

FIRST DIVISION

[G.R. No. 155849, August 31, 2011]

LORENZO SHIPPING CORPORATION, OCEANIC CONTAINER LINES, INC., SOLID SHIPPING LINES CORPORATION, SULPICIO LINES, INC., ET AL., PETITIONERS, VS. DISTRIBUTION MANAGEMENT ASSOCIATION OF THE PHILIPPINES, LORENZO CINCO, AND CORA CURAY, RESPONDENTS.

DECISION

BERSAMIN, J.:

The petitioners filed this petition to charge the respondents with indirect contempt of court for including allegedly contemptuous statements in their so-called *Sea Transport Update* concerning the Court's resolutions dated June 5, 2002 and August 12, 2002 issued in G.R. No. 152914 entitled *Distribution Management Association of the Philippines, et al. v. Administrator Oscar Sevilla, Maritime Industry Authority, et al.*

Antecedents

On June 4, 2001, the Maritime Industry Authority (MARINA) issued a Letter-Resolution,^[1] advising respondent Distribution Management Association of the Philippines (DMAP) that a computation of the required freight rate adjustment by MARINA was no longer required for freight rates officially considered or declared deregulated in accordance with MARINA Memorandum Circular No. 153 (MC 153).

For clarity, MARINA issued MC 153 pursuant to Executive Order No. 213 (EO 213) entitled *Deregulating Domestic Shipping Rates* promulgated by President Fidel V. Ramos on November 24, 1994.^[2]

On July 2, 2001, in order to challenge the constitutionality of EO 213, MC 153, and the Letter-Resolution dated June 4, 2001, DMAP commenced in the Court of Appeals (CA) a special civil action for *certiorari* and prohibition, with prayer for preliminary mandatory injunction or temporary restraining order (CA-G.R. SP No. 65463). On November 29, 2001,^[3] however, the CA dismissed the petition for *certiorari* and prohibition and upheld the constitutionality of EO 213, MC 153, and the Letter-Resolution dated June 4, 2001.^[4] Later, on April 10, 2002, the CA denied DMAP's motion for reconsideration.^[5]

DMAP appealed to the Court (G.R. No. 152914), but on June 5, 2002,^[6] the Court denied DMAP's petition for review on *certiorari* "for petitioners' failure to: (a) take the appeal within the reglementary period of fifteen (15) days in accordance with Section 2, Rule 45 in relation to Section 5(a), Rule 56, in view of the foregoing denial of petitioners' motion for extension of time to file the petition; and (b) pay

the deposit for sheriff's fee and clerk's commission in the total amount of P202.00 in accordance with Sections 2 and 3, Rule 45 in relation to Section [c], Rule 56 and paragraph 1 of Revised Circular No. 1-88 of this Court."

On August 12, 2002,^[7] the Court denied with finality DMAP's motion for reconsideration.

In October 2002, DMAP held a general membership meeting (GMM) on the occasion of which DMAP, acting through its co-respondents Lorenzo Cinco, its President, and Cora Curay, a consultant/adviser to Cinco, publicly circulated the *Sea Transport Update*,^[8] which is reproduced as follows:

SEA TRANSPORT UPDATE

Oct. 2002 GMM

20% GRI RATE INCREASE ISSUE

1. The Motion for Reconsideration filed with the Supreme Court was denied based on technicalities and not on the legal issue DMAP presented.

Small technical matter which should not be a cause for denial (like the amount of filing fee lacking & failure to indicate date of receipt of court resolution)

> Some technical matters that could cause denial

- Failure to file on time and to file necessary pleadings
- Failure to provide copies to respondents.

> Legal issue DMAP presented

- Public Service Act
- Regulated or Deregulated
- MC 153
- **Supreme Court ruling issued in one month only, normal lead time is at least 3 to 6 months.**

WHAT TO EXPECT?

1. Liners will pressure members to pay the 20% GRI

WHAT TO DO?

1. As advised by DMAP counsel, use the following arguments:

- DMAP case was denied based on technicalities and not on merits of the case
- Court of Appeals has ruled that computation of reasonableness of

freight is not under their jurisdiction but with MARINA

- DSA's argument that DMAP's case prematurely (sic) file (sic) as there is a pending case filed before MARINA.

- Therefore, DSA & DMAP will be going back to MARINA for resolution

2. Meantime, DMAP members enjoined not to pay until resolved by MARINA

3. However, continue collaboration with liners so shipping service may not suffer

NEXT MOVE

Another group (most likely consumers) or any party will file the same case and may be using the same arguments. (emphasis supplied)

Thereupon, the petitioners brought this special civil action for contempt against the respondents, insisting that the publication of the *Sea Transport Update* constituted indirect contempt of court for patently, unjustly and baselessly insinuating that the petitioners were privy to some illegal act, and, worse, that the publication unfairly debased the Supreme Court by making "scurrilous, malicious, tasteless, and baseless innuendo"^[9] to the effect that the Supreme Court had allowed itself to be influenced by the petitioners as to lead the respondents to conclude that the "Supreme Court ruling issued in one month only, normal lead time is at least 3 to 6 months."^[10] They averred that the respondents' purpose, taken in the context of the entire publication, was to "defy the decision, for it was based on technicalities, and the Supreme Court was influenced!"^[11]

In their comment dated January 20, 2003,^[12] the respondents denied any intention to malign, discredit, or criticize the Court.^[13] They explained that their statement that the "Supreme Court ruling issued in one month time only, normal lead time is at least three to six months" ^[14] was not *per se* contemptuous, because the normal and appropriate time frame for the resolution of petitions by the Court was either less than a month, if the petition was to be denied on technicality, and more or less from three to six months, if the petition was to be given due course; that what made the petitioners describe the statement as contemptuous was not the real or actual intention of the author but rather the petitioners' false, malicious, scurrilous and tasteless insinuations and interpretation; and that the petitioners, not being themselves present during the GMM, had no basis to assert that the DMAP's presentor, the author of the material, or any of the speakers during the GMM had any evil intention or made any malicious insinuations.^[15]

The respondents further stated that the term *time frame* was layman's parlance to explain to DMAP members that the petition had been dismissed due to a technicality, considering that the appeals process in the case before the Court had

taken only a month instead of the expected three to six months;^[16] that the term *lead time*, although not the proper legal term to describe the process that the respondents' petition had undergone in the Court, was common parlance in the business sector in which the respondents belonged; that the discussions during the presentation focused on the legal options of DMAP with respect to the 20% increase, *i.e.*, to go back to MARINA for the resolution of the propriety and reasonableness of the 20% increase;^[17] that a *lead time* was indicated in the presentation material simply to tell DMAP members that the lead time to go back to MARINA had been cut short in view of the denial of the petition for review; and that, on the other hand, had the Court given due course to the petition, the expected time for the Court to resolve the appeal on the merits would have been from three to six months, a normal expectation.^[18]

Lastly, the respondents submitted that a serious study and analysis of the decision of the CA, which the Court affirmed, revealed that the decision of the CA centered only on the constitutionality of the assailed executive issuances, and did not include any determination of the reasonableness and propriety of the 20% increase; that, accordingly, the discussion of the recourse with respect to the 20% increase, which was to go back to MARINA for the resolution on the matter, could not be considered as a defiance of the order of the Court because the CA itself decreed that the propriety and reasonableness of the 20% increase should be brought to and resolved by MARINA;^[19] and that considering that there was yet no entry of judgment in relation to the denial of the petition at the time of the GMM on October 17, 2002, the respondents were not defying any final order or writ of the Court and thereby commit any act of indirect contempt.^[20]

Issue

Did the statements contained in the *Sea Transport Update* constitute or amount to indirect contempt of court?

Ruling

We dismiss the petition.

I

Contempt of Court: Concept and Classes

Contempt of court has been defined as a willful disregard or disobedience of a public authority. In its broad sense, contempt is a disregard of, or disobedience to, the rules or orders of a legislative or judicial body or an interruption of its proceedings by disorderly behavior or insolent language in its presence or so near thereto as to disturb its proceedings or to impair the respect due to such a body. In its restricted and more usual sense, contempt comprehends a despising of the authority, justice, or dignity of a court.^[21] The phrase *contempt of court* is generic, embracing within its legal signification a variety of different acts.^[22]

The power to punish for contempt is inherent in all courts, ^[23] and need not be specifically granted by statute. ^[24] It lies at the core of the administration of a judicial system.^[25] Indeed, there ought to be no question that courts have the

power by virtue of their very creation to impose silence, respect, and decorum in their presence, submission to their lawful mandates, and to preserve themselves and their officers from the approach and insults of pollution.^[26] The power to punish for contempt essentially exists for the preservation of order in judicial proceedings and for the enforcement of judgments, orders, and mandates of the courts, and, consequently, for the due administration of justice. ^[27] The reason behind the power to punish for contempt is that respect of the courts guarantees the stability of their institution; without such guarantee, the institution of the courts would be resting on a very shaky foundation.^[28]

Contempt of court is of two kinds, namely: direct contempt, which is committed in the presence of or so near the judge as to obstruct him in the administration of justice; and constructive or indirect contempt, which consists of willful disobedience of the lawful process or order of the court.^[29]

The punishment for the first is generally summary and immediate, and no process or evidence is necessary because the act is committed *in facie curiae*.^[30] The inherent power of courts to punish contempt of court committed in the presence of the courts without further proof of facts and without aid of a trial is not open to question, considering that this power is essential to preserve their authority and to prevent the administration of justice from falling into disrepute; such summary conviction and punishment accord with due process of law.^[31] There is authority for the view, however, that an act, to constitute direct contempt punishable by summary proceeding, need not be committed in the immediate presence of the court, if it tends to obstruct justice or to interfere with the actions of the court in the courtroom itself.^[32] Also, contemptuous acts committed out of the presence of the court, if admitted by the contemnor in open court, may be punished summarily as a direct contempt,^[33] although it is advisable to proceed by requiring the person charged to appear and show cause why he should not be punished when the judge is without personal knowledge of the misbehavior and is informed of it only by a confession of the contemnor or by testimony under oath of other persons.^[34]

In contrast, the second usually requires proceedings less summary than the first. The proceedings for the punishment of the contumacious act committed outside the personal knowledge of the judge generally need the observance of all the elements of due process of law, that is, notice, written charges, and an opportunity to deny and to defend such charges before guilt is adjudged and sentence imposed.^[35]

Plainly, therefore, the word *summary* with respect to the punishment for contempt refers not to the timing of the action with reference to the offense but to the procedure that dispenses with the formality, delay, and digression that result from the issuance of process, service of complaint and answer, holding hearings, taking evidence, listening to arguments, awaiting briefs, submission of findings, and all that goes with a conventional court trial.^[36]

A distinction between *in-court* contempts, which disrupt court proceedings and for which a hearing and formal presentation of evidence are dispensed with, and *out-of-court* contempts, which require normal adversary procedures, is drawn for the purpose of prescribing what procedures must attend the exercise of a court's authority to deal with contempt. The distinction does not limit the ability of courts to