

1 Phil. 1

[G.R. No. 12. August 08, 1901]

**IN THE MATTER OF THE PROCEEDINGS AGAINST MARCELINO AGUAS FOR
CONTEMPT OF THE COURT OF FIRST INSTANCE OF PAMPANGA.**

D E C I S I O N

SMITH, J.:

It appears from the record in this matter that on the 29th of August, 1900, during the progress of a trial then being held before the Court of First Instance at Bacolor, in the Province of Pampanga, the court had occasion to caution Angel Alberto, a witness in the case, not to look at the attorney for the defendant but to fix his attention on the judge who was at the time examining him. It seems that the witness did not give heed to this warning, and the judge thereupon arose from his seat and approaching the witness, seized him by the shoulders, and using the expression, "Lingon ang mucha" ("Look at me"), either shook him, as insisted by the attorney for the defendant, or only turned him about, as claimed by the judge and others. Whether the witness was shaken or only turned about, at all events "seizing him," brought the defendant's attorney to his feet, who, protesting against the action of the judge as coercive of the witness, demanded that a record be made of the occurrence and that the further hearing of the case be postponed. Two days afterward the clerk entered in his record a recital of the incident substantially as above, and also a statement that on other and prior occasions the attorney, Marcelino Aguas, had been wanting in respect to the court by making use of "improper phrases," and by interrupting opposing counsel in their examination of witnesses. The court on this record adjudged the attorney to be in contempt of court and suspended him from the practice of his profession for a period of twenty days. The attorney appealed, but his appeal having been disallowed by the lower court, he asked to be heard in justification, which was granted.

On the hearing in justification evidence was taken touching the contempt alleged to have been committed by Senor Aguas, from which the court found that during the trial of the case of Roberto Toledo vs. Valeriano Balatbat, the judge, having had occasion to seize the

witness, Alberto Angel, by the shoulders to turn him around, Señor Aguas, attorney for defendant, had risen from his seat in a “menacing attitude,” and “with a voice and body trembling” protested that the action of the judge was coercive of the witness; and further that his attention being called to the fact that he was wanting in respect to the court and that he should sit down, he waived his right to go on with the trial and moved a postponement of the hearing. On this finding the court again adjudged the attorney guilty of contempt of court, and suspended him from the practice of his profession for a period of twenty days. From this judgment Señor Aguas appealed to this court.

In our opinion the action of the judge in seizing the witness, Alberto Angel, by the shoulder and turning him about was unwarranted and an interference with that freedom from unlawful personal violence to which every witness is entitled while giving testimony in a court of justice. Against such conduct the appellant had the right to protest and to demand that the incident be made a matter of record. That he did so was not contempt, providing protest and demand were respectfully made and with due regard for the dignity of the court. The only question, therefore in this case is, Was the appellant respectful and regardful of the court’s dignity in presenting his objection and asking that it be recorded in the proceedings? The witnesses say and the judge finds that “his attitude was menacing” (*bastante amenazadora*) in the moment of making his protest, but beyond that there is nothing in the record which even tends to show that he was disrespectful to the court or unmindful of its dignity. In our opinion both testimony and finding state a mere conclusion which, in the absence of the facts from which it was deduced, is wholly valueless to support a judgment of contempt. The statement that the attorney’s attitude was “menacing” tended no more to competently establish the alleged offense of contempt than if the witnesses had testified and the court had found that his conduct was “contemptuous; or lacking in respect,” The specific act from which it was inferred that his attitude was menacing should have been testified to by the witnesses and found by the court, and failing that, the record does not show concrete facts sufficient to justify the conclusion that he was disrespectful to the court or offensive to its dignity.

The judgment appealed from must therefore be reversed, and it is so ordered, with costs *de oficio*.

Arellano, C. J., Cooper, Willard, Torres, and Ladd, JJ., concur.
Mapa, J., did not sit in this case.

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