

SECOND DIVISION

[G.R. No. 128938, June 04, 2004]

**RONALD SORIANO, PETITIONER, VS. COURT OF APPEALS, AND
PEOPLE OF THE PHILIPPINES RESPONDENTS.**

D E C I S I O N

TINGA, J.:

The present petition arises out of the same set of facts as that in the case of *Soriano v. Court of Appeals*,^[1] which the Court decided in 1999.

In a *Decision* dated 7 December 1993, the Regional Trial Court ("RTC") of Iba, Zambales, Branch 69,^[2] found petitioner Ronald Soriano ("Soriano") liable for the death of Isidrino Dalusong ("Dalusong"), and convicted him of the crime of Homicide, Serious Physical Injuries and Damage to Property through Reckless Imprudence. The Decision was penned by Judge Rodolfo V. Toledano ("Hon. Toledano"), who sentenced Soriano to suffer imprisonment of two (2) years, four (4) months and one (1) day to six (6) years of *prision correccional*.^[3]

Eschewing an appeal, Soriano instead filed on 12 January 1994 an *Application* for probation. The RTC granted probation for a period of three to six years in an Order dated 8 March 1994. Among the several terms and conditions of probation was that Soriano indemnify the heirs of Dalusong in the amount of Ninety Eight Thousand Five Hundred Sixty Pesos (P98,560.00), as ordered by the RTC.^[4]

On 26 April 1994, Provincial State Prosecutor Benjamin A. Fadera filed a *Motion to Cancel Probation*, on the ground that Soriano had failed to indemnify the heirs of Dalusong in the amount of Ninety Eight Thousand Five Hundred Sixty Pesos (P98,560.00), contrary to Condition Number 11 of the *Order of Probation*. While Soriano opposed this motion, the Zambales Parole and Probation Office filed a *Comment* recommending that Soriano be allowed to continue with his probation but be required to submit a program of payment of his civil liability. The RTC, in an Order dated 20 June 1994, denied the Motion to Cancel Probation, but ordered Soriano to submit within ten (10) days from notice his program of payment of the civil liability.

A copy of the *Order* dated 20 June 1994 was received by Soriano's counsel on 23 June 1994.^[5] Despite such receipt, no program of payment was submitted by Soriano, prompting the Zambales Parole and Probation Office to ask the RTC to require explanation from Soriano why he had not complied with this latest RTC Order. On 15 August 1994, the RTC issued an *Order*, directing Soriano to explain within ten (10) days why he should not be held in contempt of Court for failure to comply with the 20 June 1994 *Order*, and further directing him to submit his program of payment also within ten (10) days.

Instead of complying with this latest Order, Soriano filed a "*Motion for Reconsideration*", alleging that he had not personally received a copy of the 20 June 1994 Order, despite the fact that his counsel acknowledged its receipt on 23 June 1994. He also manifested therein that he was unemployed, dependent on his parents for support of his family, and incapable of figuring out any feasible program of payment.^[6]

Unsatisfied with this explanation, the RTC issued an *Order* dated 4 October 1994, ordering the detention of Soriano for ten (10) days for contempt of court, revoking the 8 March 1994 Order granting probation, and ordering that Soriano serve the sentence originally imposed. The RTC noted that Soriano had apparently no intention of submitting a program of payment or eventually complying with his civil obligation to the heirs of Dalusong. The RTC also took note of the fact that Soriano was able to hire two private counsels in his behalf, belying the claim of his financial hardship. These circumstances, according to the RTC, were indicative of Soriano's lack of repentance or predisposition to rehabilitate or reform, the purposes which the probation law sought to achieve.^[7]

Soriano filed a *Notice of Appeal* dated 12 October 1994, specifically appealing the contempt of court judgment" against him.^[8] An *Order* dated 17 October 1994 was promulgated by the RTC, directing that the original records pertaining to the contempt charge be forwarded to the Court of Appeals.^[9] In the same *Order*, the RTC noted that an order revoking the grant of probation or modifying the terms and conditions thereof was not appealable, hence the directives revoking probation and ordering Soriano to serve his original sentence remained unaffected.

On 26 October 1994, Soriano filed a *Petition for Certiorari* before the Court of Appeals, alleging that Hon. Judge Toledano committed grave abuse of discretion in finding petitioner in contempt of court and in revoking the probation order.^[10] The petition was docketed as C.A. S.P. No. 35550 and raffled to the Eighth Division of the Court of Appeals.

In the meantime, the appeal filed by Soriano pertaining to the contempt charge was docketed as CA G.R. C.R. No. 17595. The appeal was raffled to the Tenth Division of the Court of Appeals. Soriano and the Office of the Solicitor General filed their respective briefs.

On 29 October 1995, the Court of Appeals Eighth Division promulgated its decision in C.A. S.P. No. 35550.^[11] It dismissed the *Petition for Certiorari*, ruling that Hon. Toledano did not commit grave abuse of discretion in declaring petitioner in contempt of court and in revoking the order of probation. Soon thereafter, Soriano timely challenged this decision before this Court, via a *Petition for Review* that was docketed as G.R. No. 123936.

On 11 September 1996, the Court of Appeals Tenth Division denied the appeal in CA G.R. C.R. No. 17595.^[12] In its *Decision*, the Court of Appeals Tenth Division emphasized that Soriano was declared in contempt of court not because he was not financially capable of paying his civil liability, but because of his contumacious failure to comply with the RTC Orders dated 20 June 1994 and 15 August 1994. There was

no question that counsel for Soriano had, on 23 June 1994, received a copy of the 20 June 1994 Order requiring Soriano to submit his program of payment, and it is well settled that notice to counsel is notice to the party himself.^[13] Nor did Soriano's supposed financial incapacity excuse him from not complying with the RTC Orders, as he could have at the very least filed a manifestation with the Court that he was not yet in a position to settle the obligation.

After Soriano's *Motion for Reconsideration* was denied by the Court of Appeals,^[14] he filed a Petition for Review on *Certiorari* before this Court. Docketed as G.R. No. 128938, this latter petition is now the subject of this ruling. Soriano, in his present petition, argued that the RTC committed grave abuse of discretion in finding that there was a deliberate refusal on his part to comply with its Orders dated 20 June 1994 and 15 August 1994; and in revoking the probation order for failure to satisfy the civil liability to the heirs of the victim.^[15]

On 4 March 1999, this Court rendered judgment in G.R. No. 123936.^[16] In its *Decision*, the Court dismissed the petition, holding that the revocation of Soriano's probation was lawful and proper. Soriano's *Motion for Reconsideration* was denied,^[17] and the judgment in G.R. No. 123936 became final on 15 June 1999.

In its 4 March 1999 *Decision* in G.R. No. 123936, the Court expressly stated that the only issue for resolution in that case was "whether or not the revocation of petitioner's probation is lawful and proper."^[18] It was correct of the Court to have limited the issue in that manner, notwithstanding that Soriano also argued in his petition therein that Hon. Toledano committed grave abuse of discretion in declaring Soriano in contempt. The revocation of probation was properly assailed by Soriano through a special civil action of certiorari, which could not have similarly attacked the judgment of contempt. Under Section 11, Rule 71 of the 1997 Rules of Civil Procedure, Soriano's appropriate remedy from the judgment of contempt was an appeal to the proper court, as in criminal cases, and not the special civil action of certiorari.

Soriano correctly availed of the proper remedy from the contempt judgment by filing his Notice of Appeal on 12 October 1994. The proceedings arising from that appeal, and the rulings rendered therein are now for resolution in this *Decision*. Since the Court has already disposed of, with finality, the question of whether the RTC validly revoked Soriano's probation, the sole question now before us is whether or not the RTC erred in declaring Soriano in contempt.

Soriano argues herein that there must be prior notice and hearing before he could be held liable for indirect contempt, and that no hearing was conducted as to the contempt charge.^[19] This contention has merit.

There are two kinds of contempt punishable by law: direct contempt and indirect contempt.^[20] The contempt charged against Soriano is properly classified as indirect contempt, as it consists of disobedience of or resistance to a lawful order of a court.^[21] Section 3, Rule 71 of the Revised Rules of Court provides for the following requisites prior to conviction of indirect contempt: (a) a charge in writing to be filed, (b) an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and (c) to be heard by himself or counsel.