

LUIS GAVIERES, ARTHUR GAVIERES, VICENTE GAVIERES AND HON. OSCAR C. FERNANDEZ, AS PRESIDING JUDGE OF THE COURT OF FIRST INSTANCE OF BULACAN, BRANCH IV, PETITIONERS, VS. PRUDENCIO...

G.R. No. 62380. February 07, 1991

Ponente: NARVASA, J.

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NARVASA, J.:

The principal issue raised here is whether a charge of contempt for alleged disobedience to a judicial order properly lies if initiated by persons not parties to the action or proceeding in which the order was issued.

In December 1971 proceedings for the settlement of the intestate estate of Mariano San Pedro y Esteban were begun in the Court of First Instance of Bulacan, Branch V sitting in Baliuag, docketed as Special Proceedings No. 312-B. About three months later, on March 11, 1972, letters of administration were issued therein in favor of Engracio San Pedro. Thereafter, Engracio San Pedro, either singly or jointly with his co-administrator, Justino Z. Benito proceeded with the court's approval to sell or otherwise dispose of several parcels of land included within a sprawling area of approximately 173,000 hectares that spanned sections of Quezon City, Caloocan City and the Provinces of Bulacan, Rizal and Quezon: these were supposedly covered by Titulo de Propiedad No. 4136 of the Registry of Deeds of Bulacan and claimed to form part of the estate of Mariano San Pedro. The considerations for these transactions ran into millions of pesos.[1]

Four years later, on August 30, 1976, the Government, through the Solicitor General, intervened in the proceedings, impugning the authenticity and validity of Titulo de Propiedad No. 4136 and asserting ownership of the lands purportedly covered by said muniment under the doctrine of *jus regalia*[2]. Its cause suffered an initial setback when, on April 25, 1978, Judge Agustin C. Bagasao of the intestate court upheld the genuineness and validity of the questioned Titulo and declared Engracio San Pedro and nine other persons to wit: Candido Gener, Santiago Gener, Rosa Pantaleon, Vicente Pantaleon, Eleuterio Pantaleon, Trinidad San Pedro, Rodrigo San Pedro, Ricardo Nicolas and Teresa Nicolas, the true and lawful heirs of Mariano San Pedro entitled to inherit the land covered by said title.[3]

On motion of the Solicitor General, however, the court, through present petitioner, Hon. Oscar C. Fernandez, reconsidered and set aside that adverse decision in an order dated November 17, 1978.[4] Said order declared Titulo de Propiedad No. 4136 null, void and of no legal force and effect, invalidated all orders approving sales, conveyances, donations or other transactions involving the lands it purported to cover, and excluded those lands from the estate of Mariano San Pedro. As far as pertinent to the present proceeding, Judge Fernandez order also enjoined:

"* * (t)he heirs, agents, privies or anyone acting for and in behalf of the estate * * from representing or exercising any acts of possession or ownership or from disposing in any manner portions of all the lands covered by Titulo de Propiedad No. 4136 and to immediately vacate the same." [5]

In April of the following year, Prudencio G. Falcis, representing himself to be "the General Attorney-in-fact of the Heirs of the late Don Mariano San Pedro y Esteban" and claiming full power and authority to convey or dispose of any portion of said decedent's estate, executed three (3) deeds of sale over as many separate portions of the land covered by Titulo de Propiedad No. 4136, viz.:

- 30,000 square meters situated in Cruz na Ligas, Diliman, Quezon City, in favor of Luis M. Gavieres, for the sum of P100,000.00;
- 1,000 square meters situated in Concepcion, Marikina, Metro-Manila, in favor of Arthur P. Gavieres, a son of Luis M. Gavieres, for the sum of P15,000.00; and
- 1,000 square meters situated at the corner of Dao and Ipil Streets, Concepcion, Marikina, Metro-Manila, in favor of Vicente P. Gavieres, another son of Luis M. Gavieres for the sum of P15,000.00.

Falcis issued a receipt for P130,000.00 representing the aggregate price of the three sales.

Subsequently, Gavieres pere learned that these transactions were not worth the paper they were written on, and on October 18, 1980 he and his two sons filed in the intestate proceedings (SP No. 312-B, supra) a motion to hold Falcis and his alleged confederates[6] in contempt for defying and disregarding Judge Fernandez' order of November 17, 1978, particularly that part thereof prohibiting any disposition of the lands covered by the invalidated Titulo de Propiedad No. 4136.

Falcis defended himself from the contempt charge by claiming that the deeds of sale were simulated and that the real transaction with the Gaviereses was one for a loan of P20,000.00 which had already been fully paid. He claimed, too, that the lands covered by said deeds had already been excluded from Titulo de Propiedad No. 4136. As might have been expected, Judge Fernandez gave no credence to these claims. To his mind the claims could not stand up against the clear and express terms of the deeds of sale on which the charge was founded. In an order dated September 9, 1981, he declared Falcis guilty of contempt and sentenced him:

“* * to pay a fine of One Thousand (P1,000.00) Pesos, to suffer imprisonment of SIX (6) MONTHS and to make complete restitution of One Hundred Thousand (P100,000.00) Pesos to Luis M. Gavieres, Fifteen Thousand (P15,000.00) Pesos to Arthur P. Gavieres and Fifteen Thousand (P15,000.00) Pesos to Vicente P. Gavieres and it is then and only then shall he be released.”[7]

In a separate order issued on the same date, the Judge fixed an appeal bond of P20,000.00 for Falcis' provisional liberty. This was followed by an "addendum" issued on September 14, 1981 setting a further condition to Falcis provisional release: the posting of a supersedeas bond of P150,000.00 in favor Of the Gaviereses. A third order issued September 15, 1981 directed the commitment of Falcis to the Bureau of Prisons as a national prisoner on the ground that the contempt proceedings had already been terminated as far as he was concerned.[8]

Falcis appealed the contempt ruling to the Court of Appeals. He also filed with the same Court a petition for "certiorari, habeas corpus and prohibition"[9] alleging that Judge Fernandez had acted with grave abuse of discretion in: (1) ordering his commitment to the national penitentiary because (a) his timely appeal had stayed the execution of the order finding him in contempt and (b) he was not a national prisoner, the sentence imposed being less than one year[10]; and (2) imposing the additional requirement of a supersedeas bond, because there was at the time pending a civil case that he had filed against the Gaviereses in the Court of First Instance of Rizal, Branch 12 in Caloocan City,[11] seeking nullification of what he claimed to be the simulated sales subject of the contempt charge, thereby making the issue of such validity a prejudicial question to his liability for restitution which said bond would guarantee.

When the petition was called for hearing in the Appellate Court on October 18, 1981, Atty. Salvador R. Ayo

appeared on behalf of Falcis and moved to withdraw said petition upon a ground or grounds which the record fails to disclose but probably related to the pendency of Falcis' appeal from the contempt order in the same Court. At any rate, the motion not being opposed, it was granted and the petition was deemed withdrawn "* * without prejudice to petitioner's right to file whatever action he may deem proper in the premises." [12]

Later, however and through new counsel (Atty. Luis D. Dictado), Falcis sought reinstatement of the petition, claiming that the motion to withdraw had been made without his knowledge and consent, and asked that he be released on bail. He won his point. The Court of Appeals reinstated the petition, approved a P20,000.00 bail bond (the same amount fixed in the lower court's order of September 15, 1981), without prejudice to a separate ruling on the pending issue on the P150,000.00 supersedeas bond, and ordered his release from confinement. [13]

On July 20, 1982, the Court of Appeals rendered judgment on the petition for certiorari, etc. which resolved, not only the issues raised in that special civil action but the merits of Falcis' pending appeal as well. [14] In said decision, the Court found that the notice and hearing requirements as well as the procedural formalities prescribed in Rule 71 for the disposition of petitions for contempt had been scrupulously observed, held correct the finding of guilt and the penalty imposed, and approved not only the amount of the appeal bond fixed, but also the additional requirement of a supersedeas bond to insure restitution because of "* * the magnitude of the irregularities attributed to petitioner Falcis and his co-respondents in Special Proceedings No. 312-B." [15] All these notwithstanding, however, said Court annulled the order of contempt upon what it saw to be a "fatal" and "all-encompassing" infirmity -- the Gaviereses lack of personality to initiate the contempt proceedings because they were not parties to the case in which the contempt order was issued, Special Proceedings No. 312-B. [16] The Court took the view that in holding Falcis guilty of contempt, Judge Fernandez had sidestepped Civil Case No. C-9304, CFI of Rizal, by disposing of the merits of the claims pressed therein by Falcis that the questioned transactions with the Gaviereses were not in fact sales, but a loan already repaid, and that the lots subject thereof had already been segregated from the San Pedro estate. It opined that the Gaviereses, as victims of a bad transaction, should have sought recourse in a court of general jurisdiction, instead of in a special proceeding to which they were strangers, and where the injunctive order against sales of the property covered by the voided Titulo de Propiedad No. 4136 affected or applied to only the parties to that proceeding. [17]

Motions for reconsideration having failed, the present petition for review was filed jointly by the Solicitor General representing Judge Fernandez and private counsel on behalf of the Gaviereses, charging that the Court of Appeals committed grave abuse of discretion and/or erred in law in, inter alia:

1)

reinstating the petition in CA-G.R. SP No. 13803 upon mere motion of Falcis' new counsel, who had entered the case sans compliance with the formal requirements of a) his client's written consent filed in court, b) notice, also in writing, of substitution served on the adverse party, and c) the written consent of substituted counsel; and said appearance being invalid, the motion for reinstatement acquired no standing and merited no attention from the Court;

2)

not dismissing said petition on the ground of pendency of the duly perfected appeal from the order of contempt; neither certiorari nor prohibition or habeas corpus can substitute for, or perform the office of, an appeal or writ of error; and a party cannot pursue two parallel remedies at the same time and for the same purpose;

3)

by writing *finis* to the contempt proceedings which were the subject of the appeal, going beyond the *lis mota* of the petition for certiorari, etc. whose issue was mainly the validity of the bonds required;

4)

not affirming the order of contempt despite finding that the lower court had faithfully observed and complied with all requisites and formalities prescribed by Rule 71 in dealing with the contempt incident; and

5)

annulling the order of contempt for alleged lack of personality on the part of the Gaviereses to apply therefor.

The first three (3) objections are quite easily disposed of. First, having failed to oppose the irregular appearance of Falcis' new Counsel (Atty. Dictado) or said counsel's motion for reinstatement of the petition for certiorari, etc., present petitioners are estopped from raising at this stage any question of the validity of said appearance or the correctness of the reinstatement ordered by the Court of Appeals. There is no record of any objection on said petitioners part to the order of reinstatement which issued on October 23, 1981; not only that, the Solicitor General even filed a comment on the reinstated petition on November 6, 1981, furnishing a copy to Atty. Dictado.[18]

It is also well-settled, as a general proposition, that the availability of an appeal does not foreclose recourse to the extraordinary remedies, such as of certiorari or prohibition, where appeal is not adequate, or equally beneficial, speedy and sufficient.[19] And in at least one case,[20] this principle has been applied by the Court to the review of contempt proceedings in particular. Appeal alone was not, in the premises, adequate or expeditious because Falcis could not obtain provisional liberty and would remain in prison during its pendency unless he put up both the required appeal bond of P20,000.00 and the supersedeas bond of P150,000.00 required by the questioned orders of the lower court, his claim that said orders were illegal and unwarranted notwithstanding. It was, therefore, well within the power of the Court of Appeals to entertain the petition for certiorari etc. here regardless of the pendency before it of the appeal in the same contempt proceeding.

However, the Appellate Tribunal's disposition of the merits of the petition does not deserve a similar affirmance. It did err in setting aside the order of contempt in its entirety, given the fact, not only that by its own findings every relevant procedural and notice requirement had been observed and followed in the lower court's dealing with the contempt incident, but also that Falcis had culpably disregarded and violated the injunction against selling any part of the property covered by the voided *Titulo de Propiedad* No. 4136. He knew of said injunction and he fell squarely within the class of persons to which it was addressed: the " * heirs, agents, privies of anyone acting for and in behalf of the (San Pedro) estate, * " having, in executing the deeds of sale to the Gaviereses, formally represented himself to be "the General Attorney-in-fact of the Heirs of the late Don Mariano San Pedro y Esteban." He admitted the genuineness and due execution of said deeds, meaning that he himself, and no other person, had executed them as vendor in representation of the heirs and the estate. And the deeds specifically identify the lots sold as covered and evidenced by *Titulo de Propiedad* No. 4136[21]. He was thus inescapably chargeable with indirect contempt under section 3, paragraph (b), of Rule 71. Rules of Court, and having been so charged, he was found guilty in proceedings regularly conducted in accordance with the procedural prescriptions of said Rule.

The reason given by the Court of Appeals for annulling the contempt order notwithstanding the obvious culpability of Falcis and the admitted regularity of the contempt proceedings in the lower court: that the Gaviereses, being strangers to Special Proceedings No. 312-B, had no personality to initiate contempt charge, has no basis in either law or principle.

The power to punish for contempt is inherent in every court of justice, as essential to the preservation of order in judicial proceedings and to the enforcement of court orders and judgments[22]. While under Rule 71 indirect contempts may be punished only after the filing of written charges and the accused or respondent has been given an opportunity to be heard by himself or counsel, nothing in said Rule may be cited as requiring that where the imputed contempt consists in disobedience to a process, writ, order or judgment, the charges should be filed by a party to the action or proceeding in which such process, writ or order issued. Whether direct or indirect, contempt constitutes an affront to the authority and dignity of the court, to vindicate which it can impose summary punishment in the case of direct contempt or, in the case of indirect contempts, initiate the appropriate proceedings *motu proprio*, needing not the warrant or authority of a charge filed by any other person to do so. The reason is simple. A court's power to punish for contempt is primarily self-preservative, in the exercise of which the interest of private parties -- be they litigants or not in the case in which it is invoked -- is at best only a coincidental, not a necessary or an indispensable, factor. A citation for indirect contempt issued by the court itself, even if based on information only privately or informally communicated to the court, operates as the written charge prescribed by the Rule and if duly and regularly heard, makes a resulting contempt order no less valid than if it had been rendered upon formal charges preferred by a party-litigant. Indeed, it has been held that such charges may be made, not only by the court or the prosecuting officer, but "** * even by a private person.*"

"With respect to the first order dated September 30, charging respondent Torres with various acts in relation to the court, respondent contends that the supposed acts with which he is charged are criminal in nature and that proceedings against him should have been begun by the filing of an information by the fiscal, because were the proceedings allowed to be instituted by the court or the judge, who is supposed to be offended by the acts of respondent, the Judge becomes in fact the accuser and the judge -- an anomaly. We find no merit in this contention. In the first place, the proceedings against the respondent arose in the course of a civil action and the offensive conduct subject of the proceeding is not being prosecuted as an offense under the Revised Penal Code but under the Rules of Court. Under the Rules (Rule 64) contempt of court may be proceeded against after a charge in writing has been filed, and an opportunity given to the accused to be heard by himself or counsel (section. 3). The power or duty of the court to institute a charge for contempt against itself, without the intervention of the fiscal or prosecuting officer, is essential to the preservation of its dignity and of the respect due it from litigants, lawyers and the public. Were the intervention of the prosecuting officer required and judges obliged to file complaints for contempts against them before the prosecuting officer, in order to bring the guilty to justice, courts would be inferior to prosecuting officers and impotent to perform their functions with dispatch and absolute independence. The institution of charges by the prosecuting officer is not necessary to hold persons guilty of civil or criminal contempts amenable to trial and punishment by the court. All that the law requires is that there be a charge in writing duly filed in court and an opportunity to the person charged to be heard by himself or counsel. The charge may be made by the fiscal, by the judge, or even by a private person. * *"[23]

It is therefore beside the point that the Gaviereses upon whose motion the contempt proceedings were initiated were not parties to Special Proceedings No. 312-B, the case where the injunctive order violated by Falcis was issued. It was not necessary that they be so situated, nor even that they sustained damage in consequence of such violation though, as was quite clearly made to appear, there is no doubt that they did in fact suffer damage of no mean value.

Upon the facts, the Court finds the contempt order complained of correct and unassailable insofar as it imposes

upon Falcis a fine of P1,000.00 and sentences him to suffer imprisonment for a period of six (6) months, these being within the range of the penalties prescribed for indirect contempts in Rule 71, Sec. 6, of Rules of Court.

Said order, however, errs in ordering Falcis to make complete restitution to the Gaviereses and decreeing that he be released from imprisonment only upon his doing so. The liability, if any, of Falcis to the Gaviereses for the sales transactions complained of should have been left to the determination of the Court of First Instance of Caloocan City, Branch 12, where issue had been raised as to the real nature of said transactions in Civil Case No. C-9304 filed on June 18, 1981 and already pending when the contempt order was issued. It needs be stressed that contempt proceedings, being primarily vindicative of the dignity and authority of the court, should limit themselves to imposing the sanctions appropriate to that purpose and avoid awarding affirmative relief not really germane thereto and which should follow upon the trial of the relevant issues formally raised in a more proper venue.

The further orders for Falcis' commitment to the national penitentiary and for his indefinite imprisonment are necessarily vitiated by the impropriety of the order to make restitution. So is the order requiring the posting of a supersedeas bond of P150,000.00 which also appears to be inconsistent with the order for indefinite imprisonment.

WHEREFORE, the Decision of the Court of Appeals under review is SET ASIDE and a new one is hereby RENDERED:

a) AFFIRMING the lower court's order of September 9, 1981 in Special Proceedings No. 312-B only insofar as it finds Prudencio G. Falcis guilty of contempt and sentences him to pay a fine of P1,000.00 as well as suffer imprisonment for six (6) months;

b) ANNULING AND SETTING ASIDE said order of September 9, 1981 insofar as it orders Prudencio G. Falcis to make restitution of the amounts of P100,000.00 to Luis M. Gavieres, P15,000.00 to Arthur P. Gavieres and P15,000.00 to Vicente P. Gavieres, but without prejudice to the right of the latter to set up the appropriate counterclaims in Civil Case No. C-9034 of the Court of First Instance (now Regional Trial Court) of Caloocan City or to pursue such other remedies as may be available to them in connection with their complained-of sales transactions with Prudencio G. Falcis; and

c) SETTING ASIDE also the lower court's order of September 14, 1981 in Special Proceedings No. 312-B requiring the posting of a supersedeas bond of P150,000.00:

No pronouncement as to costs.

SO ORDERED.

Cruz, Gancayco, Griño-Aquino, and Medialdea, JJ., concur.

[1] Rollo, pp. 48, 68-97

[2] Rollo, G.R. No. L-38335, p. 97

[3] Rollo, p. 98

[4] Rollo, p. 100

[5] Rollo, pp. 106-107

[6] seven persons identified by name and several "John Does"

[7] Rollo, p. 120

[8] Rollo, pp. 121-123

[9] CA-G.R. No. SP-13083

[10] Rollo, pp. 125-127

[11] Docketed as Civil Case No. C-9304

[12] Rollo, p. 138

[13] Rollo, p. 144

[14] Rollo, p. 152

[15] Rollo, p. 150

[16] Rollo, p. 181

[17] Rollo, p. 184

[18] Rollo, p. 182

[19] PNB vs. Puno, 170 SCRA 229

[20] Obias vs. Borja, 136 SCRA 687

[21] Rollo, pp. 113-117

[22] In re Kelly, 35 Phil. 944; Slade Perkins vs. Director of Prisons, 58 Phil. 271, 279; Commissioner of Immigration vs. Cloribel, 20 SCRA 1241; Montalban vs. Canonoy, 38 SCRA 1; Halili vs. CIR, 136 SCRA 112

[23] People vs. Venturanza, et al., 98 Phil. 211; (Rule 64, sec. 3, in force at the time is the same as the present Rule 71, sec. 3); see also Fernandez vs. Hon. Bello, 107 Phil. 1140

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