

THE PEOPLE OF THE PHILIPPINES, PETITIONER, VS. HON. ALFREDO CATÓLICO, DISTRICT JUDGE, COURT OF FIRST INSTANCE OF CAVITE, BRANCH III, TIBURCIO SANTERO, AND EPIFANÍA ILANO, RESPON...

G.R. Nos. 31261-65. April 20, 1971

Ponente: TEEHANKEE, J.

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TEEHANKEE, J.:

Original action of certiorari to declare null and void the order of respondent judge dismissing five criminal cases of estafa against private respondent[1] on the ground that he could no longer continue trying the cases nor adjudicate them since the interested parties failed to secure a written authority from the Chief Justice of the Supreme Court authorizing the adjournment of the trial thereof beyond the three-month period provided in Rule 22, Section 3 of the Revised Rules of Court.

The undisputed facts, as recited in the petition, show that the five criminal cases were filed on July 5, 1966 with Branch III of the Court of First Instance of Cavite, presided since July, 1969 by respondent judge. After arraignment of private respondents and their not-guilty pleas on December 20, 1967, the cases were tried jointly, although there were different offended parties, because the evidence against the common accused was common to all the said five cases. Hearings were set and held every month in 1968 from February to August, 1968 with the prosecution resting its case on August 6, 1968. The defense started presentation of its evidence on September 3, 1968 and trial continued on various scheduled dates in October and November of 1968 and February, 1969. On no single occasion did the prosecution ask for postponement of the trial but the respondents-accused obtained six postponements.[2] At the hearing scheduled on April 23, 1969, defense counsel obtained the postponement thereof with the manifestation that at the next hearing, he would present respondent-accused Epifania Llano as their last witness and would thereafter rest their case.

The proceedings so far, as related above, were had in the trial court as presided by Judge Jose B. Jimenez, who was thereafter appointed to the Court of First Instance of Manila and assumed his new position on July 1, 1969. He was succeeded by respondent judge, who took over as the new presiding judge of the said court. The cases were then calendared by the clerk for trial on August 5, 1969 for continuation of the presentation of evidence for the defense. Respondents-accused still secured their seventh postponement of trial, as their defense counsel filed on August 4, 1969 a motion for withdrawal of his appearance on the ground that he was leaving for abroad. On the same date, August 4, 1969, Atty. Gregorio M. Familiar, their present defense counsel, filed an urgent motion for postponement of the scheduled hearing to September, 1969 on the ground that his services had just been retained and he had yet to obtain the transcripts of the previous hearings. Respondent judge thus granted respondents-accused their seventh postponement and reset the continuation of trial for September 8, 1969.

What next transpired is thus narrated by petitioner: "(T)hat when September 8, 1969, however, came, the new defense counsel. Atty. Familiar, instead of continuing with the presentation of evidence for the defense as

previously promised, did not do so, and neither did respondent Judge ask him to present his witness. For as this new counsel must have been already informed of the somewhat novel idea of respondent Judge of dismissing cases whether civil or criminal after the lapse of 90 days period on the alleged ground that he does not have power to try the same when no written authority from the Honorable Chief Justice of the Supreme Court could be presented to him, taking advantage of the situation, what he did was to call the attention of respondent Judge to the absence of such written authority, and as he must have anticipated, it was even respondent Judge himself who suggested to the same defense counsel the idea of filing a motion to dismiss on the said ground. Hence, the defense counsel hurriedly prepared a brief motion to dismiss putting the ground suggested by respondent Judge x x x. "[3] Defense counsel, alleging that "x x x the hearing of these cases had been postponed for more than 90 days and because of which, we submit that this Honorable Court has no more authority or power to hear these cases because there is nothing in the records that a written authority was granted to this Court by the Chief Justice of the Supreme Court to continue trying these cases," prayed for the dismissal of the cases.

Upon receipt of the accused's motion to dismiss and without giving the fiscal a chance to file an opposition thereto or even to comment thereon, and notwithstanding that it did not contain a notice of hearing, respondent judge issued an order of dismissal on the very same day, September 8, 1969, as follows:

"Motion to dismiss this case was filed as of today by counsel for the defendants predicated upon the fact that the same has been lagging in this Court since 1966 and the last hearing was on November 20, 1968, where the interested parties failed to secure a written authority by the Chief Justice of the Supreme Court for the new Presiding Judge to be able to continue trying this case leading to the final adjudication thereof.

"WHEREFORE, for the said reason stated in the motion and for lack of interest to prosecute the same, this case is hereby ordered dismissed, without prejudice."

The provincial fiscal, on behalf of the prosecution filed in vain a written opposition to the motion on the next day on the ground that the provisions of Rule 22, Section 3 were merely directory so that even if adjournments lasted for more than three months, the same could not nullify the proceedings already had.

The copy of respondents judge's order of dismissal dated September 8, 1969 was not served on the prosecution until September 22, 1969. On the following day, the fiscal filed the People's motion for reconsideration reiterating that Rule 22, Section 3 of the Revised Rules of Court (formerly Rule 31, Section 4) had already been held by this Court in *Barrueco vs. Abeto*[4] to be merely directory, a violation of which would not nullify a judicial proceeding and that the additional ground of "lack of interest to prosecute the (case)" adduced *motu proprio* by respondent judge had no basis in the record whatsoever, the prosecution having rested its case since August 6, 1968 or long before respondent judge took over the trial court as presiding judge thereof in July, 1969. At any rate, the fiscal informed respondent judge that he had already requested of the Chief Justice the written authority mentioned by the judge. Upon being assured that such authority was forthcoming, respondent judge postponed hearing of the People's motion for reconsideration from September 29, 1969, as originally set, to October 17, 1969.

Such written authorization of the Chief Justice, signed by the Clerk of Court expressly "By authority of the Chief Justice" was duly issued and presented by the fiscal to respondent judge. At the hearing of October 17, 1969, respondent judge issued in open court his denial thereof as follows:

"x x x

x x x

X X X

"In a letter dated October 10, 1969, the Clerk of Court of the Supreme Court informs the Presiding Judge that he is extending authority to continue hearing and trying until finished all criminal cases pending in Branch III of the Cavite Court of First Instance irrespective of the number of years of dormancy under Sec. 3 of Rule 22 of the Rules of Court.

"This authority, although it suffers somehow regarding its potential for indeed it is not one extended by the Chief Justice of the Supreme Court as required by Rule 22 but by a mere clerk of court of the Supreme Court which is not envisioned in the express wording of Rule 22 of the Rules of Court adopted by the same Supreme Court, still it covers this particular criminal case. The only difference is that in this case even if the new Presiding Judge was given such an authority to continue with the case, it appears in the record that there is no such case, to be continued anymore in the sense that by virtue of the order of dismissal dictated in open Court as of September 8, 1969, this same presiding Judge may not have the power to reconsider said order for indeed, the benefits involved in the said order accrued in favor of the said accused as of that very moment when the order was dictated in open Court and not from the day the office of the Provincial Fiscal received a written copy thereof.

X X X

X X X

X X X

Hence, the present petition filed on behalf of the People, assailing the respondent judge's orders of dismissal and denial of the motion for reconsideration, for having been issued "arbitrarily, capriciously, whimsically and with grave abuse of discretion amounting to lack of or in excess of jurisdiction."

At petitioner's instance, the Court issued on December 4, 1969 a writ of preliminary mandatory injunction commanding respondent judge to reinstate the five criminal cases for further proceedings.

Respondents, through defense counsel, filed their answer in due course, wherein they made no denial of the facts of the case, as stated above nor any counter-averments, but contended that "the dismissal (order) was valid and proper and pursuant to the accused's constitutional right to speedy trial" and that "although the dismissal was 'without prejudice,' its legal effect constitutes an acquittal and a further reopening would constitute double jeopardy."

At the hearing of the cases at bar on January 26, 1970, petitioner duly appeared through the fiscal, but in view of the non-appearance of counsel for respondents, the Court gave both parties a period for the filing of simultaneous memoranda in lieu of oral argument. The case was thereafter submitted for decision with the filing of petitioner's memorandum, respondents having failed to file their memorandum.

The Court finds the petition well taken.

- Respondent judge grossly abuse his discretion in dismissing the five criminal cases below on the ground that since they had been pending since 1966 and no written authority to adjourn trial for more than three months had been received from the Chief Justice of the Supreme Court, he no longer had authority or power to continue the trial nor to render judgment thereon, by virtue of the provisions of Rule 22, Section 3 of the Revised Rules of Court. Said Rule provides:

"Sec. 3. Adjournments and postponements. - A court may adjourn a trial from day to day, and to any stated

time, as the expeditious and convenient transaction of business may require, but shall have no power to adjourn a trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice of the Supreme Court."

In so dismissing the cases below, respondent judge utterly disregarded this Court's ruling in *Barrueco*, supra, on an identical provision in the original Rules of Court (Rule 31, Section 4 thereof)—assuming the applicability of the cited Rule to criminal cases, *infra* — that the Rule's provisions were "merely directory, a violation of which will not nullify a judicial proceeding."

Indeed, the Rule could not but be directory rather than mandatory in character, for it could not have been possibly intended to divest without sanction of law the trial courts of their jurisdiction and authority to try and decide cases within their competent jurisdiction, as conferred by statute.^[5] The Rule was designed as a salutary guideline to help expedite the trial of cases "as the expeditious and convenient transaction of business may require" by directing that trial courts should not "adjourn the trial for a longer period than one month for each adjournment, nor more than three months in all, except when authorized in writing by the Chief Justice of the Supreme Court." But the Court did realize in promulgating the Rules that the exigencies and limitations of time and human effort and complexities of cases in the face of increasing court dockets would not allow strict adherence to the ideal and that the trial of cases, particularly complicated ones, might in fact take years to terminate. Hence, it directed also in Section 6 of the same Rules for the holding of annual conferences "at the end of one year from the day the trial proper has commenced, and every year thereafter, if the trial has not been terminated" where "the judge shall call the parties and their counsel to a conference to device ways and means of terminating the trial." Withal, as emphasized by the late Justice Laurel in *Barrueco*, judges should not willfully disregard or recklessly violate such directory provisions of the Rules of Court for that "would constitute a breach or neglect of duty which may subject them to corresponding administrative action."

- Here, respondent judge had no basis to invoke the directory provisions of the cited Rule and its administrative sanctions, for he had but assumed the position of new presiding judge of his court. The prosecution had long rested its case since August 6, 1968. All that was indeed to terminate the trial was the presentation of the defense's last witness as undertaken by them at the postponed hearing of April 23, 1969. Respondent judge, after his assumption of his post in July, 1969, had granted respondents-accused a postponement—the seventh postponement secured by them that of the hearing set for August 5, 1969 — in order to give time to their new counsel to study the records of the case. All that was left for respondent judge to do at the hearing of September 8, 1969, as reset by him, was to call for the testimony of the last defense witness and thereafter declare the cases submitted for decision. In case, such witness was not available and there was valid ground therefor, he could grant still another postponement; if there was no valid reason for the witness' absence, he could have declared the trial terminated and the cases submitted for decision.

But for respondent judge instead to have ordered the dismissal of the cases on the utterly untenable ground of his loss of authority and power to continue the trial and to render judgment was indeed arbitrary and whimsical — in the words of the People's counsel, "it was the first time that we ever encountered such an incident, where several criminal cases had been ordered dismissed at such a very late stage and after the complainants had exerted to much efforts in coming to and from the Court and the Government had already incurred considerable expenses in prosecuting said criminal cases from the time the cases were preliminary investigated up to the time that the trial there of had reached such concluding phase."

- If respondent judge had felt that the written authority of the Chief Justice was essential and imperative for him to continue trying the cases below and to decide them it was as much incumbent upon him as the "guardian of the rights' of the accused as well as those of the people at large"^[6] — as upon the parties — to have requested and

secured such authority in the interests of the administration of justice. At the very least, he should have given the fiscal an opportunity to be heard on the accused's dismissal motion and to secure the written authority, instead of instantly and precipitously granting the dismissal motion ex-parte.

- The Court finds incomprehensible the additional ground of "lack of interest to prosecute the (cases)" adduced motu proprio by respondent judge for his dismissal order. For the records show exactly the contrary, the prosecution having diligently prosecuted and rested its case since August 6, 1968, almost a year before respondent judge assumed his position as new presiding judge of the trial court in July, 1969. Equally incomprehensible is respondent judge's adoption in his dismissal order of respondents-accused' false assertion in their motion for dismissal that the cases had "been lagging in this Court since 1966 and the last hearing was on November 20, 1968" when the records show that whatever delay there may have been was attributable solely to the defense, who had secured all seven postponements granted in the said cases and that all that was lacking to terminate the hearings was the presentation of their last witness, as undertaken by them. These facts of record stand undisputed by respondents.

This dismissal order was therefore invalid and a nullity within the context of the doctrine of *People vs. Gomez*,^[7] where the Court held that "(A) purely capricious dismissal of an information, as herein involved, moreover, deprives the State of fair opportunity to prosecute and convict. It denies the prosecution its day in court. Accordingly, it is a dismissal without due process and, therefore, null and void. A dismissal invalid for lack of a fundamental prerequisite, such as due process, will not constitute a proper basis for the claim of double jeopardy."

- Furthermore, the Court now holds that the applicable rule on adjournments and postponements in criminal cases, such as the cases at bar, is found not in Rule 22, Section 3 which is the rule provided for civil actions and proceedings, but in Rule 119, Section 2, which provides as follows:

"Sec. 2. Continuance or postponement of the trial.- The court on the application of either party or on its own motion, may in its discretion for good cause postpone the trial of the case for such period of time as the ends of justice and the right of the defendant to a speedy trial require."

Thus, a leading authority on criminal procedure "noted that while in a civil action, the court has no power to adjourn trial 'for a longer period than one month for each adjournment nor more than three months in all, except when authorized in writing by the Chief Justice,' no such limitation exists with regard to continuance of trials of criminal actions. The only limitation expressed by the aforesaid provision is that the postponement of the trial of a criminal case must be for 'good cause' shown and for such period of time as 'the ends of justice and the right of the defendant to a speedy trial require.'" ^[8] While it was further noted that "the rule does not grant the court unlimited discretion to grant postponement for the trial of a case; it restricts such discretion by the words 'for good cause.'" ^[9] The greater flexibility of the rule on postponements in criminal actions was obviously based on the criterion in the early case of *U.S. vs. Ramirez*^[10] that the trial court is in criminal proceedings "the guardian of the rights of the accused as well as those of the people at large, and should not unduly force him to trial, nor for light causes jeopardize the rights or interests of the public" and that "the discretion which the trial court exercises must be judicial and not arbitrary"—consistent with the ends of justice and the granting of sufficient time and opportunity to both prosecution and defense to present their witnesses and the right of the accused to a speedy trial.

- Respondent judge further compounded his gross abuse of discretion, when having ordered the dismissal of the cases "without prejudice" upon motion of respondents-accused — solely on his alleged lack of authority to continue with the cases in the absence of the written authority of the Chief Justice, under Rule 22, Section 3 wrongly invoked and inapplicable to criminal actions as above pointed out, — he denied the People's motion for

reconsideration notwithstanding the written authority submitted by the fiscal, this time ruling that "there is nothing to continue anymore because this case (sic) was ordered dismissed as of September 8, 1969 and may not be reconsidered anymore." because "the benefits involved in the said order accrued in favor of the said accused as of that very moment when the order was dictated in open court."

This volte-face of respondent judge was taken *motu proprio*, citing the inapplicable 1961 case of *Lagunilla vs. Reyes*[11] where the Court held that a dismissal of the criminal case against therein petitioner because of the apparent lack of interest of the complainant to prosecute the case, "made unconditionally and without reservation, after plea of not guilty, and apparently predicated on the constitutional right of the accused to a speedy trial, is, x x x equivalent to an acquittal," and could no longer be recalled for correction or reconsideration.

The factual setting of *Lagunilla* has no parallel whatsoever in the cases at bar. Respondent-accused had not set up the defense of jeopardy in the cases below and there is no record or showing of their having objected, to respondent judge's consideration of the People's motion for reconsideration. As a matter of fact, their bail bonds for their provisional liberty were not ordered cancelled by respondent judge and technically they are still in the custody and jurisdiction of respondent judge's court with their bondsmen as their jailors.

Respondents-accused having obtained upon their motion the dismissal of the cases below, not on the merits but on the sole ground of alleged lack of authority of respondents judge to continue with the cases in the absence of written authority from the Chief Justice, are deemed to have given their express consent to the dismissal "without prejudice" and to have waived their right to plead jeopardy. This is the teaching and doctrine of *People vs. Obsania*,[12] where Mr. Justice Fred Ruiz Castro, speaking for the court in a unanimous decision, extensively reviewed the jurisprudence on jeopardy and restated this prevailing rule.

- In *Obsania*, supra, the Court reaffirmed the doctrine of estoppel in relation to the plea of double jeopardy as first enunciated by the late Justice Pedro Tuason in *People vs. Acierto*[13] to the effect that "when the trial court dismisses a case on a disclaimer of jurisdiction, upon the instigation of the accused, the latter is in estopped on appeal from asserting the jurisdiction of the lower court in support of his plea of second jeopardy." Justice Tuason's pronouncements therein aptly fit the cases at bar. "A party will not be allowed to make a mockery of justice by taking inconsistent positions which if allowed would result in brazen deception. It is trifling with the courts, contrary to the elementary principles of right dealing and good faith, for an accused to tell one court [the trial court, in the cases at bar] that it lacks authority to try him and, after he has succeeded in his effort, to tell the court to which he has been turned over [this Court in the present action] that the first has committed error in yielding to his plea."

The Court likewise therein reaffirmed the case of *People vs. Casiano*,[14] where the now Chief Justice stated that "the rule of estoppel applied in the *Acierto* case should be maintained, because:

"1. It is basically and fundamentally sound and just.

"2. It is in conformity with the principles of legal ethics, which demand good faith of the higher order in the practice of law.

"3. It is well settled that parties to a judicial proceeding may not, on appeal, adopt a theory inconsistent with that which they sustained in the lower court.

"4. The operation of the principle of estoppel on the question of jurisdiction seemingly depends upon whether the lower court actually had jurisdiction or not. If it had no jurisdiction, but the case was tried and decided upon the theory that it had jurisdiction, the parties are not barred on appeal, from assailing such jurisdiction, for the same 'must exist as a matter of law, and may not be conferred by consent of the parties or by estoppel' (5 C.I.S. 861-863). However, if the lower court had jurisdiction, and the case was heard and decided upon a

given theory, such, for instance, as that the court had no jurisdiction, the party who induced it to adopt such theory will not be permitted, on appeal, to assume an inconsistent position — that the lower court had jurisdiction. Here, the principle of estoppel applies. The rule that jurisdiction is conferred by law, and does not depend upon the will of the parties, has no bearing thereon."

Similarly, the Court therein reiterated the admonition in *People vs. Archilla*,^[15] that the accused "cannot be allowed to invoke the plea of double jeopardy after inducing the trial court to commit an error which otherwise it would not have committed. In other words, appellee cannot adopt a posture of double-dealing without running afoul with the doctrine of estoppel."

- Respondents-accused's other contention that the dismissal order should be upheld pursuant to their constitutional right to speedy trial has no basis in fact nor in law. Such right was not asserted by them below as in fact they could not assert it, for the prosecution had long rested its case since August 6, 1968 and any and all delays entailed in the termination of the trial were exclusively of their own doing. Lacking any factual basis, they cannot claim in law that they have been denied their right to speedy trial.^[16]

- Respondent judge's capricious dismissal of cases in his court in Cavite, based on his own unique appreciation of the provisions of Rule 22, Section 3 of the Revised Rules of Court to the effect "that upon the lapse of three months from the first day of trial on the merits, the trial judge lost control of the same, and may not continue trying the same [when there is no written authority from the Chief Justice of the Supreme Court] for the only thing possible to be done is to dismiss the case,"^[17] notwithstanding his awareness of this Court's contrary ruling in *Barrueco*, supra, was already noted by the Court in *Barrera vs. Barrera*^[18] decided on July 31, 1970. In said case, where respondent judge was held in contempt of this Court and reprimanded, he was reminded of his duty to apply the law as interpreted by this Court "as the final arbiter of any justiciable controversy" and of the great mischief and prejudice to the administration of justice, and unnecessary inconvenience, delay and expenses to litigants, that would be needlessly caused, should judges of lower courts dispose of cases in accordance with their personal views contrary to the final authoritative pronouncements of this Court. The Court has noted that the inconsistency of respondent judge's present posture that he loses control of a case upon the lapse of three months from the first day of trial on the merits and has only to dismiss the case was brought out at the contempt hearing in said case when he admitted that he did not follow such a course of action in the other trial courts presided by him, viz, the Courts of First instance of Misamis Occidental and of Ilocos Norte, prior to his appointment to the Cavite court.

- In the same case of *Barrera*, this Court, per Mr. Justice Enrique M. Fernando, already found respondent judge in contempt for recklessly "hurling the baseless allegation that the Clerk of this Court was permitted to exercise an authority which appertained to the Chief Justice. He did speak with all the valor of ignorance. Nor did he retreat from such an indefensible stand in the face of his being informed that what the Clerk did was solely in accordance with what was previously decided by this Court, which certainly will not tolerate, anybody else, much less a subordinate, to speak and act for itself. This gross disrespect shown to this Court has no justification."

In his present order of denial of the People's motion for reconsideration, respondent judge committed the same reckless act of making it appear in his Order that it was the Clerk of this Court who "informs the presiding judge that he is extending authority to continue hearing and trying, until finished all criminal cases pending ...," notwithstanding that the Clerk of this Court signed the communication expressly "By authority of the Chief Justice."

Such action of respondent judge, aside from being grossly disrespectful of the Court, exposes his lack of appreciation or disregard of the time-honored usage of the Court that minute resolutions, summons and processes

of the Court as well as official actions of the Chief Justice, upon being duly adopted and recorded are transmitted to the interested parties by and upon the signature of the Clerk of Court who is duly authorized to do so. With the thousands of resolutions approved monthly by the Court, it would unduly tax the time and attention of the Chief Justice and members of the Court to the prejudice of the administration of justice if all such papers, other than decisions, could be released only upon their own signatures. The situation is analogous to administrative decisions signed by the Executive Secretary "by authority of the President," which decisions are given full faith and credit by our courts as decisions of the President, "unless disapproved or reprobated by the Chief Executive." [19]

- In view of the rash and improper actuations of respondent judge, which could have resulted in a serious miscarriage of justice, the Court has resolved that this matter be brought to the attention of the Secretary of Justice for the initiation of appropriate administrative action, as the facts and circumstances warrant. This is in fact the third case involving respondent judge that has thus been resolved to be officially brought to the Secretary's attention, the two others being the contempt proceedings in *Barrera vs. Barrera*, supra, and the prohibition proceedings in *Queto vs. Católico*. [20]

ACCORDINGLY, the petition for certiorari is granted and respondent judge's orders dated September 8, 1969 and October 17, 1969 are declared null and void and without legal effect. The writ of preliminary mandatory injunction is made permanent, and respondent judge is ordered to continue and terminate the trial in the five reinstated criminal cases and thereafter render judgment thereon in accordance with law. With costs against private respondents.

Let a copy of this decision be furnished to the Honorable, Secretary of Justice, in accordance with paragraph 11 hereof.

SO ORDERED.

Concepción, C.J., Reyes, J.B.L., Dizon, Makalintal, Zaldivar, Ruiz Castro, Fernando, Barredo, Villamor and Makasiar, JJ., concur.

[1] Criminal Cases Nos. N-1638, N-1639, N-1640, N-1641 and N-1642, all entitled "People of the Philippines vs. Tiburcio Santero and Epifanía Ilano" of the Court of First Instance of Cavite.

[2] These were the hearings scheduled on Feb. 28, 1968, May 14, 1968, Aug. 26, 1968, Nov. 12, 1968, Nov. 27, 1968 and April 23, 1969.

[3] Petition, par. 5; italics furnished.

[4] 71 Phil. 7 (Dec. 5, 1940).

[5] Republic Act 296, as amended.

[6] *U.S. vs. Ramirez*, 39 Phil. 738 (1919).

[7] 20 SCRA 293 (May 29, 1967).

[8] *Francisco's Criminal Procedure*, 2nd Ed. 1969, pp. 735-736; see also 1965 Ed, pp. 621-622.

[9] *Idem.*, at p. 737.

[10] 39 Phil. 738.

[11] 1 SCRA 1364 (April 29, 1961).

[12] 23 SCRA 1249 (June 29, 1968), reaffirmed in *People vs. Garcia Sy*, 30 SCRA 151 (Oct. 31, 1969) and *Baesa vs. Prov. Fiscal of Camarines Sur*, L-30363, Jan. 30, 1971.

[13] 92 Phil. 534 (Jan. 30, 1953); notes in brackets supplied.

[14] 1 SCRA 478 (Feb. 16, 1961).

[15] 1 SCRA 698 (Feb. 28, 1961).

[16] Vide *Baesa vs. Prov. Fiscal of Camarines Sur*, *supra*, fn. 12.

[17] Respondent judge's comments to the contempt charge against him, notes in brackets supplied, in *Barrera vs. Barrera*, 34 SCRA 98.

[18] *Supra*, fn. 17.

[19] *Lacson-Magallanes Co., Inc. vs. Paño*, 21 SCRA 895 (Nov. 17, 1967).

[20] 31 SCRA 52 (Jan. 23, 1970).

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