

**KHALYXTO PEREZ MAGLASANG, ACCUSED-PETITIONER, VS.
PEOPLE OF THE PHILIPPINES, PRESIDING JUDGE ERNESTO B.
TEMPLADO (SAN CARLOS CITY COURT), NEGROS OCCIDENTAL,
RESPONDENTS.**

G.R. No. 90083. October 04, 1990

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PER CURIAM:

On June 22, 1989, a petition for certiorari^[1] entitled "Khalyxto Perez Maglasang vs. People of the Philippines, Presiding Judge, Ernesto B. Templado (San Carlos City Court) Negros Occidental," was filed by registered mail with the Court. Due to non-compliance with the requirements of Circular No. 1-88 of the Court, specifically the non-payment of P316.50 for the legal fees and the non-attachment of the duplicate originals or duly certified true copies of the questioned decision and orders of the respondent judge denying the motion for reconsideration, the Court dismissed the petition on July 26, 1989.^[2]

On September 9, 1989, Atty. Marceliano L. Castellano, as counsel of the petitioner, moved for a reconsideration of the resolution dismissing the petition.^[3] This time, the amount of P316.50 was remitted and the Court was furnished with a duplicate copy of the respondent judge's decision, and also the IBP O.R. No. and the date of the payment of his membership dues. The motion for reconsideration did not contain the duplicate original or certified true copies of the assailed orders. Thus, in a Resolution dated October 18, 1989, the motion for reconsideration was denied "with FINALITY."^[4]

Three months later, or on January 22, 1990 to be exact, the Court received from Atty. Castellano a copy of a complaint dated December 19, 1989, filed with the Office of the President of the Philippines whereby Khalyxto Perez Maglasang, through his lawyer, Atty. Castellano, as complainant, accused all the five Justices of the Court's Second Division with "biases and/or ignorance of the law or knowingly rendering unjust judgments or resolution."^[5] The complaint was signed by Atty. Castellano "for the complainant" with the conformity of one Calixto B. Maglasang, allegedly the father of accused-complainant Khalyxto.^[6] By reason of the strong and intemperate language of the complaint and its improper filing with the Office of the President, which, as he should know as a lawyer, has no jurisdiction to discipline, much more, remove, Justices of the Supreme Court, on February 7, 1990, Atty. Castellano was required to show cause why he should not be punished for contempt or administratively dealt with for improper conduct.^[7] On March 21, 1990, Atty. Castellano filed by registered mail his "Opposition To Cite For Contempt Or Administratively Dealt With For An Improper Conduct (sic)."^[8]

In his "Opposition", Atty. Castellano claimed that the complaint "was a constructive criticism intended to correct in good faith the erroneous and very strict practices of the Justices concerned, as Respondents (sic)."^[9] Atty. Castellano further disputed the authority and jurisdiction of the Court in issuing the Resolution requiring him to show cause inasmuch as "they are Respondents in this particular case and no longer as Justices and as such they have no more jurisdiction to give such order."^[10] Thus, according to him, "the most they (Justices) can do by the mandate of the law and procedure (sic) is to answer the complaint satisfactorily so that they will not be punished in accordance with the law just like a common tao."^[11]

Notwithstanding his claim that the complaint was a "constructive criticism," the Court finds the various statements made by Atty. Castellano in the complaint he lodged with the Office of the President of the Philippines and in his "Opposition" filed with the Court portions of which read as follows:

VI.

That with all these injustices of the 2nd Division, as assigned to that most Honorable Supreme Court, the complainant was legally constrained to file this Administrative Complaint to our Motherly President who is firm and determined to phase-out all the scalawags (Marcos Appointees and Loyalists) still in your administration without bloodshed but by honest and just investigations, which the accused-complainant concurs to such procedure and principle, or otherwise, he could have by now a rebel with the undersigned with a cause for being maliciously deprived or unjustly denied of Equal Justice to be heard by our Justices designated to the Highest and most Honorable Court of the Land (Supreme Court);[12] (Emphasis ours.)

VII.

That the Honorable Supreme Court as a Court has no fault at all for being Constitutionally created, but the Justices assigned therein are fallables (sic), being bias (sic), playing ignorance of the law and knowingly rendering unjust Resolutions the reason observed by the undersigned and believed by him in good faith, is that they are may be Marcos-appointees, whose common intention is to sabotage the Aquino Administration and to rob from innocent Filipino people the genuine Justice and Democracy, so that they will be left in confusion and turmoil to their advantage and to the prejudice of our beloved President's honest, firm and determined Decision to bring back the real Justice in all our Courts, for the happiness, contentment and progress of your people and the only country which God has given us -- PHILIPPINES.[13] (Emphasis ours.)

VIII

That all respondents know the law and the pure and simple meaning of Justice, yet they refused to grant to the poor and innocent accused-complainant, so to save their brethren in rank and office (Judiciary) Judge Ernesto B. Templado, x x x.[14]

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x x x If such circulars were not known to the undersigned, it's the fault of the Justices of the Honorable Supreme Court, the dismissal of the petition was based more of money reasons. x x x This is so for said Equal Justice is our very Breath of Life to every Filipino, who is brave to face the malicious acts of the Justices of the Second Division, Supreme Court. By reason of fear for the truth Respondents ignore the equal right of the poor and innocent-accused (complainant) to be heard against the rich and high-ranking person in our Judiciary to be heard in equal justice in our Honorable Court, for the respondents is too expensive and can't be reached by an ordinary man for the Justices therein are inconsiderate, extremely strict and meticulous to the common tao and hereby grossly violate their Oath of Office and our Constitution "to give all possible help and means to give equal Justice to any man, regardless of ranks and status in life." [15] (Emphasis ours.)

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5. That the undersigned had instantly without delay filed a Motion for Reconsideration to the Resolution which carries with it a final denial of his appeal by complying (sic) all the requirements needed for a valid appeal yet the respondents denied just the same which legally hurt the undersigned in the name of Justice, for the Respondents-Justices, were so strict or inhumane and so inconsiderate that there dispensation (sic) of genuine

justice was too far and beyond the reach of the Accused-Appellant, as a common tao, as proved by records of both cases mentioned above.[16]

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D. That by nature a contempt order is a one sided weapon commonly abused by Judges and Justices, against practicing lawyers, party-litigants and all Filipino people in general for no Judges or Justices since the beginning of our Court Records were cited for contempt by any presiding Judge. That this weapon if maliciously applied is a cruel means to silence a righteous and innocent complainant and to favor any person with close relation.[17]

scurrilous and contumacious. His allegations that the Court in dismissing his petition did so "to save their brethren in rank and office (Judiciary) Judge Ernesto B. Templado," and that the dismissal was "based more for (sic) money reasons;" and his insinuation that the Court maintains a double standard in dispensing justice--one set for the rich and another for the poor--went beyond the bounds of "constructive criticism." They are not relevant to the cause of his client. On the contrary, they cast aspersion on the Court's integrity as a neutral and final arbiter of all justiciable controversies brought before it. Atty. Castellano should know that the Court in resolving complaints yields only to the records before it and not to any extraneous influence as he disparagingly intimates.

It bears stress that the petition was dismissed initially by the Court for the counsel's failure to fully comply with the requirements laid down in Circular No. 1-88, a circular on expeditious disposition of cases, adopted by the Court on November 8, 1988, but effective January 1, 1989, after due publication. It is true that Atty. Castellano later filed on behalf of his client a motion for reconsideration and remitted the necessary legal fees,[18] furnished the Court with a duplicate original copy of the assailed trial court's decision,[19] and indicated his IBP O.R. No. and the date he paid his dues.[20] But he still fell short in complying fully with the requirements of Circular No. 1-88. He failed to furnish the Court with duplicate original or duly certified true copies of the other questioned orders issued by the respondent trial court judge. At any rate, the explanation given by Atty. Castellano did not render his earlier negligence excusable. Thus, as indicated in our Resolution dated October 18, 1989 which denied with finality his motion for reconsideration, "no valid or compelling reason (having been) adduced to warrant the reconsideration sought." Precisely, under paragraph 5 of Circular No. 1-88 it is provided that "(S)ubsequent compliance with the above requirements will not warrant reconsideration of the order of dismissal unless it be shown that such non-compliance was due to compelling reasons."

It is clear that the case was lost not by the alleged injustices Atty. Castellano irresponsibly ascribed to the members of the Court's Second Division, but simply because of his inexcusable negligence and incompetence. Atty. Castellano, however, seeks to pass on the blame for his deficiencies to the Court, in the hope of salvaging his reputation before his client. Unfortunately, the means by which Atty. Castellano hoped to pass the buck so to speak, are grossly improper. As an officer of the Court, he should have known better than to smear the honor and integrity of the Court just to keep the confidence of his client. Time and again we have emphasized that a "lawyer's duty is not to his client but to the administration of justice; to that end, his client's success is wholly subordinate; and his conduct ought to and must always be scrupulously observant of law and ethics." [21] Thus, "while a lawyer must advocate his client's cause in utmost earnest and with the maximum skill he can marshal, he is not at liberty to resort to arrogance, intimidation, and innuendo." [22]

To be sure, the Court does not pretend to be immune from criticisms. After all, it is through the criticism of its actions that the Court, composed of fallible mortals, hopes to correct whatever mistake it may have unwittingly committed. But then again, "[i]t is the cardinal condition of all such criticism that it shall be bona fide, and shall not spill over the walls of decency and propriety. A wide chasm exists between fair criticism, on the one hand, and abuse and slander of courts and the judges thereof, on the other. Intemperate and unfair criticism is a gross

violation of the duty of respect to courts." [23] In this regard, it is precisely provided under Canon 11 of the Code of Professional Responsibility that:

CANON 11 - A LAWYER SHALL OBSERVE AND MAINTAIN THE RESPECT DUE TO THE COURTS AND TO JUDICIAL OFFICERS AND SHOULD INSIST ON SIMILAR CONDUCT BY OTHERS.

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RULE 11.03 - A lawyer shall abstain from scandalous, offensive or menacing language or behavior before the courts.

RULE 11.04 - A lawyer should not attribute to a judge motives not supported by the record or have materiality to the case.

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We further note that in filing the "complaint" against the Justices of the Court's Second Division, even the most basic tenet of our government system--the separation of powers between the judiciary, the executive, and the legislative branches--has been lost on Atty. Castellano. We therefore take this occasion to once again remind all and sundry that "the Supreme Court is supreme--the third great department of government entrusted exclusively with the judicial power to adjudicate with finality all justiciable disputes, public and private. No other department or agency may pass upon its judgments or declare them 'unjust' ". [24] Consequently, and owing to the foregoing, not even the President of the Philippines as Chief Executive may pass judgment on any of the Court's acts.

Finally, Atty. Castellano's assertion that the complaint "was a constructive criticism intended to correct in good faith the erroneous and very strict practices of the Justices, concerned as Respondents (sic)" is but a last minute effort to sanitize his clearly unfounded and irresponsible accusation. The arrogance displayed by counsel in insisting that the Court has no jurisdiction to question his act of having complained before the Office of the President, and in claiming that a contempt order is used as a weapon by judges and justices against practicing lawyers, however, reveals all too plainly that he was not honestly motivated in his criticism. Rather, Atty. Castellano's complaint is a villification of the honor and integrity of the Justices of the Second Division of the Court and an impeachment of their capacity to render justice according to law.

WHEREFORE, Atty. Marceliano L. Castellano is found guilty of CONTEMPT OF COURT and IMPROPER CONDUCT as a member of the Bar and an officer of the Court, and is hereby ordered to PAY within fifteen (15) days from and after the finality of this Resolution a fine of One Thousand (P1,000.00) Pesos, or SUFFER ten (10) days imprisonment in the municipal jail of Calatrava, Negros Occidental in case he fails to pay the fine seasonably, and SUSPENDED from the practice of law throughout the Philippines for six (6) months as soon as this Resolution becomes final, with a WARNING that a repetition of any misconduct on his part will be dealt with more severely. Let notice of this Resolution be entered in Atty. Castellano's record, and be served on the Integrated Bar of the Philippines, the Court of Appeals, and the Executive Judges of the Regional Trial Courts and other Courts of the country, for their information and guidance.

SO ORDERED.

Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Gancayco, Padilla, Bidin, Sarmiento, Cortes, Griño-Aquino, Medialdea, and Regalado, JJ., concur.

Fernan, C.J., Paras, and Feliciano, JJ., on leave.

- [1] Rollo, 1-5.
- [2] Id., 31.
- [3] Id., 37-39.
- [4] Id., 103.
- [5] Id., 31.
- [6] Id., 111.
- [7] Id., 148.
- [8] Id., 149-153.
- [9] Id., 149.
- [10] Id., 152.
- [11] Id.
- [12] Id., 107.
- [13] Id., 107-108.
- [14] Id., 108.
- [15] Id., 109-110.
- [16] Id., 150.
- [17] Id., 151-152.
- [18] Id., 36.
- [19] Id., 40-49.
- [20] Id., 39.
- [21] In Re: Wenceslao Laureta, March 12, 1987, 148 SCRA 382, 422.
- [22] Sangalang vs. Gaston, No. 71169, August 30, 1989.
- [23] In re Almacen; No. L-27654, February 18, 1970, 31 SCRA 562, 580.
- [24] In re: Wenceslao Laureta, supra, 147.

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