

ANTONIO T. GUERRERO AND GEORGE D. CARLOS, PETITIONERS, VS. HON. JUDGE ADRIANO R. VILLAMOR, RESPONDENT.

G.R. Nos. 82238-42. November 13, 1989

Ponente: FERNAN, C.J.

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FERNAN, C.J.:

Consequent to the dismissal on February 18, 1987 of Criminal Cases Nos. N-0989, N-0990, N-0991, N-0992, and N-0993 for Qualified Theft against one Gloria Naval by respondent Judge Adriano R. Villamor of the Regional Trial Court, Branch 16 of Naval, Subprovince of Biliran, Leyte, the offended party, herein petitioner George D. Carlos, thru his lawyer and herein co-petitioner Antonio T. Guerrero filed before the Regional Trial Court, Branch XXI of Cebu City an action for damages, docketed as Civil Case No. CEB-6478, against respondent judge for knowingly rendering an unjust judgment in the aforesaid consolidated criminal cases.

The complaint and summons in Civil Case No. CEB-6478 were served on respondent judge on December 10, 1987. On the following day, he issued in Criminal Cases Nos. N-0989-0993 an Order of Direct Contempt of Court against herein petitioners, finding them guilty beyond reasonable doubt of direct contempt and sentencing them both to imprisonment of five (5) days and a fine of P500.00 for degrading the respect and dignity of the court through the use of derogatory and contemptuous language before the court.

The derogatory and contemptuous language adverted to by respondent judge are the allegations in the complaint in Civil Case No. CEB-6478 reading:

“12. That the dismissal of criminal cases Nos. 0989, 0990, 0991, 0992 and 0993 for qualified theft was arrived at certainly without circumspection -- without any moral or legal basis -- a case of knowingly rendering unjust judgment since the dismissal was tantamount to acquittal of the accused Gloria P. Naval who is now beyond the reach of criminal and civil liability -- all because the defendant Hon. Adriano R. Villamor was bent backwards with his eyes and mind wilfully closed under these circumstances which demanded the scrutiny of the judicial mind and discretion free from bias x x x ;”

"x x x x x x x x x x

“14. By the standard of a public official and a private person the conduct of defendant Honorable Judge -- not only shocking, but appalling -- in giving the plaintiff before his court the run-around is at the very least distasteful, distressing and mortifying and moral damages therefore would warrant on this kind of reprehensible behaviour x x x ”

“15. That the aforesaid manifestly malicious actuations, defendant judge should also visit upon him x x x for reducing plaintiff his agonizing victim of his disdain and contempt for the former who not only torn asunder and spurned but also humiliated and spitefully scorned.”[1]

To stop the coercive force of the Order of Contempt issued by respondent judge, petitioners filed the instant petition for certiorari with preliminary injunction or restraining order. On March 22, 1988, the Court issued a temporary restraining order enjoining and restraining respondent Judge Adriano R. Villamor from enforcing his

order of Direct Contempt of Court dated December 11, 1987 in Criminal Cases Nos. N-0989 to N-0993.[2]

Petitioner submits two issues for resolution in this petition: first, whether or not respondent judge can issue an Order of Contempt against petitioner in Criminal Cases Nos. N--0989-0993 of the Regional Trial Court, Branch 16 of Naval, Biliran, Leyte by reason of the alleged contemptuous language in the complaint in Civil Case No. CEB-6478 for damages against respondent filed in Cebu; and secondly, whether or not the language employed in the complaint in Civil Case No. 6478 against respondent judge in another court before another judge is contemptuous and whether the same is absolutely privileged being made in a judicial proceeding.[3]

Petitioners assert that no direct contempt could have been committed against respondent judge in the complaint for damages in Civil Case No. 6478 because whatever was mentioned therein was not made "before" respondent judge while in session or in recess from judicial proceedings or in any matter involving the exercise of judicial function of the Court while it is at work on a case before it. Furthermore, petitioners contend that the words used in the subject complaint were merely words descriptive of plaintiff's cause of action based on his reaction and remorse and the wilfull infliction of the injury on him and that the same are all privileged communications made in the course of judicial proceedings because they are relevant to the issue and therefore cannot be contemptuous.

In his Comment dated April 14, 1988, respondent judge maintains that petitioners harp too much on the fact that the five criminal cases are closed cases and therefore the language or words employed to describe, opine, criticize or condemn the dismissal of said criminal cases in no way obstruct or hamper, ruin or disturb the dignity and authority of the court presided over by respondent judge, as said court was no longer functioning as such in the dispensation of justice. This, according to respondent judge, is a very dangerous perception for then the court becomes vulnerable to all forms of verbal assaults, which would shake the foundation of judicial authority and even of democratic stability, so that the absence of such proceedings should not be made a shield to sully the court's prestige.

Determinative of the first issue is the distinction we made in the case of *Delima vs. Gallardo*[4]: "Contempt of court may be either direct or constructive. It is direct when committed in the presence of or so near a court or judge as to obstruct or interrupt proceedings before the same[5] and constructive or indirect contempt is one committed out or not in the presence of the court.[6] It is an act done in a distance which tends to belittle, degrade, obstruct, interrupt or embarrass the court and justice."[7]

As the terms connote, the word "direct" would relate to an act stemming immediately from a source, cause or reason and thus, the rule under the law that it be done in the presence of or so near a court or judge while "indirect" would signify an act done not straight to the point and thus, legally speaking would pertain to acts done out or not in the presence of the court.

Based on the foregoing distinctions and the facts prevailing in the case at bar, this Court sustains petitioners' contention that the alleged derogatory language employed in the complaint in Civil Case No. CEB-6478 did not constitute direct contempt but may only, if at all, constitute indirect contempt subject to defenses that may be raised by said petitioners in the proper proceedings. Stress must be placed on the fact that the subject pleading was not submitted to respondent judge nor in the criminal cases from which the contempt order was issued but was filed in another court presided by another judge and involving a separate action, the civil case for damages against respondent judge. Although the allegations in the complaint for damages criticized the wisdom of respondent judge's act of dismissing Criminal Cases Nos. N-0989 to 0993, such criticism was directed to him when he was no longer in the process of performing judicial functions in connection with the subject criminal cases so as to constitute such criticisms as direct contempt of court. As categorically stated in *Ang vs. Castro*:[8] "(T)he use of disrespectful or contemptuous language against a particular judge in pleadings presented in another court or

proceeding is indirect, not direct, contempt as it is not tantamount to a misbehavior in the presence of or so near a court or judge as to interrupt the administration of justice." (Emphasis supplied) Petitioners' alleged disrespectful language falling, if at all, under the classification of indirect contempt, petitioners may be adjudged guilty thereof and punished therefor only after charge and hearing as provided under Section 3, Rule 71 of the Rules of Court, thus:

"Section 3. Indirect contempts to be punished after charge and hearing.- After charge in writing has been filed and an opportunity given to the accused to be heard by himself or counsel, a person guilty of any of the following acts may be punished for contempt:

"x x x x x x x x"

Not only was the Order of Direct Contempt dated December 11, 1987 issued without charge and hearing, it was likewise irregularly issued as an incident in Criminal Cases Nos. N-0989 to N-0993, which had long been terminated. Said Order must therefore be, as it is hereby set aside for being null and void.

The second issue raised by petitioners has been resolved in *Lubiano vs. Gordolla*,^[9] in this wise:

"Respondent would argue that the statements in question, being relevant and pertinent to the subject of inquiry in said case, are covered by the mantle of absolute privileged communication; and that, as such, they cannot be used as basis for any action, however false and malicious the statements may be. We find no necessity to dwell at length on the issue as to whether or not the statements in question are relevant, for in either case this Court will not be inhibited from exercising its supervisory authority over lawyers who misbehave or fail to live up to that standard expected of them as members of the Bar. Indeed, the rule of absolute privileged communication absolves beforehand the lawyer from civil and criminal liability based on the statements made in the pleadings. But like the member of the legislature who enjoys immunity from civil and criminal liability arising from any speech or debate delivered in the Batasan or in any committee thereof, but nevertheless remains subject to the disciplinary authority of the legislature for said speech or debate, a lawyer equally remains subject to this Court's supervisory and disciplinary powers for lapses in the observance of his duty as a member of the legal profession."

While technically, to rule on whether or not the statements under consideration are contemptuous would be premature in the absence of any contempt proceedings against petitioners, we deem it wise to do so to avoid circuity of action in view of our finding that the statements complained of are not contemptuous. We agree with petitioners that the same are merely descriptive of therein plaintiff's cause of action based on his reaction to what he perceived as a willful infliction of injury on him by therein defendant judge. Strong words were used to lay stress on the gravity and degree of moral anguish suffered by petitioner Carlos as a result of the dismissal of the subject criminal cases to justify the award of damages being sought.

We have consistently held that the power to punish for contempt should be used sparingly, so much so that judges should always bear in mind that the power of the court to punish for contempt should be exercised for purposes that are impersonal the power being intended as a safeguard not for the judges as persons but for the functions that they exercise.^[10] Any abuse of the contempt citation powers will therefore be curtailed and corrected.

Be that as it may, lawyers, on the other hand, should bear in mind their basic duty "to observe and maintain the respect due to the courts of justice and judicial officers and x x x (to) insist on similar conduct by others."^[11] This respectful attitude towards the court is to be observed, "not for the sake of the temporary incumbent of the judicial office, but for the maintenance of its supreme importance."^[12] And it is "through a scrupulous preference for respectful language that a lawyer best demonstrates his observance of the respect due to the courts and judicial officers x x x."^[13]

WHEREFORE, the instant petition for certiorari is GRANTED. The assailed Order of Direct Contempt of Court dated December 11, 1987 is declared NULL and VOID. The Temporary Restraining Order issued on March 22, 1988 is hereby made permanent. No costs.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Rollo, pp. 45-46

[2] Rollo, pp. 55-56.

[3] Petition, Rollo, p. 16.

[4] 77 SCRA 286, 290.

[5] Section 1, Rule 71, Rules of Court.

[6] Narcida vs. Bower, 22 Phil. 365.

[7] 70 C.J.S. 6.

[8] G.R. No. 66371, May 15, 1985, 136 SCRA 453.

[9] Adm. Case No. 2343, July 30, 1982, 115 SCRA 459.

[10] Austria vs. Hon. Masaquel, 20 SCRA 1247.

[11] Canon 11, Code of Professional Responsibility.

[12] Baja vs. Hon. Corpus Macandog, 158 SCRA 391.

[13] Lubiano vs. Gordolla, *supra*.

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