



Republic of the Philippines
Supreme Court
Manila

EN BANC

**RE: VERIFIED COMPLAINT
OF TOMAS S. MERDEGIA
AGAINST HON. VICENTE S.E.
VELOSO, ASSOCIATE
JUSTICE OF THE COURT OF
APPEALS, RELATIVE TO CA
G.R. SP No. 119461.**

IPI No. 12-205-CA-J

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**RE: RESOLUTION DATED
OCTOBER 8, 2013 IN OCA IPI
No. 12-205-CA-J AGAINST
ATTY. HOMOBONO ADAZA II.**

A.C. No. 10300

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

Promulgated:

DECEMBER 10, 2013

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RESOLUTION**BRION, J.:**

On October 8, 2013, we issued a Resolution¹ dismissing the administrative complaint of Tomas S. Merdegia against Court of Appeals Associate Justice Vicente S.E. Veloso. In this same Resolution, we also directed Atty. Homobono Adaza II, Merdegia's counsel, to show cause why he should not be cited for contempt.

After considering Atty. Adaza's explanation,² we find his account insufficient, and find him guilty of indirect contempt.

According to Atty. Adaza, he should not be punished for indirect contempt as he was merely performing his duty as Merdegia's counsel when he assisted him in preparing the administrative complaint against Justice Veloso. Atty. Adaza asserted that both he and his client observed Justice Veloso's partiality during the oral arguments, but instead of immediately filing an administrative complaint against him, he counseled Merdegia to first file a Motion to Inhibit Justice Veloso from the case. However, upon finding that Justice Veloso refused to inhibit himself, Merdegia repeated his request to file an administrative complaint against Justice Veloso, to which Atty. Adaza acceded. Thus, Atty. Adaza pleaded that he should not be faulted for assisting his client, especially when he also believes in the merits of his client's case.

Atty. Adaza's explanation, read together with the totality of the facts of the case, fails to convince us of his innocence from the contempt charge.

As Atty. Adaza himself admitted, he prepared the administrative complaint *after* Justice Veloso refused to inhibit himself from a case he was handling. The complaint and the motion for inhibition were both based on the same main cause: the alleged partiality of Justice Veloso during the oral arguments of Merdegia's case. ***The resolution dismissing the motion for inhibition should have disposed of the issue of Justice Veloso's bias.*** While we do not discount the fact that it was Justice Veloso who penned the resolution denying the motion for inhibition, we note that he was allowed to do this under the 2009 Internal Rules of the Court of Appeals.³ ***Had Merdegia and Atty. Adaza doubted the legality***

¹ *Rollo*, pp. 494-498.

² *Id.* at 518-521.

³ Section 3, Rule V, of the 2009 Internal Rules of the Court of Appeals provides:

Sec. 3. Motion to Inhibit a Division or a Justice. — A motion for inhibition must be in writing and under oath and shall state the grounds therefor.

A motion for inhibition of a Division or a Justice **must be acted upon by the Division or the Justice concerned, as the case may be**, within ten (10) working days from

of this resolution, the proper remedy would have been to file a petition for certiorari assailing the order denying the motion for inhibition. The settled rule is that administrative complaints against justices cannot and should not substitute for appeal and other judicial remedies against an assailed decision or ruling.⁴

While a lawyer has a duty to represent his client with zeal, he must do so within the bounds provided by law.⁵ He is also duty-bound to impress upon his client the propriety of the legal action the latter wants to undertake, and to encourage compliance with the law and legal processes.⁶

A reading of Merdegia's administrative complaint⁷ shows an apparent failure to understand that cases are not always decided in one's favor, and that an allegation of bias must stem from an extrajudicial source other than those attendant to the merits and the developments in the case.⁸ In this light, we cannot but attribute to Atty. Adaza the failure to impress upon his client the features of our adversarial system, the substance of the law on ethics and respect for the judicial system, and his own failure to heed what his duties as a professional and as an officer of the Court demand of him in acting for his client before our courts.

To be sure, deciding administrative cases against erring judges is not an easy task. We have to strike a balance between the need for accountability and integrity in the Judiciary, on the one hand, with the need to protect the independence and efficiency of the Judiciary from vindictive and enterprising litigants, on the other. Courts should not be made to bow down to the wiles of litigants who bully judges into inhibiting from cases or deciding cases in their favor, but neither should we shut our doors from litigants brave enough to call out the corrupt practices of people who decide the outcome of their cases. Indeed, litigants who feel unjustly injured by malicious and corrupt acts of erring judges and officials should not be punished for filing administrative cases against them; neither should these litigants be unjustly deterred from doing so by a wrong signal from this Court that they would be made to explain why they should not be cited for contempt when the complaints they filed prove to be without sufficient cause.

its/his/her receipt thereof except when there is an application for a temporary restraining order, in which case, the motion must be acted upon immediately.

⁴ *Maylas, Jr. v. Judge Sese*, 529 Phil. 594, 598 (2006).

⁵ Canon 19 of the Code of Professional Responsibility provides:

Canon 19 – A lawyer shall represent his client with zeal within the bounds of the law.

⁶ Canon 1 of the Code of Professional Responsibility provides:

Canon 1 – A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes.

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Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

⁷ *Rollo*, pp. 2-19.

⁸ *Soriano v. Angeles*, 393 Phil. 769, 779 (2000).

What tipped the balance against Atty. Adaza, in this case, is the totality of the facts of the case that, when read together with the administrative complaint he prepared, shows that his complaint is merely an attempt to malign the administration of justice. We note Atty. Adaza's penchant for filing motions for inhibition throughout the case: *first*, against Judge Ma. Theresa Dolores C. Gomez Estoesta of the Regional Trial Court of Manila, who issued an order unfavorable to his client; and *second*, against all the justices of the Court of Appeals division hearing his appeal, for alleged bias during the oral arguments on his case. These indicators, taken together with the baseless administrative complaint against Justice Veloso after he penned an order adverse to Atty. Adaza's client, disclose that there was more to the administrative complaint than the report of legitimate grievances against members of the Judiciary.

In *Re: Verified Complaint of Engr. Oscar L. Ongjoco, etc.*,⁹ we cited a litigant in indirect contempt of court for his predisposition to indiscriminately file administrative complaints against members of the Judiciary. We held that this conduct degrades the judicial office, interferes with the due performance of their work for the Judiciary, and thus constitutes indirect contempt of court. Applying this principle to the present case, we hold that Atty. Adaza's acts constitute an improper conduct that tends to degrade the administration of justice, and is thus punishable for indirect contempt under Section 3(d), Rule 71 of the Rules of Court.

As a final note, Atty. Adaza's contemptuous conduct may also be subject to disciplinary sanction as a member of the bar.¹⁰ If we do not now proceed at all against Atty. Adaza to discipline him, we are prevented from doing so by our concern for his due process rights. Our Resolution of October 8, 2013 only asked him to show cause why he should not be cited in contempt, and not why he should not be administratively penalized. To our mind, imposing a disciplinary sanction against Atty. Adaza through a contempt proceeding violates the basic tenets of due process as a disciplinary action is independent and separate from a proceeding for contempt. A person charged of an offense, whether in an administrative or criminal proceeding, must be informed of the nature of the charge against him, and given ample opportunity to explain his side.¹¹

While the two proceedings can proceed simultaneously with each other,¹² a contempt proceeding cannot substitute for a disciplinary

⁹ A.M. OCA IPI No. 11-184-CA-J, January 31, 2012, 664 SCRA 465.

¹⁰ *Zaldivar v. Sandiganbayan*, 248 Phil. 542, 544, 584 (1988).

¹¹ *Espiña v. Cerujano, et al.*, 573 Phil. 254, 261-262 (2008).

¹² The two proceedings, while inherently different, may simultaneously be pursued against the erring lawyer, similar to what we did in *Zaldivar v. Sandiganbayan*, *supra* note 10. In that case we asked then Tanodbayan Raul Gonzales to show cause why he should not be cited in contempt and be subjected to administrative sanctions. The dispositive of our decision in that case found him guilty of both contempt and gross misconduct as an officer of the court and a member of the bar.

proceeding for erring lawyers,¹³ and *vice versa*. There can be no substitution between the two proceedings, as contempt proceedings against lawyers, as officers of the Court, are different in nature and purpose from the discipline of lawyers as legal professionals. The two proceedings spring from two different powers of the Court.

The Court, in exercising its power of contempt, exercises an implied and inherent power granted to courts in general.¹⁴ Its existence is essential to the preservation of order in judicial proceedings; to the enforcement of judgments, orders and mandates of courts; and, consequently, in the administration of justice;¹⁵ thus, it may be instituted against any person guilty of acts that constitute contempt of court.¹⁶ Further, jurisprudence describes a contempt proceeding as penal and summary in nature; hence, legal principles applicable to criminal proceedings also apply to contempt proceedings. A judgment dismissing the charge of contempt, for instance, may no longer be appealed in the same manner that the prohibition against double jeopardy bars the appeal of an accused's acquittal.¹⁷

In contrast, a disciplinary proceeding against an erring lawyer is *sui generis* in nature; it is neither purely civil nor purely criminal. Unlike a criminal prosecution, a disciplinary proceeding is not intended to inflict punishment, but to determine whether a lawyer is still fit to be allowed the privilege of practicing law. It involves an investigation by the Court of the conduct of its officers, and has, for its primary objective, public interest.¹⁸ Thus, unlike a contempt proceeding, the acquittal of the lawyer from a disciplinary proceeding cannot bar an interested party from seeking reconsideration of the ruling. Neither does the imposition of a penalty for contempt operate as *res judicata* to a subsequent charge for unprofessional conduct.¹⁹

Contempt proceedings and disciplinary actions are also governed by different procedures. Contempt of court is governed by the procedures under Rule 71 of the Rules of Court, whereas disciplinary actions in the practice of law are governed by Rules 138 and 139 thereof.²⁰

IN THESE LIGHTS, the Court finds Atty. Homobomo Adaza II **GUILTY OF INDIRECT CONTEMPT** for filing a frivolous suit against Court of Appeals Associate Justice Vicente S.E. Veloso, and hereby sentences him to pay, within the period of fifteen days from the promulgation of this judgment, a fine of ₱5,000.00. The respondent is

¹³ *People v. Godoy*, 312 Phil. 977, 1032-1033 (1995).

¹⁴ *People v. Judge Estenzo*, 159-A Phil. 483, 487 (1975).

¹⁵ *Masangay v. Comelec*, 116 Phil. 355, 358 (1962).

¹⁶ Rules of Court, Rule 71, Section 1 and Section 3.

¹⁷ *Insurance Commissioner v. Globe Assurance Co., Inc., et al.*, 197 Phil. 192, 194-195 (1982).

¹⁸ *In re Almacen*, 142 Phil. 353 (1970).

¹⁹ *People v. Godoy*, *supra* note 13, at 1033.


²⁰ *Id.* at 1033.

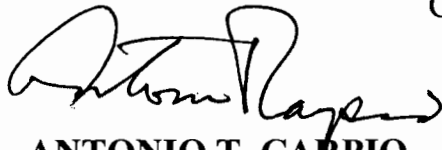
also **WARNED** that further similar misbehavior on his part may be a ground for the institution of disciplinary proceedings against him.

SO ORDERED.

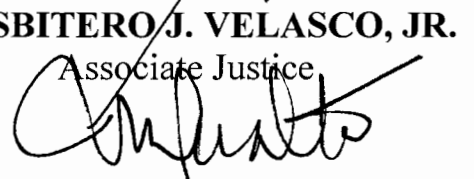

ARTURO D. BRION
Associate Justice

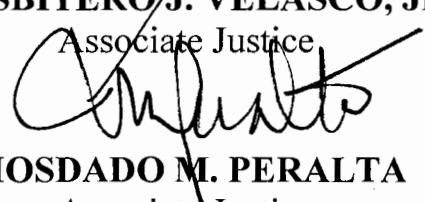
WE CONCUR:

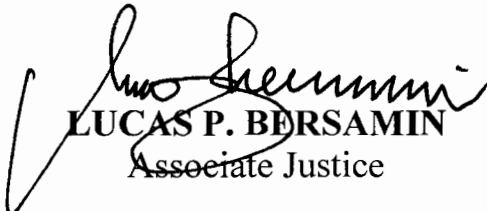

MARIA LOURDES P. A. SERENO
Chief Justice


ANTONIO T. CARPIO
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

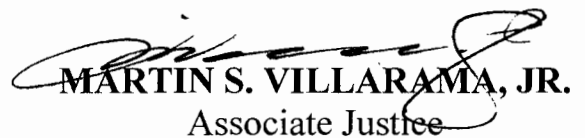

PRESBITERO J. VELASCO, JR.
Associate Justice


DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice

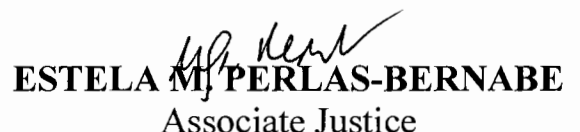

ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice