

THIRD DIVISION

[A.M. No. RTJ-07-2050 (Formerly OCA I.P.I. No. 07-2563-RTJ), March 14, 2008]

**SPOUSES ARLEEN and LORNA OLIVEROS, Complainants, vs.
HONORABLE DIONISIO C. SISON, Acting Presiding Judge,
Regional Trial Court, Branch 74, Antipolo City, Respondent.**

R E S O L U T I O N

NACHURA, J.:

Before this Court is a Motion for Partial Reconsideration filed by Judge Dionisio C. Sison seeking the reversal of our Decision^[1] dated June 27, 2007 finding him guilty of gross ignorance of the law and for which he was fined P10,000.00. We held therein that Judge Sison failed to abide by the requirements under the Revised Rules on Civil Procedure in citing herein complainants, spouses Arleen and Lorna Oliveros, for indirect contempt, thus:

As to the order citing complainants for indirect contempt, while we are disposed to accept Judge Sison's good faith in issuing the same, we have already held in the past, that good faith in situations of fallible discretion inheres only within the parameters of tolerable misjudgment and does not apply where the issues are so simple and the applicable legal principle evident and basic as to be beyond permissible margins of error. When the law is so elementary, not to know it constitutes gross ignorance of the law.

Rule 71 of the Revised Rules on Civil Procedure explicitly sets out the requirements for instituting a complaint for indirect contempt. Section 4 thereof states:

SEC. 4. *How proceedings commenced.* – Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any formal charge requiring the respondent to show cause why he should not be punished for contempt.

In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the

consolidation of the contempt charge and the principal action for joint hearing and decision. (emphasis supplied)

This provision is couched in plain and simple language. The procedure prescribed therein is clear and unmistakable. The defendants' motion obviously does not conform with this Rule; accordingly, it should not have been entertained and the warrant of arrest should never have been issued. The argument that filing the contempt charge as a separate and independent petition would "favor multiplicity of suits" is too lame an excuse for violating the Rules.

Moreover, complainants should have been given the opportunity to be heard and to defend themselves against the contempt charge, involving as it does such a dire consequence as imprisonment for six months. The Court notes that the motion to cite complainants in indirect contempt was set for hearing on November 13, 2006, that complainants did not appear (because they allegedly never received a copy of the motion nor any notice of hearing), that the matter was deemed submitted for resolution, and that on the same day an Order granting the motion and directing the issuance of a warrant for the arrest of the complainants was issued. The undue haste in disposing of this procedurally infirm motion deprived complainants of one of man's most fundamental rights, the right to be heard.

These circumstances amply overcome the presumption of good faith that Judge Sison enjoys in his favor.

Under the Rules of Court, gross ignorance of the law or procedure constitutes a serious charge. However, we find the OCA's recommendation of a P10,000 fine appropriate.

WHEREFORE, in view of the foregoing, we find respondent Judge Dionisio C. Sison **GUILTY** of gross ignorance of the law and impose on him a **FINE** of P10,000.00. (citations omitted)^[2]

In Judge Sison's Motion for Partial Reconsideration,^[3] he maintains that it is his honest opinion and belief that the contempt order he issued substantially complied with the first paragraph of Section 4, Rule 71 of the Rules of Court.^[4] He also insists that he issued the order in good faith and with no ill motive. He treated the Motion to Cite for Contempt as the proper notice or information to the court for it to act on the alleged act of disregard or disrespect for a lawful court order. He did not issue a show-cause order because the Motion to Cite for Contempt already contained a notice of hearing. The complainants, Judge Sison insists, were informed of the hearing but failed to appear. He said that complainants' counsel was personally served a copy of the Motion – as evidenced by the stamp "Received (Buencamino Law Office)" – on the last page of said Motion.

He also explains that since Rule 71 states that contempt charges may be brought by the court *motu proprio*, his understanding was that the second paragraph of Section 4, Rule 71^[5] need not be resorted to anymore.

Judge Sison also alleges that complainants failed to inform this Court of a Petition for *Certiorari* filed by the latter with the CA, docketed as CA- G.R. SP No. 97892,^[6] wherein they questioned the contempt order he issued. The CA issued a Resolution dated February 26, 2007 dismissing the petition since the proper mode of reviewing a contempt charge is appeal and not a petition for *certiorari*. Complainants then filed a Motion for Reconsideration of said Resolution.

Judge Sison also takes exception to the Court's finding of "undue haste" in issuing the subject contempt order and warrant of arrest. He argues that he issued the order promptly because defendant spouses Mallett informed the court that they were being threatened by Arleen Oliveros, allegedly a convicted killer under parole. He also alleges that he issued the order because John Mallett is an American citizen and cases affecting foreigners are to be given preference and resolved with dispatch.

Meanwhile, this Court noted in its September 24, 2007 Resolution^[7] that Judge Sison had paid the P10,000.00^[8] fine.

On the other hand, complainants, in their Comment,^[9] allege that they filed the administrative case with this Court on November 15, 2006, or before they filed the Petition for *Certiorari* (CA-G.R. SP. No. 97892) with the CA on February 13, 2007. They further allege that the Petition is the product of Judge Sison's continuous insensitivity resulting in the issuance of the contempt order, the denial of their motion to reconsider the same, and his issuance of a warrant against other persons claiming rights under complainants. The Petition for *Certiorari* seeks the nullification of the Order citing complainants in indirect contempt, the Order denying their motion for reconsideration, and the warrant for their arrest.

Complainants also allege that they were not aware that they had to inform the Court of the subsequent filing of the Petition for *Certiorari*. They claim that they did not know that Judge Sison had filed an Answer in the administrative case because they never received any of the pleadings the latter filed with this Court, including the Motion for Partial Reconsideration.

On February 26, 2007, the CA issued a Resolution^[10] dismissing complainants' petition since the proper mode of reviewing a contempt charge is appeal and not a petition for *certiorari*. Complainants filed a Motion for Reconsideration of the Resolution, which the CA granted in a Resolution^[11] dated August 6, 2007. Thus, the CA set aside its February 26, 2007 Resolution and ordered the respondents to Comment on the Petition for *Certiorari*.

Likewise, the spouses Oliveros informed the Court that complainant Arleen Oliveros had fully served the sentence (six-month imprisonment) imposed for the indirect contempt charge.^[12]

In his Reply, Judge Sison points out that the complainants' Comment is a mere rehash of the arguments raised in the complaint. He maintains that complainants were given an opportunity to be heard on the motion to cite them in contempt but that they failed to appear on the hearing date. He also reiterates that he issued the Order citing complainants in contempt in good faith and the latter have failed to