

FIRST DIVISION

[G.R. NO. 170720, November 30, 2006]

**ATTY. ERNESTO P. TABAO AND HEIRS OF CANDIDA CANOZA,
PETITIONERS, VS. HON. JUDGE EUSTAQUIO GACOTT, JR. AND
SPOUSES LUCY DEMAALA AND CLARITO DEMAALA, JR.,
RESPONDENTS.**

D E C I S I O N

CALLEJO. SR., J.:

Before the Court is a petition for review of the Decision^[1] of the Court of Appeals (CA) in CA-G.R. SP No. 45013 dated September 16, 2005 and Resolution dated December 2, 2005 denying the motion for reconsideration of the said decision.

The antecedents are as follows:

On July 30, 1996, Clarito Demaalala, Jr., the incumbent mayor of Narra, Palawan, and his wife Lucy Demaalala filed a complaint for sum of money with prayer for the issuance of writ of preliminary attachment^[2] against the heirs of Candida Canoza before the Regional Trial Court (RTC) of Palawan and Puerto Princesa City. The complaint prayed for the following:

- a) Pending the hearing of this case, a writ of preliminary attachment be issued against the properties of the deceased Candida Canoza which were the subject of Extra-judicial Settlement of Estate attached hereto in order [to] serve as security for the satisfaction of any judgment that may be recovered herein;
- b) After notice and hearing, judgment be rendered in favor of the Plaintiff and against the Defendants ordering Defendants, jointly and severally, to pay Plaintiff the following sum, to wit:
 - a) P994,000.00 representing the face value of the checks issued by Candida Canoza in favor of Plaintiffs plus legal rate of interests from the date the checks matured
 - b) P248,500.00 by way of attorney's fees
 - c) P20,000.00 by way of litigation expense
 - d) P100,000.00 by way of moral damages
 - e) P50,000.00 by way of exemplary damages

- c) For such other reliefs and remedies which are just and equitable under the premises.^[3]

The case was docketed as Civil Case No. 2921 and was raffled to Branch 47 presided by Judge Eustaquio Z. Gacott, Jr.

On December 4, 1996, the RTC issued a Writ of Preliminary Attachment.^[4] Upon a motion filed by the heirs of Candida, it issued an Order dated January 10, 1997 for the discharge of the writ after the approval of the counterbond in the amount of P1,500,000.00.^[5]

On July 14, 1997, the heirs of Candida, through their counsel, petitioner Atty. Ernesto P. Tabao, filed a Motion^[6] seeking the inhibition of respondent Judge from proceeding with the trial of the case. The Motion to Inhibit reads as follows:

Defendants, through the undersigned counsel, respectfully moves the Honorable Judge of this Court to inhibit from the trial of the above-entitled case on the ground that the non-partiality of this Honorable Court has been put to question by acts perpetrated by herein plaintiffs, which has been believed to be true by herein defendants and avers:

1. That herein plaintiffs have been heard to brag about their close ties with the Honorable Judge of this Court, hence, creating the impression that he can get any order or decision that he wants, without any sweat;
2. That as proof of such words, the plaintiff has been claiming that despite the fact that the subject matter of this case did not even reach one million pesos, he managed to get an order of attachment on the whole estate, with an estimated amount of several millions of pesos, far exceeding their claim thereon;
3. That despite the fact that the whole of the estate is under attachment, he managed to isolate some respondents to be declared in contempt of court for violation of the standing order, while freeing some for the same liability, as if the Court can only see what the plaintiffs want it to see;
4. That such actions of this Honorable Court has been alleged to have been realized due to some promise of consideration that would be taken from the amount that may be elicited from herein defendants in anticipation of the promised victory in this case;
5. That most, if not all, cases of the plaintiffs has been deliberately raffled to be assigned to the Honorable Judge of this Court and that most, if not all of them, has been victorious due to a strong bond existing between Mayor Demaala and the Honorable Judge of this Court;
6. That such ties has been heard to have originated from their common sponsor to their respective positions which has been known to be the former Speaker of the House of Representatives,

Ramon Mitra;

7. That although the undersigned counsel is not in the position to lend credence to such allusions against the integrity of this Honorable Court which is presumed to be immaculate, this representation is constrained to ask for this inhibition so as not to destroy the image and integrity of this tribunal, which in the minds of herein defendants has been put to question by the foregoing circumstances;
8. That this motion is being made so as to eradicate existing notion of the defendants that they are bound to lose this case, even before it begins;^[7]

On July 14, 1997, the motion to inhibit was heard, during which petitioner Tabao was made to explain why he should not be held in contempt of court for the statements he made therein. His explanation, however, did not satisfy respondent Judge; thus, on the same day, the latter issued an Order^[8] declaring petitioner Tabao guilty of contempt of court. Respondent judge asserted that petitioner's statements are false, baseless and malicious, degraded his person and the court, and undermined the faith of the people in the administration of justice. The dispositive portion of the Order reads:

WHEREFORE, in view of all the foregoing facts and considerations, the Court hereby finds the herein Counsel of the defendants, ATTY. ERNESTO P. TABAO guilty of contempt of court for the clearly unfounded, baseless and offensive statements stated in the Motion to Inhibit he filed as heard this morning and accordingly he is ordered to pay a fine of TEN THOUSAND PESOS (P10,000.00), Philippine Currency, to be paid immediately to the Clerk of Court with subsidiary imprisonment in case of insolvency and to suffer an imprisonment of FIFTEEN (15) DAYS.

IT IS SO ORDERED.^[9]

Petitioner Tabao filed a petition for *certiorari* with the CA assailing the said order of inhibition. He assigned the following errors to the trial court:

1. That the respondent Judge gravely abused his discretion amounting to lack of jurisdiction when he cited the undersigned counsel in contempt of court due to a carefully worded written motion filed in his court asking for his inhibition;
2. That the respondent judge acted in excess of his jurisdiction by imposing the twin penalty of fifteen (15) days imprisonment and ten thousand pesos (P10,000.00) with subsidiary imprisonment for [an] alleged direct contempt committed against his person.^[10]

On September 16, 2005, the appellate court partially granted the petition. The CA held that there was no grave abuse of discretion on the part of respondent judge in holding petitioner Tabao guilty of direct contempt for the unfounded accusations the latter made in his motion for inhibition against the former. The appellate court found that the imputations were unsubstantiated thereby constituting derogatory remarks,

unwarranted criticism and language disrespectful to the court, hence, contemptuous. However, the CA modified the judgment by dispensing with the jail sentence and reducing the fine to P2,000.00 which is the maximum amount provided for in the Rules of Court.^[11] The dispositive portion of the decision therefore reads:

WHEREFORE, premises considered, the instant petition is PARTLY GRANTED. The assailed Order of the Regional Trial Court (RTC), Branch 47, Puerto Princesa City, dated July 14, 1997 is AFFIRMED with modification deleting the sentence of imprisonment for fifteen (15) days and reducing the fine from P10,000.00 to P2,000.00.

SO ORDERED.^[12]

On December 2, 2005, the CA denied petitioner Tabao's motion for reconsideration of its decision for lack of merit.^[13]

Hence, petitioner Tabao, along with the heirs of Candida, filed this petition for review, contending that—

I.

THE HONORABLE COURT OF APPEALS HAD DECIDED IN A WAY NOT IN ACCORD WITH LAW AND ESTABLISHED JURISPRUDENCE WHEN IT RULED THAT NO GRAVE ABUSE OF DISCRETION COULD BE IMPUTED AGAINST THE RESPONDENT JUDGE IN HOLDING PETITIONER GUILTY OF DIRECT CONTEMPT AS A CONSEQUENCE OF FILING A CAREFULLY WORDED MOTION TO INHIBIT THEREBY TOTALLY DISREGARDING THE PIECES OF EVIDENCE AND ARGUMENTS RAISED BY THE PETITIONER, MORE SO WHEN THE PENALTY IMPOSED FOR THE GIVEN OFFENSE WAS WAY BEYOND THE MANDATE OF THE RULES OF COURT.

II.

THE HONORABLE COURT OF APPEALS GRAVELY ERRED IN FINDING THAT THE MOTION TO INHIBIT FILED BY THE UNDERSIGNED COUNSEL IS CONTEMPTUOUS.^[14]

Petitioners maintain that respondent Judge clearly committed a grave abuse of his discretion when he issued the Order holding petitioner Tabao in direct contempt and imposing a penalty not in accord with the provisions of Section 1, Rule 71 of the Rules of Court. They assert that respondent cited petitioner Tabao in contempt as a personal vendetta against him; hence, the order of contempt is a patent nullity. Petitioners stress that the power to punish for contempt must be exercised in the preservative not vindictive principle, and on the corrective not retaliatory idea of punishment. They insist that courts must exercise the power of contempt for purposes that are impersonal because that power is intended as a safeguard not for the judges but for the functions they exercise.^[15]

Moreover, petitioners aver that petitioner Tabao did not make any contemptuous statement in the Motion to Inhibit. He was not privy to all the allegations stated therein and merely wrote down what had been relayed to him by his clients who, in turn, received the information from the plaintiffs, herein private respondents. They assert that petitioner Tabao, in fact, made this clear when he stated in paragraph 7