

## SECOND DIVISION

[ G.R. No. 190171, March 14, 2011 ]

**ALEN ROSS RODRIGUEZ AND REGIDOR TULALI, PETITIONERS,  
VS. THE HON. BIENVENIDO BLANCAFLOR, IN HIS CAPACITY AS  
THE ACTING PRESIDING JUDGE OF THE REGIONAL TRIAL COURT  
OF PALAWAN, BRANCH 52, AND PEOPLE OF THE PHILIPPINES,  
RESPONDENTS.**

### D E C I S I O N

**MENDOZA, J.:**

This is a petition for certiorari and prohibition under Rule 65 of the Revised Rules of Court filed by Alen Ross Rodriguez (*Rodriguez*), the Provincial Prosecutor of Palawan; and Regidor Tulali (*Tulali*), Prosecutor I of the Office of the Provincial Prosecutor of Palawan, seeking to annul and set aside the October 13, 2009 Decision<sup>[1]</sup> of respondent Judge Bienvenido Blancaflor (*Judge Blancaflor*), Acting Presiding Judge of Branch 52, Regional Trial Court, Palawan (*RTC*). The petition likewise seeks to prohibit Judge Blancaflor from implementing the said decision.

In his October 13, 2009 Decision, Judge Blancaflor found petitioners Rodriguez and Tulali guilty of direct contempt and ordered them to issue a public apology to the court. In the same decision, Judge Blancaflor suspended them indefinitely from the practice of law. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered finding respondents PROVINCIAL PROSECUTORS OF PALAWAN ALEN ROSS B. RODRIGUEZ and PROSECUTOR REGIDOR TULALI as both guilty of direct contempt and for violation of their oath of office as member of the bar and as officer of the Court, and hereby sentence them to suffer the penalty of INDEFINITE SUSPENSION from practice of law and for each to pay a fine of P100,000.00.

Respondents are further directed to issue a public apology to the Court for the above grave offenses and should they fail to do so after the finality of this Sentence, a warrant for their arrest will be issued, and they will not be released unless they comply with the order of this Court.

Let a copy of this Order be furnished the Secretary of Justice for appropriate action.

IT IS SO ORDERED.<sup>[2]</sup>

**The Facts**

Previously pending before Judge Blancaflor was Criminal Case No. 22240 for arson (*arson case*), entitled *People of the Philippines v. Teksan Ami*, in which Tulali was the trial prosecutor.

During the pendency of the case, Tulali was implicated in a controversy involving an alleged bribery initiated by Randy Awayan (*Awayan*), the driver assigned to Judge Blancaflor under the payroll of the Office of the Governor of Palawan, and one Ernesto Fernandez (*Fernandez*), to assure the acquittal of the accused, Rolly Ami (*Ami*), and the dismissal of the arson case.

On June 29, 2009, a day before the scheduled promulgation of the decision in the arson case, Tulali filed an *Ex-Parte* Manifestation withdrawing his appearance in the said case to prevent any suspicion of misdemeanor and collusion. He attached to the said manifestation a copy of the administrative complaint against Awayan filed (but eventually withdrawn) by his superior, Rodriguez, before the Office of the Governor of Palawan.

On June 30, 2009, Judge Blancaflor rendered his decision acquitting Ami of the crime of arson.

Purportedly on the basis of the administrative complaint filed against Awayan and Rodriguez, Judge Blancaflor summoned several witnesses including Tulali and heard their testimonies. On July 30, 2009, he issued an order summoning Rodriguez to appear before him for the purpose of holding an inquiry on matters pertaining to his possible involvement in Tulali's filing of the *ex-parte* manifestation and the administrative complaint against Awayan, among others.

On August 7, 2009, Rodriguez filed his Motion for Clarification as to the purpose of Judge Blancaflor's continued inquiries considering that the decision in the arson case had already been promulgated.

In an order dated August 13, 2009, Judge Blancaflor informed the petitioners that he was proceeding against them for direct contempt and violation of their oath of office on the basis of Tulali's *Ex-Parte* Manifestation.

As earlier recited, after the submission of petitioners' respective position papers, Judge Blancaflor issued the assailed October 13, 2009 Decision finding petitioners guilty of direct contempt. The penalty of indefinite suspension from the practice of law and a fine of P100,000.00 each were imposed upon them.

The petitioners filed a motion for reconsideration of the decision but it was denied in the assailed November 6, 2009 Order.<sup>[3]</sup>

Hence, the petitioners interpose the present special civil action before this Court anchored on the following

## **GROUND**

### **(A)**

**RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED DECISION AND ORDER CONSIDERING THAT PETITIONERS WERE DENIED THEIR RIGHT TO DUE PROCESS.**

**(B)**

**RESPONDENT COMMITTED GRAVE ABUSE OF DISCRETION AMOUNTING TO LACK OR EXCESS OF JURISDICTION IN ISSUING THE ASSAILED DECISION AND ORDER CONSIDERING THAT HE GROSSLY VIOLATED THE RULES ON CONTEMPT.**

**(C)**

**SINCE THE ASSAILED DECISION AND ORDER ARE VOID, A WRIT OF PROHIBITION MUST BE ISSUED AGAINST RESPONDENT.<sup>[4]</sup>**

Petitioners argue that the contempt proceedings are null and void for contravening their rights to due process of law. They claim that they were denied their rights to be informed of the nature and cause of the accusation against them, to confront the witnesses and present their own evidence. According to petitioners, Judge Blancaflor's disregard of due process constituted grave abuse of discretion which was further aggravated by the unlawful manner of simultaneously conducting suspension and contempt proceedings against them.

Petitioners further argue that the penalty imposed upon them in the "direct contempt" proceeding is clearly oppressive and without basis.

In its Manifestation in Lieu of Comment,<sup>[5]</sup> the Office of the Solicitor General (OSG) stated that Judge Blancaflor committed grave abuse of discretion amounting to lack or excess of jurisdiction in holding petitioners guilty of direct contempt as the judgment was not based on law and evidence.

The petition is impressed with merit.

The power to punish a person in contempt of court is inherent in all courts to preserve order in judicial proceedings and to uphold the orderly administration of justice. However, judges are enjoined to exercise the power judiciously and sparingly, with utmost restraint, and with the end in view of utilizing the same for correction and preservation of the dignity of the court, and not for retaliation or vindictiveness. It bears stressing that the power to declare a person in contempt of court must be exercised on the preservative, not the vindictive principle; and on the corrective, not the retaliatory, idea of punishment.<sup>[6]</sup> Such power, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.<sup>[7]</sup>

In this case, the Court cannot sustain Judge Blancaflor's order penalizing petitioners for direct contempt on the basis of Tulali's *Ex-Parte* Manifestation.

Direct contempt is any misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so.<sup>[8]</sup>

Based on the foregoing definition, the act of Tulali in filing the *Ex-Parte* Manifestation cannot be construed as contumacious within the purview of direct contempt. It must be recalled that the subject manifestation bore Tulali's voluntary withdrawal from the arson case to dispel any suspicion of collusion between him and the accused. Its filing on the day before the promulgation of the decision in the pending criminal case, did not in any way disrupt the proceedings before the court. Accordingly, he should not be held accountable for his act which was done in good faith and without malice.

Neither should Rodriguez be liable for direct contempt as he had no knowledge of, or participation in, the preparation and filing of the subject manifestation. It was signed and filed by Tulali alone in his capacity as the trial prosecutor in the arson case. The attached complaint against Awayan was filed with the Office of the Palawan Governor, and not with the RTC.

Apparently, Judge Blancaflor's conclusion, that the subject manifestation containing derogatory matters was purposely filed to discredit the administration of justice in court, is unfounded and without basis. There being no factual or legal basis for the charge of direct contempt, it is clear that Judge Blancaflor gravely abused his discretion in finding petitioners guilty as charged.

Such grave abuse of authority is likewise manifested from the penalty imposed on the petitioners. Under Section 1, Rule 71 of the Revised Rules of Court, direct contempt before the RTC or a court of equivalent or higher rank is punishable by a fine not exceeding P2,000.00 or imprisonment not exceeding ten (10) days, or both.

The penalty of indefinite suspension from the practice of law and to pay a fine of P100,000.00 each with the additional order to issue a public apology to the Court under pain of arrest, is evidently unreasonable, excessive and outside the bounds of the law.

Petitioners also fault Judge Blancaflor for non-observance of due process in conducting the contempt proceedings. It must be emphasized that direct contempt is adjudged and punished summarily pursuant to Section 1, Rule 71 of the Rules. Hence, hearings and opportunity to confront witnesses are absolutely unnecessary.

In the same vein, the petitioners' alleged "vilification campaign" against Judge Blancaflor cannot be regarded as direct contempt. At most, it may constitute indirect contempt, as correctly concluded by the OSG. For indirect contempt citation to prosper, however, the requirements under Sections 3 and 4, Rule 71 of the Rules must be satisfied, to wit:

*Sec. 3. Indirect contempt to be punished after charge and hearing. -*  
After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by