

THIRD DIVISION

G.R. No. 238709 – Hon. Amifait S. Fider-Reyes, the Presiding Judge of Regional Trial Court, City of San Fernando, Pampanga, Branch 42 v. Everglory Metal Trading Corporation

Date of Promulgation:

October 6, 2021

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SEPARATE CONCURRING OPINION

ZALAMEDA, J.:

I concur with the *ponencia* that petitioner Hon. Amifait S. Fider-Reyes (Judge Reyes) did not commit any act constituting indirect contempt. The *ponencia* aptly ruled that Judge Reyes merely acted in accordance with her legal duty when she continued the proceedings in IPR Civil Case No. 005 upon the expiration of the Court of Appeals' (CA) temporary restraining order (TRO) in CA-G.R. SP No. 133942, a related *certiorari* proceeding.<sup>1</sup> Judge Reyes was not bound to execute the Decision dated 25 June 2014 in CA-G.R. SP No. 133942 which, during the relevant period, had yet to attain finality. As such, the CA erred when it cited Judge Reyes in indirect contempt for not immediately executing the CA Decision as a matter of judicial courtesy.

Nonetheless, my view on the scope of the contempt powers of the CA diverges with that of the *ponencia*. The latter ruled that the CA overstepped the bounds of its authority when it took cognizance of the petition for indirect contempt, considering that the case “involves the exercise of this Court’s exclusive power to discipline judges,” as vested by the Constitution in Section 11, Article VIII of the 1987 Constitution.<sup>2</sup> According to the *ponencia*, the CA has no authority to discipline judges and court personnel; at most, it can only recommend to the Court the necessary disciplinary sanctions.<sup>3</sup> I submit that invoked constitutional provision neither curtails nor limits the inherent contempt powers of the courts.

<sup>1</sup> *Ponencia*, p. 9.

<sup>2</sup> *Id.* at pp. 12-14.

<sup>3</sup> *Id.* at p. 13.



*The Court's exclusive power to discipline judges of lower courts does not necessarily circumscribe the contempt powers of the CA or other courts*

Section 6, Article VIII of the 1987 Constitution states that “[t]he Supreme Court shall have administrative supervision over all courts and the personnel thereof.” Such administrative supervision includes the power of the Court *en banc* to discipline judges of lower courts or order their dismissal, as provided in Section 11, Article VIII of the 1987 Constitution.<sup>4</sup>

We have relied on these constitutional provisions to prevent other offices of the government, such as the Office of the Ombudsman and the Civil Service Commission, from investigating members of the Bench and court personnel.<sup>5</sup> Notably, the Court has interpreted its constitutional authority to pertain to the *administrative* liability of judges and court personnel. In *Maceda v. Vasquez*,<sup>6</sup> the Court ruled as follows:

Article VIII, section 6 of the 1987 Constitution exclusively vests in the Supreme Court administrative supervision over all courts and court personnel, from the Presiding Justice of the Court of Appeals down to the lowest municipal trial court clerk. By virtue of this power, it is only the Supreme Court that can oversee the judges’ and court personnel’s compliance with all laws, and take the proper **administrative action** against them if they commit any violation thereof. No other branch of government may intrude into this power, without running afoul of the doctrine of separation of powers.<sup>7</sup>

Similarly, in *Caoibes, Jr. v. Ombudsman*,<sup>8</sup> We emphasized that the Court’s supervisory authority refers to administrative matters, thus:

Under Section 6, Article VIII of the Constitution, it is the Supreme Court which is vested with exclusive administrative supervision over all courts and its personnel. Prescinding from this premise, the Ombudsman cannot determine for itself and by itself whether a criminal complaint against a judge, or court employee, involves an administrative matter. **The Ombudsman is duty bound to have all cases against judges and court personnel filed before it, referred to the Supreme Court for determination as to whether an administrative aspect is involved**

<sup>4</sup> JOAQUIN G. BERNAS, THE 1987 CONSTITUTION OF THE REPUBLIC OF THE PHILIPPINES: A COMMENTARY 1012 (2009).

<sup>5</sup> *Civil Service Commission v. Andal*, G.R. No. 185749, 16 December 2009 [per J. Carpio]; *Maceda v. Vasquez*, G.R. No. 102781, 22 April 1993 [per J. Nocon]; *Ampong v. Civil Service Commission*, G.R. No. 167916, 26 August 2008 [per J. Reyes, R.T.].

<sup>6</sup> G.R. No. 102781, 22 April 1993 [per J. Nocon].

<sup>7</sup> Emphasis supplied.

<sup>8</sup> G.R. No. 132177, 19 July 2001 [per J. Buena].

**therein.** This rule should hold true regardless of whether an administrative case based on the act subject of the complaint before the Ombudsman is already pending with the Court. For, aside from the fact that the Ombudsman would not know of this matter unless he is informed of it, **he should give due respect for and recognition of the administrative authority of the Court, because in determining whether an administrative matter is involved, the Court passes upon not only administrative liabilities but also other administrative concerns,** as is clearly conveyed in the case of *Maceda vs. Vasquez*.<sup>9</sup>

In my view, there is nothing in the cited constitutional provisions, or in the cases interpreting them, that restricts the authority of lower courts to punish for contempt. Such absence is consistent with the prevailing doctrine that the administrative or disciplinary power of the Court is distinct from the contempt powers inherent in all courts.

We have long acknowledged the distinction between contempt proceedings and administrative or disciplinary proceedings, both of which are *sui generis*.<sup>10</sup> Contempt proceedings are different in nature and purpose from disciplinary cases, and the two spring from different but related powers.<sup>11</sup>

A disciplinary proceeding involves an investigation by the Court of the conduct of its officers, and has, for its primary objective, public interest.<sup>12</sup> While professional disciplinary proceedings have been resorted to as a punishment for contempt, the more recent view is that punishment is of secondary importance to the need to protect the courts and the people from improper professional practice.<sup>13</sup>

In contrast, the exercise of the power to punish for contempt has a dual aspect, primarily, the proper punishment of the guilty party for his disrespect to the court, and, secondarily, his compulsory performance of some act or duty required of him by the court and which he refuses to perform.<sup>14</sup> Specific to civil contempt, its dominant purpose is to enforce compliance with an order of a court for the benefit of a party in whose favor the order runs.<sup>15</sup> The power to punish for contempt is inherent in all courts

<sup>9</sup> Emphasis supplied.

<sup>10</sup> *Re: Letter of the UP Law Faculty on Allegations of Plagiarism and Misrepresentation in the Supreme Court*, A.M. No. 10-10-4-SC, 8 March 2011 [per J. Leonardo-De Castro]; *In re Merdegia*, IPI Nos. 12-205-CA-J & 10300, 10 December 2013 [per J. Brion]; *Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*, G.R. No. 155849, 31 August 2011 [per J. Bersamin]; *People v. Godoy*, G.R. Nos. 115908 & 115909, 29 March 1995 [per J. Regalado].

<sup>11</sup> *In re Merdegia*, IPI Nos. 12-205-CA-J & 10300, 10 December 2013 [per J. Brion]; *People v. Godoy*, G.R. Nos. 115908 & 115909, 29 March 1995 [per J. Regalado].

<sup>12</sup> *In re Merdegia*, IPI Nos. 12-205-CA-J & 10300, 10 December 2013 [per J. Brion].

<sup>13</sup> *People v. Godoy*, G.R. Nos. 115908 & 115909, 29 March 1995 [per J. Regalado].

<sup>14</sup> *Id.*

<sup>15</sup> *Lorenzo Shipping Corp. v. Distribution Management Association of the Philippines*, G.R. No. 155849, 31 August 2011 [per J. Bersamin].

and is essential to the preservation of order in judicial proceedings and to the enforcement of judgments, orders, and mandates of the court, and consequently, to the due administration of justice.<sup>16</sup>

Contempt and disciplinary proceedings can proceed independently and simultaneously with each other.<sup>17</sup> The same act may be punishable either as contempt or an ethical violation, or both.<sup>18</sup> The penalty for one cannot take the place of the other.<sup>19</sup>

Moreover, contempt proceedings and disciplinary actions are governed by different procedures. Contempt of court is governed by Rule 71 of the Rules of Court, whereas disciplinary actions are governed by Rules 138, 139, and 140.

Succinctly put, different powers, doctrines, and procedures govern disciplinary and contempt proceedings. The Court's constitutional authority only pertains to the former, i.e., the power to administratively discipline judges and other court personnel.

Moreover, in issuing Section 9, Rule 65 of the Rules of Court, this Court impliedly recognized that reviewing courts may cite lower court judges in contempt, especially since the directives in a *certiorari* decision are almost always addressed to the lower courts, and not to the private respondents. Section 9, Rule 65 of the Rules of Court reads:

SECTION 9. *Service and Enforcement of Order or Judgment.* — A certified copy of the judgment rendered in accordance with the last preceding section shall be served upon the court, quasi-judicial agency, tribunal, corporation, board, officer or person concerned in such manner as the court may direct, **and disobedience thereto shall be punished as contempt.** An execution may issue for any damages or costs awarded in accordance with Section 1 of Rule 39.<sup>20</sup>

On this point, the Court has previously taken cognizance of and resolved indirect contempt cases against members of the Bench.<sup>21</sup> *Lu Ym v. Mahinay*<sup>22</sup> and *Balindong v. Court of Appeals*<sup>23</sup> involved contempt charges

<sup>16</sup> *Bank of the Philippine Islands v. Calanza*, G.R. No. 180699, 13 October 2010 [per J. Nachura].

<sup>17</sup> *In re Merdegia*, IP! Nos. 12-205-CA-J & 10300, 10 December 2013 [per J. Brion].

<sup>18</sup> *In re: Letter of the UP Law Faculty on Allegations of Plagiarism and Misrepresentation in the Supreme Court*, A.M. No. 10-10-4-SC (Resolution), 7 June 2011 [per J. Leonardo-De Castro].

<sup>19</sup> *Angeles v. Gernale, Jr.*, A.M. No. P-96-1221 [Formerly A.M. No. OCA I.P.I. No. 96-87-P], 19 June 1997 [per curiam].

<sup>20</sup> Emphasis supplied.

<sup>21</sup> See *Ponencia*, p. 14: "There is no precedent jurisprudence on a litigant filing an indirect contempt case against a judge for allegedly not implementing the orders of an appellate court, *moreso*, at the instance of a litigant."

<sup>22</sup> G.R. No. 169476, 16 June 2006 [per J. Ynares-Santiago].

<sup>23</sup> G.R. Nos. 177600 & 178684, 19 October 2015 [per J. Bersamin].

filed by litigants against judges, albeit both cases were decided in favor of the judges. In *Limbona v. Lee*,<sup>24</sup> the Court found a judge guilty of indirect contempt when he did not follow a decision rendered by the Court. Granted that, in all these cases, the decisions alleged to be defied were rendered by this Court, the fact remains that the Court has considered non-compliance with a higher court's decision as a ground for indirect contempt by a lower court judge.

On this score, the *ponencia* observed that, instead of filing a petition for indirect contempt, Everglory should have filed an administrative case before the Court in light of Our exclusive authority to discipline judges and court personnel.<sup>25</sup> However, this pronouncement may unduly and unwittingly diminish the strength of the courts' contempt powers. This ruling implies that no contempt proceeding may be initiated against any person under the administrative supervision of the Court, including court personnel.

For instance, it is well-accepted that stenographers and sheriffs may be cited in contempt by lower courts should they fail to obey judicial writs or orders.<sup>26</sup> However, the *ponencia*'s conclusion may tacitly suggest that stenographers and sheriffs may no longer be cited in contempt by lower courts, and they may only be held accountable through an administrative proceeding initiated with the Court. To my mind, the implications of the *ponencia* may be unnecessarily litigious and impede the efficient administration of justice. Conflating the doctrines on disciplinary and contempt powers may hinder lower courts from ensuring the timely enforcement of their directives.

In summary, I disagree with the *ponencia*'s finding that the CA has no authority to take cognizance of a petition for indirect contempt against a member of the Bench. This notwithstanding, I join the *ponencia*'s conclusion that Judge Reyes should not be punished for indirect contempt.

*Non-compliance with a decision that is not final and executory does not constitute indirect contempt. Litigants bear the responsibility of seeking complete relief from the appropriate court.*

Contempt of court is defined as disobedience to the court by acting in opposition to its authority, justice, and dignity. It signifies not only a willful

<sup>24</sup> G.R. No. 173290, 20 November 2006 [per J. Ynares-Santiago].

<sup>25</sup> *Ponencia*, pp. 13-14.

<sup>26</sup> See e.g. *Westmont Bank v. Funai Phils., Corp.*, G.R. Nos. 175733 & 180162, 8 July 2015 [per J. Perlas-Bernabe]; *Aclaracion v. Gatmaitan*, G.R. No. L-39115, 26 May 1975 [per J. Aquino].

disregard or disobedience of the court's orders, but such conduct as tends to bring the authority of the court and the administration of law into disrepute or in some manner to impede the due administration of justice.<sup>27</sup>

I agree with the *ponencia* that Judge Reyes did not willfully disregard or disobey the CA Decision since, at the time she continued with the proceedings, the CA's TRO had already lapsed and the CA Decision had yet to attain finality. The CA Decision is *not* immediately executory. Moreover, the execution of the CA Decision was stayed by the timely motion for reconsideration and appeal filed by Colorsteel Systems Corporation (Colorsteel) and its president, Jose Rey S. Batomalaque (Batomalaque).<sup>28</sup> Non-execution of a decision that is neither final nor immediately executory does not constitute indirect contempt.

In addition to the points emphasized by the *ponencia*, I submit that litigants have the burden of thoroughly pursuing their cases, and such duty should not be shifted unto judges. Since Evergold sought to stay the proceedings after the expiration of the CA's TRO and the rendition of the CA Decision, it should have filed a motion with the CA, alleging good reasons to support the immediate execution of the CA Decision pending Colorsteel's and Batomalaque's motion for reconsideration.<sup>29</sup> Evergold could have also pursued injunctive relief in the Rule 45 proceedings initiated by Colorsteel and Batomalaque. In this case, however, Everglory chose to demand Judge Reyes to apply the very narrow, jurisprudential exception of judicial courtesy.

The conduct expected of Judge Reyes was in clear contravention of the second paragraph of Section 7, Rule 65 of the Rules of Court, which states that "[t]he public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for *certiorari* with a higher court or tribunal absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge."

I share the view of the *ponencia* that Judge Reyes' non-observance of judicial courtesy, assuming to be erroneous, does not rise to the level of indirect contempt. For one, the principle of judicial courtesy remains to be the exception rather than the rule. We have held that the precept of judicial courtesy should not be applied indiscriminately and haphazardly if we are to

<sup>27</sup> *Regalado v. Go*, G.R. No. 167988, 6 February 2007 [per J. Chico-Nazario].

<sup>28</sup> Section 4, Rule 52 of the Rules of Court provides: "The pendency of a motion for reconsideration filed on time and by the proper party shall stay the execution of the judgment or final resolution sought to be reconsidered unless the court, for good reasons, shall otherwise direct."

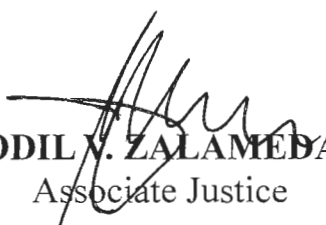
<sup>29</sup> *Id.*

maintain the relevance of Section 7, Rule 65 of the Rules of Court.<sup>30</sup> After all, judicial courtesy is simply that—a courtesy. In contrast, the obligation to proceed with a case is a duty under Section 7, Rule 65 of the Rules of Court.

More importantly, the applicability of judicial courtesy was simply not clear-cut. To be considered contemptuous, an act must be clearly contrary to or prohibited by the order of the court or tribunal. A person cannot, for disobedience, be punished for contempt unless the act which is forbidden or required to be done is clearly and exactly defined, so that there can be no reasonable doubt or uncertainty as to what specific act or thing is forbidden or required.<sup>31</sup> Since the CA Decision did not state that it was immediately executory, Judge Reyes should not be held accountable for not complying with it.

At most, Judge Reyes' non-observance of judicial courtesy constitutes an error of judgment that should not be the subject of a petition for indirect contempt.

For the foregoing reasons, I concur with the *ponencia's* reversal of the CA Decision dated 23 August 2017 and the Resolution dated 12 April 2018. I vote to **GRANT** the petition.

  
**RODIL V. ZALAMEDA**  
Associate Justice

<sup>30</sup> *De Leon v. Public Estates Authority*, G.R. Nos. 181970 & 182678, 3 August 2010 [per J. Peralta].

<sup>31</sup> *Bank of the Philippine Islands v. Calanza*, G.R. No. 180699, 13 October 2010 [per J. Nachura].