

**THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLANT, VS. EUSTACIO DE LUNA, ET AL., DEFENDANTS AND APPELLEES.***G. R. Nos. 10236-48. January 31, 1958*

Ponente: CONCEPCION, J.

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This is an appeal, taken by the prosecution, from an order, of the Court of First Instance of Manila, granting a motion to dismiss filed by the defendant in each one of the above entitled cases, for lack of jurisdiction and, also, upon the ground that the facts alleged in the amended informations, filed in said cases, do not constitute the crime of contempt of court with which said defendants (Eustacio de Luna, Jaime P. Marco, Santos L. Pariña, Estela R. Gordo, Angelo T. Lopez, Generosa H. Hubilla, Oreste Arellano y Rodriguez, Abraham C. Calaguas, Roque J. Briones, Alawadin I. Bandon, Balbino P. Fajardo, Maria Velez y Estrellas and Emilio P. Jardinico, Jr.) are charged. It is alleged in said amended informations that, on or about the 22nd day of December, 1954, in the City of Manila, Philippines, the person accused in each one of these cases

"\* \* \* well knowing that he has not passed the bar examination and was not in any way authorized to take his oath as a lawyer and after having been duly informed and notified that certain portions of Republic Act No. 972, known as the Bar Flunkers Act of 1953, are unconstitutional and therefore void and without force and effect, and that all the petitions of the candidates including the accused who failed in the examinations of 1946 to 1952, inclusive, for admission to the bar were refused and denied by the Resolution of the Honorable, the Supreme Court, promulgated on March 18, 1954, did then and there wilfully, unlawfully and contemptuously disobey and resist in an insolent and defiant manner the said Resolution of the Supreme Court directed to him and each and everyone of the petitioners, and perform acts constituting improper conduct and manifestations that tend directly or indirectly to impede, obstruct or degrade the administration of justice in all courts of the Philippines and impair the respect to and attack the authority and dignity of the Honorable, the Supreme Court and all other inferior courts by then and there, without being lawfully authorized to do so, taking an oath as a lawyer before a notary public and making manifestations to that effect before the Honorable, the Supreme Court."

After quoting from Rule 64, section 4, of the Rules of Court, the pertinent part of which reads:

"Where the contempt \* \* \* has been committed against a superior court or judge, or against an officer appointed by it, the charge may be filed with such superior court \* \* \*." (*Italics ours.*)

and from the *Corpus Juris Secundum*, the rule to the effect that

"It is a well-established rule that the power to judge a contempt rest exclusively with the court contemned and that no court is authorized to punish a contempt against another. Accordingly, disobedience of the order of a state court is not punishable as for contempt by a court of another state or by a federal court."

the lower court concluded that the contemptuous act allegedly committed by appellees herein "was committed not against" said court "but against the Supreme Court of the Philippines" and that, accordingly, the Court of First Instance of Manila "has no jurisdiction to try and punish" the appellees herein.

This conclusion is untenable. The above-quoted provision of the Rules of Court is permissive in nature. It is merely declaratory of the inherent power of courts to punish those guilty of contempt against the same. It does not declare that jurisdiction of the court concerned to so punish the guilty party is exclusive. Indeed, in promulgating said Rules of Court, this Court could not have validly denied to other Courts, to which the jurisdiction may have been vested by statute, the right to exercise said authority, for the rule-making power of the Supreme Court, under Article VIII, section 13, of the Constitution, is limited to the promulgation of "rules concerning pleadings, practice and procedure in all courts, and the admission to the practice of law," and does not extend to the determination of the jurisdiction of the courts of justice in the Philippines. In fact, section 2 of said Article VIII of the Constitution explicitly ordains that "Congress shall have the power to define, prescribe and apportion the jurisdiction of the various courts," thereby implying, necessarily, that such power is withheld from the Supreme Court. Needless to say, the aforesaid view, quoted from *Corpus Juris Secundum*, is good law only "unless otherwise provided by statute" (17 C.J.S., 81), and such statute, providing "otherwise", exists in the Philippines.

Moreover, the amended informations specifically allege that the defendants herein did "perform acts constituting improper conduct and manifestations that tend directly or indirectly to impede, obstruct or degrade the administration of justice in all courts of the Philippines and impair the respect to and attack the authority and dignity of the Honorable, the Supreme Court and all other inferior courts" To put it differently the acts charged were committed, according to said amended informations, in contempt of the Supreme Court, as well as of "all other courts of the Philippines," including the Court of First Instance of Manila. Thus, the very authorities cited in the order appealed from do not justify the same.

Again, section 236 of Act No. 190 and section 6 of Rule 64 of the Rules of Court provide that a person guilty of any of the acts of contempt defined, respectively, in section 232 of said Act and section 3 of said Rule 64, "may be fined not exceeding one thousand pesos, or imprisoned not more than six months." Pursuant to section 44 of the Revised Judiciary Act of 1948 (Republic Act No. 296), courts of first instance have original jurisdiction over criminal cases "in which the penalty provided by law is imprisonment for more than six months, or a fine of more than two thousand pesos." Inasmuch as a fine not exceeding P1,000 may be imposed in the cases of contempt under consideration, it follows that the same are within the original jurisdiction of the Court of First Instance of Manila, although such jurisdiction is concurrent with that of the Supreme Court, in view of the inherent power of the latter to punish those guilty of contempt against the same.

It may not be amiss to add that, in the event of such concurrent jurisdiction over cases of contempt of court, it would be a good practice to acknowledge the preferential right of the court against which the act of contempt was committed to try and punish the guilty party. However, insofar as appellees herein are concerned, on February 3, 1955, this Court passed and promulgated a resolution of the following tenor:

"The Court received from Pedro B. Ayuda a communication of the following tenor:

REPUBLIC OF THE PHILIPPINES  
SUPREME COURT  
MANILA

"IN-RE ATTORNEYS WHO TOOK THE OATH BEFORE A NOTARY PUBLIC UNDER THE PROVISIONS OF REPUBLIC ACT NO. 972.

"Oreste Arellano y Rodriguez

"Pedro B. Ayuda

"Alawadin I. Bandon

"Roque J. Briones  
"Abraham C. Calaguas  
"Balbino P. Fajardo  
"Claro C. Gofredo  
"Estela R. Gordo  
"Generoso H. Hubilla  
"Emilio P. Jardinico, Jr.  
"Angelo T. Lopez  
"Eustacio de Luna  
"Jaime P. Marco  
"Santos L. Pariña  
"Florencio P. Sugarol, and  
"Maria Velez y Estrellas.  
Attorneys.

"MANIFESTATION

"COMES NOW the undersigned for and in representation of the above-named attorneys and to this Honorable Court, hereby respectfully makes manifestation that they have taken the oath of office as Attorneys-at-Law on December 22, 1954 before Mr. Anatolio A. Alcova, a Notary Public in and for the City of Manila, with office at R-201 Regina Building, Escolta, Manila, in pursuance of the provisions of Republic Act No. 972;

"There are attached to this manifestation seventeen (17) copies of the oath of office as Annexes 'A', 'B', 'C', 'D', 'E', 'F', 'G', 'H', 'I', 'K', 'L', 'M', 'N', 'O', 'P', and 'Q'.

"Messrs, Alejandro P. Capitulo, Claro C. Gofredo, and Florencio P. Sugarol of the group took the bar examinations in August, 1954. They also had taken their oath before this Honorable Tribunal, January 20, 1955.

"This manifestation is made for all legal effects as they will practice law in all the Courts of the Philippines.  
"Manila, Philippines, January 28, 1955.

(Sgd.) PEDRO B. AYUDA

In his own behalf and on behalf of the other in his capacity as president of the 1946-1952 BAR EXAMINEES ASSOCIATION, 2034 Azcarraga, Manila.

"It appearing that the persons mentioned, except Capitulo, Gofredo and Sugarol, have not passed the Bar Examinations, it was resolved:

"A. To refer the matter to the Fiscal, City of Manila for investigation and appropriate action in connection with Section 3 (e), Rule 64;

"B. As Pedro Ayuda has assumed to be an attorney without authority, he is given 10 days from notice hereof, within which to explain why he should not be dealt with for contempt of this Court;

"C. The notary public Anatolio A. Alcoba, member of the Bar, who has illegally administered the oath to the said persons in disregard of this Court's resolution denying them admission to the Bar (except Capitulo, Gofredo and Sugarol), is hereby given ten days to show cause why he should not be disbarred or suspended from the practice of law;

"D. The clerk of Court is directed to furnish copy of this resolution to the Court of Appeals and to all courts of first instance, the Court of Industrial Relations, the Public Service Commission, and the Department of Justice;

"E. As to Capitulo, Gofredo and Sugarol, proper action will be taken later in their respective cases." (pp. 36-37, rec, G. R. No. L-10245.)

It is clear, from the foregoing resolution, that this Court did not intend to exercise its concurrent jurisdiction over the acts of alleged contempt committed by appellees herein and that we preferred that the corresponding action be taken by the City Fiscal of Manila in the Court of First Instance of Manila. In fine, the latter had no justification whatsoever in refusing to exercise its jurisdiction over the cases at bar.

The next question for determination is whether the acts charged in the amended informations constitute contempt of court. After quoting the allegation of said amended informations to the effect that the defendant in each one of the instant cases

"\* \* \* did then and there wilfully, unlawfully and contemptuously disobey and resist in an insolent and defiant manner the said Resolution of the Supreme Court directed to him, and each and everyone of the petitioners and perform acts constituting improper conduct and manifestations that tend directly and indirectly to impede, obstruct or degrade the administration of justice \* \* \* "

the lower court had the following to say:

"From this allegation, there is no hint whatsoever that any command, order or notification from the judicial court or any non-judicial person, committee or body clothed by law with power to punish for contempt has been disobeyed or violated by the herein accused. Moreover, there is nothing shown in the resolution of the Honorable Supreme Court of March 18, 1954 directing the accused not to take their oath as lawyers. The mere fact of taking an oath by any person as a lawyer does not make him automatically a lawyer without having completed the requirements prescribed by the Supreme Court for the admission to the practice of law. It is necessary before his admission to the Bar that he passes the required bar examinations and is admitted by the Supreme Court to practice law as attorney. Our statutes punish as criminal contempt one 'assuming to be an attorney or an officer of a court and acting as such without authority.' (par. F. Rule 64, Rules of Court.) The mere taking of oath as lawyers by herein accused, in the humble opinion of this Court, is not tantamount to practice law. However, if this had taken one step further, as for example, after taking their oaths, they have held out themselves as lawyers to the public, received cases for litigants, appeared before any court of justice personally or by filing pleadings therewith, would be considered that they are really engaged in the practice of law. These accused have not committed any of these acts as enunciated by our Supreme Tribunal in the case of Bosque and Ney, 8 Phil., 146, nor have they disobeyed or defied any command, order or notification of this Court or of the Honorable Supreme Court. What they have done only was the taking of their oath as lawyers before a notary public who was not authorized by law to take their oath as lawyers, as the latter can only swear as such before the Supreme Court or any member thereof.

"Pursuant to the above stated reasons, this Court is of the opinion and so holds that no criminal contempt has been committed by the herein accused before this Court and neither before the highest Tribunal of this land."

The aforementioned quotation from the amended informations is, however, incomplete. It did not include the allegation to the effect that the defendant in each one of the cases at bar took his "oath as a lawyer before a notary public" and filed the manifestation transcribed in the resolution above quoted,

"well knowing that he has not passed the bar examination and was not in any way authorized to take his oath as a lawyer and after having been duly informed and notified that certain portions of Republic Act No. 972, known as the Bar Flunkers Act of 1953, are unconstitutional and therefore void and without force and effect, and that all the petitions of the candidates including the accused who failed in the examinations of 1946 to 1952, inclusive, for admission to the bar were refused and denied by the resolution of the Honorable Supreme Court, on March 18, 1954, \* \* \*."

In other words, appellees knew that they did not pass the bar examination. Although they, likewise, sought admission to the Bar under the provisions of Republic Act No. 972, known as the Bar Flunkers Act of 1953, they were subsequently notified of the resolution of this Court denying said petition. Inasmuch as the oath as lawyer is a prerequisite to the practice of law and may be taken only, before the Supreme Court, by those authorized by the latter to engage in such practice, the resolution denying the aforementioned petition of appellees herein, implied, necessarily, a denial of the right to take said oath, as well as a prohibition of or injunction against the taking thereof. When, this notwithstanding, appellees took the oath before a notary public, and formally advised this Court, not only of such fact, but also, that "they will practice in all the courts of the Philippines," they, accordingly, disobeyed the order implied, and resisted the injunction implicit, in said resolution, thus violating section 232 of Act No. 190, which declares in part:

"A person guilty of any of the following acts may be punished as for contempt:

"1. Disobedience of or resistance to a lawful writ, process, order, judgment, or command of a court, or injunction granted by a court or judge."

and section 3, subdivision (b), Rule 64, of the Rules of Court, which is identical.

This case is, in principle, analogous to that of *U.S. vs. Ney and Bosque* (8 Phil., 146), which involved two lawyers, an American, C.W. Ney, and a Spaniard, Juan Garcia Bosque, who sent out a circular, signed "Ney and Bosque", stating that they had established an office for the general practice of law in all courts of the Islands and that Bosque would devote himself especially to consultation and office work relating to Spanish Law. Accused of contempt of court, both were convicted as charged, although upon different grounds. As regards the Spaniard, it was held that a former order of this Court denying his admission to the practice of law in the Philippines, on account of alienage, "was directly binding upon him;" that the aforementioned circular "amounted to an assertion of his right and purpose" to engage in such practice of law; and that "consequently the conduct of the defendant Bosque amounts to disobedience of an order made in a proceeding to which he was a party." As regards Ney, he was found guilty of "misbehaviour" committed by "an officer of the court."

Likewise, by their aforementioned acts, as set forth in the amended informations, appellees herein expressed clearly their intent to, and did, in fact, challenged and defy the authority of this Court to pass upon and settle, in a final and conclusive manner, the issue whether or not they should be admitted to the bar, as well as, embarrass, hinder and obstruct the administration of justice and impair the respect due to the courts of justice in general, and the Supreme Court, in particular. Thus, they performed acts constituting an "improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice," in violation of section 3, subdivision (b) of said Rule 64.

"\* \* \* Acts which bring the court into disrepute or disrespect or which offend its dignity, affront its majesty, or challenge its authority constitute contempt of court." \* \* \*. (12 Am. Jur. 395.)

The lower court is, seemingly, under the impression that appellees could not be guilty of contempt of court unless they actually engaged in the practice of law or "held out to the public" as lawyers "by means of circulars." Such view is inaccurate, for "assuming to be an attorney \* \* \* and acting as such without authority," is, only one of the

means by which contempt of court may be committed, under said Rule 64, section 3, of the Rules of Court. At any rate, by taking "the oath of office as attorney-at-law" and notifying the Supreme Court that they had done so and would "practice law in all courts of the Philippines", the appellees had, for all intents and purposes, "held out to the public" as such attorneys-at-law (U.S. vs. Ney and Bosque, supra).

Wherefore, the order appealed from is hereby reversed, and let the records of these cases be remanded to the court of origin for further proceedings not inconsistent with this decision. It is so ordered.

Paras, C. J., Bengzon, Padilla, Montemayor, Reyes, A., Bautista Angelo, Labrador, Reyes, J. B, L., Endencia, and Felix, JJ., concur.

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