

ISIDRO REPEQUE, PETITIONER, VS. JUDGE GREGORIO U. AQUILIZAN, COURT OF AGRARIAN RELATIONS, BRANCH II, COTABATO CITY AND RENE BETANTOS, RESPONDENTS.

G.R. No. 62979. June 29, 1984

Ponente: AQUINO, J.

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AQUINO, J.:

This case is about the legality of the arrest and detention of Isidro Repeque, for allegedly preventing Rene Betantos, from occupying a lot levied upon to satisfy the judgment for damages in favor of Betantos although, according to Repeque, the said lot was not involved in the execution of the judgment rendered by respondent judge.

In CAR Case No. 74, entitled "Rene Betantos vs. Angelico Repeque", Judge Gregorio U. Aquilizan rendered a decision on September 9, 1980, restoring Betantos to the possession of a two-hectare cornland and ordering Repeque to deliver to Betantos 1,604 cavans of corn with cobs and to pay him P4,000 as actual damages and P10,000 as moral and exemplary damages for the alleged mauling of Betantos by Repeque and his son (p. 51, Rollo).

In the execution of the said judgment, Lots Nos. 17, 34 and 71 of Repeque, with an area of 1,725 square meters, were levied upon and sold at public auction on April 7, 1981 for P49,817.50 to Betantos as the highest bidder (pp. 26-27, Rollo). Apparently, Judge Aquilizan does not consider the said sale as a full satisfaction of the monetary part of his judgment.

Repeque's Lots Nos. 2, 4-A and 6, with a total area of more than 21 hectares, were also allegedly levied upon to satisfy the said judgment. Judge Aquilizan in his order of May 27, 1982 directed that the corn harvests from the three lots be deposited in court (pp. 28-29, Rollo). Isidro Repeque denies that there was a levy on those lots (Memo, p. 85, Rollo).

From a certificate of sale dated July 28, 1982, it appears that Lots 4-A and 6, with a total area of 13.8 hectares (mortgaged by Angelico Repeque to the Development Bank of the Philippines to secure a loan amounting to P46,071.06 were sold to the DBP as mortgagee.

The surveyor designated by Judge Aquilizan to determine the location of Lot No. 6 found that said lot is distinct and separate from the land tilled by Isidro Repeque and his brother-in-law, Rodolfo Deslate (p. 7, Rollo; Annex I). So, Isidro Repeque has not been occupying any lot levied upon to satisfy the judgment.

On December 17, 1982, Betantos filed a motion to cite Isidro Repeque for contempt of court because he allegedly "vehemently refused to vacate a portion of the subject property" without specifying what property was referred to. On that same day, December 17, 1981, Judge Aquilizan granted the motion and directed Isidro's arrest (pp. 39-40, 57, Rollo).

Isidro was not served with a copy of the motion. He was not heard. He was arrested without a warrant of arrest on

January 5, 1983 and detained at the Constabulary headquarters in Koronadal, South Cotabato. Isidro mailed to this Court his certiorari petition on January 14, 1983.

We hold that the contempt order and the arrest of Isidro are palpably illegal and void. Respondent judge acted without due process and with grave abuse of discretion, amounting to excess of jurisdiction, in issuing said order. Isidro did not commit any act amounting to indirect contempt. He did not violate any order of the court.

As observed by Justice Cesar Bengzon in *Gamboa vs. Teodoro*, 91 Phil. 270, 274, "courts should be slow in jailing people for noncompliance with their orders". The power to punish for contempt should be exercised on the preservative and not on the vindictive principle and on the corrective and not on the retaliatory idea of punishment (*People vs. Marcos*, 70 Phil. 468, 480; *Yangson vs. Salandanan*, Adm. Case No. 1347, November 12, 1975, 68 SCRA 42).

WHEREFORE, the order of arrest and detention of Isidro Repeque are reversed and set aside. The preliminary injunction is made permanent. Treble costs against respondent Betantos.

SO ORDERED.

Concepcion, Jr., Guerrero, Escolin, and Cuevas, JJ., concur.

Makasiar, J., (Chairman), joins J. Abad Santos, in his concurrence. This is not the first time that Judge Aquilizan expressed his power in an oppressive manner.

Abad Santos, J., The recommendation that the Office of Judicial Administrator should initiate administrative action against Judge Aquilizan for disciplinary purposes.

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