realty taxes due and finding the same to be well-taken, and also so as to avoid congestion of the Court's docket, the same is hereby granted. This case is hereby dismissed.[2]

The petitioner subsequently filed a Motion for Reconsideration of the foregoing order and an "Ex Parte Motion to Declare the Defendant in Default and to Disqualify the Presiding Judge." The hearing of these motions was set for September 2, 1981 at 3:00 o'clock in the afternoon. On the said date, however, the petitioner failed to appear; the respondent Judge ordered him in contempt of court and required him to explain within 72 hours why he should not be punished for contempt by filing the two motions above adverted to and which she considered as "highly contemptuous and libelous," and to explain further within 72 hours why he failed to appear before the said court.[3] Upon the petitioner's failure to submit the required explanations within the stated period, the respondent Judge found the petitioner guilty of direct contempt of court and thereupon ordered his arrest and imprisonment for six months, "by virtue of Sections 1 and 6 (sic), Rule 71 of the Rules of Court." [4] On September 8, 1981, the petitioner was arrested and confined in the city jail of San Carlos City in Occidental Negros. A notice of appeal [5] from the above order sentencing him to six months of imprisonment, was filed by the petitioner with the court a quo for the purpose of elevating the case to the Supreme Court on a question of law, but, for one reason or another, the case was never so elevated. Then on January 14, 1982, [6] the petitioner, while still serving his six-month contempt imprisonment in the San Carlos City Jail, wrote the respondent Judge a letter which states in part:

XXX XXX XXX

Isn't this a clear example of a non sequitor?

To tell the truth, which should not be suppressed, I am particularly interested in Spec. Proc. No. X-315, entitled "In the Matter of the Intestate Estate of the Late Agustin Gutierrez, Sr.," because it is a revelation of ignorance of the law, incompetence, and perhaps bribery? Have you not remanded until now the record of this case to the Supreme Court, since you have already received the Order of Mr. Justice Claudio Teehankee, dated November 16, 1981, requiring you, Mrs. Elphedia Castellano Vda. de Gutierrez, your deputy sheriff (Edilberto Caballero, does he possess a service eligibility required by the Supreme Court?), et al to return the P50,000.00 to the intestate estate? (sic)

I hope that you would be more honest and candid to yourself, and would refrain from telling lies and throw your weight around because, for your information, as you are living in the ivory tower, many courageous good people of San Carlos City and environs and many lawyers here are already wise to your dubious if not nefarious ways.

As for myself and at my age, you and your husband can never intimidate me, anytime anywhere, although you two remind me since long ago of "Bonnie and Clyde"!

The respondent found this letter slanderous and libelous. Thus, she issued an order dated January 29, 1982,[7] requiring the petitioner to show cause why he should not be punished for indirect contempt. The petitioner subsequently filed a "Manifestation" stating that "there is nothing to explain." [8] Consequently, in an order dated February 12, 1982, the respondent Judge declared the petitioner in contempt of court thereby ordering his arrest and incarceration until he shall have obeyed the order of the court requiring from him an explanation.

In the instant petition, the petitioner vigorously asserts that the respondent Judge had committed a grave abuse of discretion amounting to an excess of jurisdiction in issuing the three orders dated July 24, 1981, January 29, 1982, and February 12, 1982. In a resolution dated March 31, 1982, we issued a temporary restraining order enjoining the respondent Judge from enforcing any further her orders of January 29, 1982 and February 12, 1982, and ordering the respondent Judge and the Station Commander of the Integrated National Police of San Carlos City to immediately release the petitioner if he had already been placed in jail as a result of the aforesaid orders of the respondent Judge.

There is merit in the petitioner's objection to the July 24, 1981 order dismissing his complaint. It is a fundamental rule of procedure that when a civil complaint is filed in court, the defendant is required to answer the complaint or, in the alternative, he may file a motion to dismiss within the time for pleading. The private respondent in this case did neither of these, and yet the respondent Judge dismissed the case upon a mere "Manifestation" by the private respondent, making the questioned dismissal highly irregular and improper. The court cannot dismiss a case *motu proprio* without violating the plaintiff's right to be heard, except in the following instances: if the plaintiff fails to appear at the time of the trial; if he fails to prosecute his action for an unreasonable length of time; or if he fails to comply with the rules or any order of the court; [9] or if the court finds that it has no jurisdiction over the subject matter of the suit. [10] None of these causes obtained in the case of specific performance filed by the herein petitioner and dismissed by the respondent Judge, and which became the *casus belli* between the two, as adverted to above.

While the said "Manifestation" may be considered as a Motion to Dismiss on the ground of payment, the respondent Judge seriously erred in dismissing the case without giving the petitioner the chance to present evidence to disprove the said motion. The rule is that there must be a hearing, wherein the Motion to Dismiss may be proved or disproved by affidavits, depositions, or oral testimony, as directed by the court, just as in ordinary

hearings.[11] The two exceptions to this rule are: when the Motion to Dismiss is based on the failure of the complaint to state a cause of action, in which case no evidence may be considered to test the sufficiency of the complaint except the very facts pleaded therein; and in the above-enumerated instances when the courts may dismiss a case sua sponte.

The respondent Judge contends that the Motion for Reconsideration of the dismissal of the petitioner's complaint was denied by her in an order dated January 14, 1982, but that the petitioner, upon being served with a copy of the said order refused to receive the same; and that the questioned order is now final. The truth or falsity of this allegation notwithstanding, it is thus evident that the petitioner had valid cause to complain by reason of the unwarranted dismissal of his complaint.

While the petitioner's letter, dated January 14, 1982, contained strongly-worded personal attacks against the character of the respondent Judge as well as her husband, we are not, however, convinced of the complete correctness of the questioned contempt order dated February 12, 1982. When the petitioner submitted his "Manifestation" wherein he stated, inter alia, that "there is nothing to explain for in indirect contempt there must be first a charge in writing to be filed, and that the accused must be given the opportunity to be heard by himself or counsel," he was, in effect, complying with the other questioned order dated January 29, 1982, requiring him to explain why he should not be punished for contempt. It is plain to see that the petitioner was simply being truthful and candid to the court when he gave that answer as he could have honestly believed that there should be a separate charge in writing.

We have consistently held that the power to punish for contempt should be used sparingly, so much so that only in cases of clear and contumacious refusal to obey should the said power be exercised. But that is not so in this case. Petitioner merely manifested to the court what he believed to be the correct answer to its question.

More importantly, the power to punish for contempt should be exercised on the preservative and not on the vindictive principle; with the corrective rather than the retaliatory idea of punishment. It has not escaped our notice that relations between the petitioner and the respondent Judge were, to put it mildly, quite strained ever since the questioned dismissal of the petitioner's complaint. As a matter of fact, the petitioner was twice declared in contempt of court by the respondent Judge in the same case, and had even been confined in the city jail in San Carlos City. Additionally, despite the filing by the petitioner of a notice of appeal from the second contempt order, the respondent Judge, giving various excuses, has not elevated the record of the case up to the present time, thereby depriving the petitioner of the opportunity to have the said order reviewed by a higher court. The exchange of charges and counter-charges between them even resulted in the filing by the petitioner of an administrative complaint against the respondent Judge.

Parenthetically, the imposition of the punishment of six months imprisonment for direct contempt, by order of the respondent Judge dated September 7, 1981, was patently erroneous because pursuant to Section 1, Rule 71 of the Rules of Court, the punishment of imprisonment cannot exceed ten days. Six months imprisonment is impossible only in cases of indirect contempt committed against a superior court or judge and after charge and hearing.[12]

It is propitious to remind our judges that they should not be so thin-skinned or sensitive as to feel personally hurt or affronted everytime a complaining lawyer momentarily loses his "cool" and writes in or utters less than polite language, more so when the lawyer is merely expressing an honest opinion about them which may not altogether be flattering. "After all, what matters is that a judge performs his duties in accordance with the dictates of his conscience and the light that God has given him. A judge should never allow himself to be moved by pride, prejudice, passion, or pettiness in the performance of his duties." [13] Especially when the judge has sensed that the lawyer's reason is already clouded with intense emotion, he is called upon to exercise a more tolerant attitude,

and not to immediately wield the power of courts to punish for contempt. For it can hardly be denied that such power can be quite easily abused by a vindictive, biased, and unreasonable judge. It follows, however, that what is a fair and reasonable reaction on the part of a judge, to verbal criticisms hurled against him, varies, depending on the circumstances.

On the other hand, lawyers are charged with the basic duty "to observe and maintain the respect due to the courts of justice and judicial officers;"[14] they vow solemnly to conduct themselves "with all good fidelity x x x to the courts." [15] As a matter of fact, the first canon of legal ethics enjoins them "to maintain towards the courts a respectful attitude, not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance." The lawyer's duty to render respectful civility, without fawning, to the courts is indeed essential to the orderly administration of justice. Thus, lawyers should be courteous, fair, and circumspect, not petulant, or combative, or bellicose in their dealings with the courts. We had an occasion to say: "The use of disrespectful, intemperate, manifestly baseless, and malicious statements by an attorney in his pleadings or motions is not only a violation of the lawyer's oath and a transgression of the canons of professional ethics, but also constitutes direct contempt of court for which a lawyer may be disciplined." [16]

The foregoing considered, the use by the petitioner, who is a member of the bar, of offensive and disrespectful language in his letter addressed to the respondent Judge, as well as in his motions submitted to the court, cannot be countenanced by us. On this regard, we sustain the respondent Judge in finding that contempt was committed, nevertheless we hold that, all things considered, a reprimand would be sufficient sanction. Our holding in *Ceniza vs. Sebastian* finds relevance in the instant case.

It thus appears that because of the deep-seated ill-will that existed between the petitioner and respondent judge -- a fact made manifest by their voluminous pleadings -- it would be most difficult for respondent judge to act with restraint and judiciousness. The power to punish for contempt could then be a manifestation of whim, caprice, or arbitrariness, or something analogous to it. Here, while the words were contumacious, it is hard to resist the conclusion, considering the background of this occurrence that respondent Judge in imposing the ten-day sentence was not duly mindful of the exacting standard that preservation of the dignity of his office not indulging his sense of grievance sets the limits of the authority he is entitled to exercise. [17]

WHEREFORE, certiorari is GRANTED, quashing the warrant of arrest and declaring NULL and VOID the Order dated July 24, 1981, the sentence imposing a six-month imprisonment for direct contempt, as well as the sentence imposing an indefinite period of imprisonment for indirect contempt, without prejudice to whatever action the petitioner may wish to pursue against the respondent Judge. The Temporary Restraining Order issued on March 31, 1982 is hereby made permanent. The Order dated February 12, 1982 is MODIFIED in that in lieu of imprisonment, the petitioner is hereby REPRIMANDED for the offensive and disrespectful statements in his letter and motions.

No costs.

Yap, (Chairman), Melencio-Herrera, Paras, and Padilla, JJ., concur.

[1] Judge Antonio C. Macandog, Presiding, Court of First Instance, Branch X, San Carlos City.

[2] Rollo, 20.

[3] Rollo, 33.

[4] Rollo, 34.

- [5] Rollo, 36.
- [6] Rollo, 50.
- [7] Rollo, 51.
- [8] Rollo, 52-53.
- [9] Sec. 3, Rule 17 of the Rules of Court.
- [10] Sec. 2, Rule 9 of the Rules of Court.
- [11] Sec. 3, Rule 16 of the Rules of Court.
- [12] Section 6, Rule 71 of the Rules of Court.
- [13] *Austria vs. Masaquel*, No. L-22536, August 31, 1967, 20 SCRA 1247.
- [14] Sec. 20(b), Rule 138 of the Rules of Court.
- [15] Sec. 3, Rule 138 of the Rules of Court.
- [16] Resolution in *Philippine Public Schools Teachers Association, et al. vs. Hon. Lourdes R. Quisumbing, et al.*, G.R. No. 76180, promulgated January 19, 1988.
- [17] *Ceniza vs. Sebastian*, No. L-39914, July 2, 1984, 130 SCRA 295.

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