

## **FIRST DIVISION**

**[ A.M. NO. RTJ-06-1972 (FORMERLY OCA IPI NO. 05-2247-RTJ), June 21, 2006 ]**

**JOHN PANALIGAN, COMPLAINANT, VS. JUDGE FRANCISCO B. IBAY, REGIONAL TRIAL COURT, BRANCH 135, MAKATI CITY, RESPONDENT.**

### **D E C I S I O N**

#### **CHICO-NAZARIO, J.:**

Complainant John Panaligan charges Judge Francisco B. Ibay, Regional Trial Court (RTC), Branch 135, Makati City, with Grave Abuse of Authority, for citing him in contempt of court and ordering his detention.

Complainant is a Building Management System (BMS) Operator assigned at the Task Force Building and Facilities Maintenance Office of the City Government of Makati. As such, it was his duty to monitor the different offices located at the Makati City Hall from 3:00 to 11:00 p.m.

On 11 April 2005, at around 9:00 p.m., complainant made his usual rounds to see to it that all lights and appliances had been turned off. He found the lights at the staff room of Branch 134 located at the 12<sup>th</sup> floor of the building still on. In accordance with the standard operating procedure, complainant went to the Monitoring Room at the basement of the building to ask for help to switch off the lights. Thereafter, he again proceeded upstairs with one of the security guards of the building. Since they had no key to open the court or staff office, complainant was compelled to switch off the circuit breaker of the south wing of the 12<sup>th</sup> floor in order to turn off the lights at the staff room of Branch 134. Complainant duly noted the incident in their logbook. In addition, he posted his report at their bulletin board to ensure that the relieving employee will turn on the circuit breaker to restore the lights.

On 12 April 2005, complainant received a show cause order<sup>[1]</sup> from the respondent Judge directing him to explain why he should not be cited for contempt of court for switching off the electric power of Branch 135. Complainant's superior officer, Edgardo Gundran, earlier received a similar order.<sup>[2]</sup>

At the hearing on 13 April 2005, complainant explained why he switched off the electric currents in the 12<sup>th</sup> floor. Finding the same unsatisfactory, respondent Judge cited<sup>[3]</sup> complainant for contempt of court with a penalty of imprisonment for two days. Thus, he was brought to the City Jail at Fort Bonifacio. However, at around 5:00 p.m. of the same day, he was released as respondent Judge set aside<sup>[4]</sup> his previous order reducing the penalty to the number of hours he was detained.

Aggrieved by the order of contempt and the subsequent order of imprisonment, complainant initiated the instant complaint.

On 10 May 2005, Court Administrator Presbitero Velasco<sup>[5]</sup> ordered respondent Judge to submit his comment within 10 days from receipt.<sup>[6]</sup>

In his Comment<sup>[7]</sup> dated 10 June 2005, respondent Judge relates that on 12 April 2005, he reported to his office at around 7:00 a.m. He found out that "the lights were off and the electrical outlets were dead." He ordered Gundran to appear before him at 2:00 p.m. to explain why he should not be cited for contempt of court for delaying the administration of justice. Gundran appeared and explained that he did not order the complainant to switch off all the electrical outlets of Branch 135. Respondent Judge found this explanation satisfactory; thus, he directed the complainant instead to appear at 10:00 a.m. the following day.

Complainant submitted his written explanation dated 13 April 2005, but respondent Judge found it unsatisfactory. Complainant admitted he indeed switched off the circuit breaker, and since Branches 134 and 135 have a common circuit breaker, the power supply of the respondent Judge's court was also disengaged. Respondent Judge points out that complainant did not explain why "he switched off all the outlets when it was only the lights which should have been switched off." Thereafter, respondent Judge cited the complainant for contempt of court for delaying the administration of justice, especially in the writing of the decision in Criminal Cases Nos. 03-032, 03-033 and 03-035 entitled, *People of the Philippines v. Michael Reyes*. Thereupon, he ordered that complainant be detained; however, he ordered his release on the same day and considered the penalty reduced to the numbers of hours he has been in detention.

Respondent Judge claims he made it his deep concern to dispose the cases assigned to him within the prescribed period. To accomplish this, he comes to court at 7:00 a.m. everyday. He works not only at his chambers but also at home. Consequently, he was able to dispose 349 cases leaving only 171 cases pending as of 31 December 2004. He points out that he was able to further reduce his docket to 23 civil cases and 29 criminal cases as of 31 May 2005. Thus, he ranked 3<sup>rd</sup> among judges in Makati RTC with respect to disposition of cases.

Respondent Judge further alleged that in the course of the performance of his duty, petty disturbances such as the subject of the instant administrative complaint prove annoying to him. Be that as it may, he did not lose his objectivity, probity, equanimity, integrity and impartiality. While he was annoyed by the incident, he reacted thereto within the limits and boundaries of the law and justice.

On 7 October 2005, the Office of the Court Administrator (OCA) submitted its report recommending that:

In view of the foregoing, it is respectfully submitted to the Honorable Court our recommendations that this administrative case be REDOCKETED as a regular administrative matter and that Judge Francisco B. Ibay, Regional Trial Court, Branch 135, Makati City, be FINED in the amount of Five Thousand Pesos (P5,000.00) with a STERN

WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.<sup>[8]</sup>

The Court finds no cogent reason to depart from the above evaluation of the OCA.

The core issue to be resolved in this case is: whether or not respondent Judge Francisco B. Ibay abused his authority in citing the complainant in contempt of court for switching off the circuit breaker to turn off the lights left on in one of the courts after office hours?

We are not persuaded by the ratiocinations of respondent Judge as to the correctness of his actions. On the contrary, we question entirely the logic behind his immediate resort to a contempt citation.

Contempt of court involves the doing of an act, or the failure to do an act, in such manner as to create an affront to the court and the sovereign dignity with which it is clothed. It is defined as "disobedience to the court by acting in opposition to its authority, justice and dignity."

The Rules of Court penalizes two types of contempt, namely, direct contempt and indirect contempt. Direct contempt is committed in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, and includes 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>[9]</sup>

On the other hand, Section 3 of Rule 71 of the Rules of Court enumerates particular acts which constitute indirect contempt, thus:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under Section 1 of this Rule;

(d) Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice;

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;