

ROMULO C. FELIZMEÑA, PETITIONER, VS. HON. RICARDO D. GALANO, RESPONDENT.

G.R. No. 63930. July 31, 1984

Ponente: PLANA, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-63930/>

PLANA, J.:

This petition for certiorari seeks to annul the following orders of respondent judge: (1) contempt order dated March 22, 1983 in Criminal Case No. R-82-2606 ordering Attys. Eriberto Decena and Romulo Felizmeña (herein petitioner) to pay a fine of P50.00 each "for not fulfilling their duties as officers of the court and as lawyers of the offended party"; and (2) the order issued during the hearing on April 19, 1983 of petitioner's motion for reconsideration, where respondent judge ordered petitioner to pay the fine of P50.00 immediately, otherwise respondent judge would order petitioner's immediate arrest and confinement in jail.

Petitioner is a member of the law firm Veto and Felizmeña, which was the private prosecutor in Criminal Case No. R-82-2606 entitled *People of the Philip-pines vs. Ester Babac de Torres, et al.* for estafa thru falsification of a commercial document. Petitioner represented the law firm during the presentation of evidence for the prosecution until he rested his case on September 22, 1981.

Two months later, the Manila City Hall was burned. The records of Criminal Case No. R-82-2606 were totally destroyed.

In December 1981, petitioner fell ill, by reason of which the prosecution of Criminal Case No. R-82-2606 was re-assigned to Atty. Eriberto Decena (an associate in Veto & Felizmeña) who thereafter personally appeared in all hearings of the case and signed all pleadings therein.

On January 26, 1982, Asst. Fiscal Reynaldo Sarmiento, the public prosecutor, filed a petition for reconstitution of the burned records. In the hearing thereof, the private prosecutor admitted having copies of the transcript of stenographic notes of the testimonial evidence as well as copies of the documentary evidence.

On February 15, 1983, Atty. Decena filed a manifestation that he had already submitted the records of the case and prayed that the petition for reconstitution be approved.

On March 22, 1983, respondent judge issued the contempt order which is now assailed. It reads:

"Attys. Romulo Felizmeña and Eriberto H. Decena are fined P50.00 each for not fulfilling their duties as officers of the court and as lawyers of the offended party.

"Let the scheduled hearing of the petition for reconstitution be reset to April 13, 1983 at 8:30 a.m."

Atty. Decena, on his own behalf, filed a motion to set aside the contempt order on the ground that he had not committed any contemptuous act. He further alleged that if the basis of the citation for contempt was the pending petition for reconstitution of records, he had already submitted the transcript of stenographic notes of the testimonies of the prosecution witnesses and the documentary evidence.

Petitioner subsequently filed a separate motion for reconsideration of the contempt order, alleging that he was not aware of any duty he had failed to do, for which he could be held in contempt. During the scheduled hearing on April 19, 1983, petitioner manifested that he was submitting his motion without further argument. But respondent judge did not agree. He insisted that a hearing be held, during which he asked petitioner to admit his mistake (without however specifying it) and apologize to the court. When petitioner refused on the ground that he had not made any mistake, he was required to pay the fine of P50.00 immediately, otherwise he would be "arrested now and be detained in jail with the common criminals there."

The entire transcript of stenographic notes during the hearing on April 19, 1983 before respondent judge reads:

"Atty. Felizmeña:

Appearing as movant. If Your Honor, please, I am submitting my motion without further arguments.

"Court:

No, no, you have statements here.

Mr. Counsel, you stated in your Motion for Reconsideration that the order 'does not specify what duty or duties that you have failed to ful-fill', but up to the time that you have rested, I have not seen any withdrawal you filed as Private Prosecutor.

"Atty. Felizmeña:

Our law firm is representing the complainant bank. I was the Private Prosecutor in the above-entitled case up to the time the prosecution had rested its case and, thereafter, the offended party has been represented in this case by another lawyer of the same firm, Atty. Eriberto H. Decena, our Associate, including the reconstitution of the burned records.

"Court:

Did the law firm withdraw?

"Atty. Felizmeña:

No, Your Honor.

"Court:

Then the burden of evidence is in your part since the law firm did not withdraw and you have not filed any withdrawal of appearance.

You just filed your motion without verifying from the records that I have already lifted my Order. I know Atty. Veto. He has appeared here. All the members of the law firm are liable here.

Mr. Felizmeña, 'kinalimutan ko na ito', but you still insist on your motion. 'Gusto mong maging bida.' What are your reasons for making such gratuitous statements in your motion? You want me to read to you...?

'Undersigned does not know what duties he has failed to fulfill in the above-entitled case as an officer of the Court and as lawyer of the offended party, since under-signed after the prosecution of the case has been taken over by Atty. Eriberto H. Decena has no duty to perform whatsoever before the Court and the offended party.

'Undersigned has been in the practice of law for more than 30 years now and has always been sincere in his duties before this Court and other Courts and to his clients. The above order, if not revoked would be a black mark not only on undersigned's integrity and competence as a lawyer but also on the undersigned's reputation as a practitioner.'

As an Officer of the Court, you do not know what duties you have failed to fulfill in this case and you also stated here that you have been in the practice of law for more than thirty years now. You also stated here that if the order will not be revoked, it would be a black mark. What do you mean?

If you insist on your motion, then go ahead, I will meet it.

"Atty. Felizmeña:

I am not aware of the lifting of the Order, Your Honor. The records do not show the Order has been lifted. I went to the province to attend a hearing of another case in Batangas City last April 13, 1983 and it was our Associate, Atty. Decena, who appeared here to argue his motion. Atty. Decena filed his own motion to set aside the order of March 22, 1983 only on his own behalf. Hence, I have to file the instant motion.

"Court:

Since you have already filed your motion and you will not withdraw it, I have to rule.

"Atty. Felizmeña:

Your Honor, if the order of March 22, 1983 has already been lifted then this motion is not necessary.

"Court:

No. I will meet you squarely and rule on your motion.

I am pleading to you Government lawyers to expedite this case because the U.S. Government is involved. It is expecting, after giving the benefits to the Filipino, to prosecute this case. You are an employee of the bank. If you made a mistake you must admit your mis-take and apologize to the Court.

All right, if you insist on your Motion, pay the fine of P50.00.

"Atty. Felizmeña:

Your Honor, I am not an employee of the bank. We are retained counsel of the bank. I have not made any mistake before this Court. How can I apologize for a mistake I have not made, Your Honor.

"Court:

You will not admit your mistake. All right, you are ordered to pay a fine of P50.00.

"Atty. Felizmeña:

May I clarify, Your Honor, if this is an additional fine to the original fine of P50.00?

"Court:

No, no, no....only P50.00 under the Order.

"Atty. Felizmeña:

Your Honor, I am manifesting that I will appeal this Order and I am now making my notice of appeal.

"Court:

Alright, if you insist on your motion and you will not comply with this Order and pay the fine now, I will have you arrested now and be detained in jail with the common criminals there.

(to interpreter)

Call the Sheriff.

(to counsel)

If you leave I will have you arrested by the police. If the police cannot arrest you, I will have you arrested by the Military.

(to Sheriff)

Give him a receipt for P50.00.

"Atty. Felizmeña:

I am going to pay, Your Honor, but under protest. May I now be permitted to leave the Court, Your Honor?

"Court:

Yes, this is a free country." (Petition, Annex "B".)

It was against this background that the instant petition for certiorari has been filed.

Respondent judge claims that before he issued his contempt order of March 22, 1983, i.e., from December 1981 to April 1983, he had repeatedly ordered, requested and even pleaded with petitioner to produce the documents needed to reconstitute the burned records in Criminal Case No. R-82-2606, but the latter did not comply. (Answer, pp. 1-3.) On the other hand, according to petitioner, after he was stricken ill in December 1981 and was replaced by Atty. Decena, he never appeared before respondent's court until April 19, 1983; and therefore, respondent judge could not have issued to petitioner the supposed orders for the alleged violation of which the latter has been held in contempt. Petitioner calls attention to the fact that respondent judge "has not produce(d) any single copy of such order nor any transcript of stenographic notes of such order requiring the petitioner to per-form some acts or duties." (Reply, p. 7.)

For the purpose of this decision, it is not necessary to determine whether the alleged orders were indeed issued to petitioner. Even assuming that they were, the assailed contempt orders must be stricken down. In reaching this conclusion, we have not overlooked the fact that as of March 22, 1983 (date of contempt order), the reconstitution case had been pending for about one year and two months; and respondent judge was obviously motivated by a healthy desire to expedite the reconstitution proceedings when he then acted as he did.

The fault imputed to petitioner is disobedience of a court order - an indirect contempt which must be the subject of a written charge, with the accused afforded an opportunity to be heard by himself or counsel. [Rules of Court, Rule 71, Sec. 3(b).] Unfortunately, in the absence of a written charge and without giving the petitioner an opportunity to defend himself, he and Atty. Eriberto Decena were found guilty and fined P50.00 each "for not fulfilling their duties as officers of the court and as lawyers of the offended party."

Subsequently, in his motion for consideration, petitioner manifested that he was not aware of the duties he had failed to do, for which he was held in contempt. During the hearing thereon on April 19, 1983, instead of telling petitioner what precisely his fault was, respondent judge arbitrarily ordered petitioner to pay the fine of P50.00 upon the latter's refusal to admit his alleged mistake and apologize to the court. Despite petitioner's manifestation that he was appealing the order, he was required to pay the fine forthwith under pain of immediate arrest.

"Court:

You will not admit your mistake. All right, you are ordered to pay a fine of P50.00.

x x x x

Atty. Felizmeña:

Your Honor, I am manifesting that I will appeal this Order and I am now making my notice of appeal.

Court:

Alright, if you insist on your motion and you will not comply with this Order and pay the fine now, I will have you arrested now and be detained in jail with the common criminals there.

(to interpreter)

Call the Sheriff.

(to counsel)

If you leave I will have you arrested by the police. If the police cannot arrest you, I will have you arrested by the Military.

(to Sheriff)

Give him a receipt for P50.00.

(TSN during the hearing on motion for recon-sideration on April 19, 1983. Petition, Annex "B".)

Under the circumstances, it is evident that respondent judge acted without or in excess of jurisdiction in finding petitioner guilty of indirect contempt in the absence of a prior written charge and without affording him an opportunity to be heard and in imposing upon him a fine of Fifty Pesos therefor.

"It is well settled that jurisdiction of the subject matter of a particular case is something more than the general power conferred by law upon a court to take cognizance of cases of the general class to which the particular case belongs. It is not enough that a court has power in abstract to try and decide the class of litigations to which a case belongs; it is necessary that said power be properly invoked, or called into activity, by the filing of a petition, complaint or other appropriate pleading. A Court of First Instance has an abstract jurisdiction or power to try and decide criminal cases for homicide committed within its territorial jurisdiction; but it has no power to try and decide a criminal case against a person for homicide committed within its territory, unless a complaint or information against him be filed with the said court. And it has also power to try civil cases involving title to real estate situated within its district; but it has no jurisdiction to take cognizance of a dispute or controversy between two persons over title of real property located in his province, unless a proper complaint be filed with its court. So, although the Court of First Instance of Bulacan has power conferred by law to punish as guilty of indirect contempt a party who disobeys its order or judgment, it did not have or acquire jurisdiction of the particular case under consideration to declare the petitioners guilty of indirect contempt, and order their confinement until they have executed the deed of conveyance in question, because neither a charge has been filed against them nor a hearing thereof held as required by law.

"The respondent Judge Angel Mojica acted not only without jurisdiction in proceeding against and declaring the petitioners guilty of contempt, but also in excess of jurisdiction in ordering the confinement of the petitioners, because it had no power to impose such punishment upon the latter." (Caluag vs. Pecson, 82 Phil. 8 at 12-13.)

Accordingly, the assailed contempt order dated March 22, 1983 as well as that issued by respondent judge on April 19, 1983 requiring petitioner to pay a fine of Fifty Pesos are hereby annulled and set aside. The fine paid shall be refunded to petitioner. SO ORDERED.

Teehankee, (Chairman), Melencio-Herrera, Relova, Gutierrez, Jr., and De La Fuente, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.