



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

P/SUPT. HANSEL M. MARANTAN,
Petitioner,

G.R. No. 205956

Present:

- versus -

VELASCO, JR., *J.*, Chairperson.
PERALTA,
ABAD,
MENDOZA, and
LEONEN, *JJ.*

ATTY. JOSE MANUEL DIOKNO
and MONIQUE CU-UNJIENG
LA'O,

Promulgated:

Respondents.

February 12, 2014

McCoy

X -----X

RESOLUTION

MENDOZA, *J.*:

Before the Court is a petition to cite respondents in contempt of Court.

Petitioner P/Supt. Hansel M. Marantan (*Marantan*) is the respondent in G.R. No. 199462,¹ a petition filed on December 6, 2011, but already dismissed although the disposition is not yet final. Respondent Monique Cu-Unjieng La'O (*La'O*) is one of the petitioners in the said case, while respondent Atty. Jose Manuel Diokno (*Atty. Diokno*) is her counsel therein.

¹ Jennifer Eloise V. Mazano and Monique Cu-Unjieng La'O v. Hon. Conchita Carpio-Morales, in her capacity as Ombudsman; Hon. Orlando Casimiro in his capacity as Overall Deputy Ombudsman; Hon. Danilo A. Buemio, in his capacity as Presiding Judge of the Regional Trial Court of Pasig City, Branch 265; P/CSupt. Augusto P. Angcanan, Jr.; P/SInsp. Hansel M. Marantan; P/Sinsp. Samson B. Belmote; PO3 Rizalito SM Ramos, Jr.; PO3 Lloyd F. Soria; P/Insp. Henry R. Cerdon; PO2 Jesus M. Fermin; PO2 Dexter M. Bernadas; PO2 Sonny R. Robrigado; PO2 Fernando Ray S. Gapuz; and PO1 Josil Rey Lucena.

G.R. No. 199462 relates to Criminal Case Nos. 146413-PSG, 146414-PSG and 146415-PSG, entitled “*People of the Philippines v. P/SINSP Hansel M. Marantan, et al.*,” pending before the Regional Trial Court of Pasig City, Branch 265 (RTC), where Marantan and his co-accused are charged with homicide. The criminal cases involve an incident which transpired on November 7, 2005, where Anton Cu-Unjieng (son of respondent La’O), Francis Xavier Manzano, and Brian Anthony Dulay, were shot and killed by police officers in front of the AIC Gold Tower at Ortigas Center, which incident was captured by a television crew from UNTV 37 (*Ortigas incident*).

In G.R. No. 199462, La’O, together with the other petitioners, prayed, among others, that the resolution of the Office of the Ombudsman downgrading the charges from murder to homicide be annulled and set aside; that the corresponding informations for homicide be withdrawn; and that charges for murder be filed.

In the meantime, on January 6, 2013, a shooting incident occurred in Barangay Lumutan, Municipality of Atimonan, Province of Quezon, where Marantan was the ground commander in a police-military team, which resulted in the death of thirteen (13) men (*Atimonan incident*). This encounter, according to Marantan, elicited much negative publicity for him.

Marantan alleges that, riding on the unpopularity of the Atimonan incident, La’O and her counsel, Atty. Diokno, and one Ernesto Manzano, organized and conducted a televised/radio broadcasted press conference. During the press conference, they maliciously made intemperate and unreasonable comments on the conduct of the Court in handling G.R. No. 199462, as well as contumacious comments on the merits of the criminal cases before the RTC, branding Marantan and his co-accused guilty of murder in the Ortigas incident.

On January 29, 2013, this interview was featured in “TV Patrol,” an ABS-CBN news program. Marantan quotes² a portion of the interview, as follows:

Atty. Diokno

So ang lumabas din sa video that the actual raw footage of the UNTV is very long. Ang nangyari, you see the police officers may nilalagay sila sa loob ng sasakyan ng victims na parang pinapalabas nila that there was a shootout pero ang nangyari na yon e tapos na, patay na.

² Rollo, pp. 8-9.

Ernesto Manzano

Kung sinasabi nilang carnapper dapat huliin nilang buhay yong mga mahal naming sa buhay and kinasuhan pero ang ginawa nila, sila mismo na ang nagbigay ng hatol.

Monique Cu-Unjieng La'o

Sinasabi nila na may kinarnap siya, tinutukan ng baril, hindi magagawa yong kasi kilala ko siya, anak ko yon e x x x he is already so arrogant because they protected him all these years. They let him get away with it. So even now, so confident of what he did, I mean confident of murdering so many innocent individuals.

Atty. Diokno

Despite the overwhelming evidence, however, Supt. Marantan and company have never been disciplined, suspended or jailed for their participation in the Ortigas rubout, instead they were commended by their superiors and some like Marantan were even promoted to our consternation and disgust. Ang problema po e hangang ngayon, we filed a Petition in the Supreme Court December 6, 2011, humihingi po kami noon ng Temporary Restraining Order, etc. – hangang ngayon wala pa pong action ang Supreme Court yong charge kung tama ba yong pag charge ng homicide lamang e subalit kitang kita naman na they were killed indiscriminately and maliciously.

Atty. Diokno

Eight years have passed since our love ones were murdered, but the policemen who killed them led by Supt. Hansel Marantan the same man who is involved in the Atimonan killings – still roam free and remain unpunished. Mr. President, while we are just humble citizens, we firmly believe that police rub-out will not stop until you personally intervene.

Ernesto Manzano

Up to this date, we are still praying for justice.

Monique Cu-Unjieng La'o

Ilalaban namin ito no matter what it takes, we have the evidence with us, I mean everything shows that they were murdered.

(Emphasis supplied by petitioner)

Marantan submits that the respondents violated the *sub judice* rule, making them liable for indirect contempt under Section 3(d) of Rule 71 of the Rules of Court, for their contemptuous statements and improper conduct tending directly or indirectly to impede, obstruct or degrade the administration of justice. He argues that their pronouncements and malicious comments delved not only on the supposed inaction of the Court in resolving the petitions filed, but also on the merits of the criminal cases before the RTC and prematurely concluded that he and his co-accused are guilty of murder. It is Maranta's position that the press conference was organized by the respondents for the sole purpose of influencing the decision of the Court in the petition filed before it and the outcome of the criminal cases before the RTC by drawing an ostensible parallelism between the Ortigas incident and the Atimonan incident.

The respondents, in their Comment,³ argue that there was no violation of the *sub judice* rule as their statements were legitimate expressions of their desires, hopes and opinions which were taken out of context and did not actually impede, obstruct or degrade the administration of justice in a concrete way; that no criminal intent was shown as the utterances were not on their face actionable being a fair comment of a matter of public interest and concern; and that this petition is intended to stifle legitimate speech.

The petition must fail.

The *sub judice* rule restricts comments and disclosures pertaining to the judicial proceedings in order to avoid prejudging the issue, influencing the court, or obstructing the administration of justice. A violation of this rule may render one liable for indirect contempt under Sec. 3(d), Rule 71 of the Rules of Court,⁴ which reads:

Section 3. Indirect contempt to be punished after charge and hearing. – x x x a person guilty of any of the following acts may be punished for indirect contempt:

x x x

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

³ Id. at 297-306.

⁴ *Romero v. Estrada*, G.R. No. 174105, April 2, 2009, 583 SCRA 396, 403.

The proceedings for punishment of indirect contempt are criminal in nature.⁵ This form of contempt is conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect. Intent is a necessary element in criminal contempt, and no one can be punished for a criminal contempt unless the evidence makes it clear that he intended to commit it.⁶

For a comment to be considered as contempt of court “it must really appear” that such does impede, interfere with and embarrass the administration of justice.⁷ What is, thus, sought to be protected is the all-important duty of the court to administer justice in the decision of a pending case.⁸ The specific rationale for the *sub judice* rule is that courts, in the decision of issues of fact and law should be immune from every extraneous influence; that facts should be decided upon evidence produced in court; and that the determination of such facts should be uninfluenced by bias, prejudice or sympathies.⁹

The power of contempt is inherent in all courts in order to allow them to conduct their business unhampered by publications and comments which tend to impair the impartiality of their decisions or otherwise obstruct the administration of justice. As important as the maintenance of freedom of speech, is the maintenance of the independence of the Judiciary. The “clear and present danger” rule may serve as an aid in determining the proper constitutional boundary between these two rights.¹⁰

The “clear and present danger” rule means that the evil consequence of the comment must be “extremely serious and the degree of imminence extremely high” before an utterance can be punished. There must exist a clear and present danger that the utterance will harm the administration of justice. Freedom of speech should not be impaired through the exercise of the power of contempt of court unless there is no doubt that the utterances in question make a serious and imminent threat to the administration of justice. It must constitute an imminent, not merely a likely, threat.¹¹

The contemptuous statements made by the respondents allegedly relate to the merits of the case, particularly the guilt of petitioner, and the conduct of the Court as to its failure to decide G.R. No. 199462.

⁵ *Soriano v. CA*, G.R. No. 128938, June 4, 2004, 431 SCRA 1, 7.

⁶ *People v. Godoy*, 312 Phil. 977, 999 (1995).

⁷ *People v. Castelo*, 114 Phil. 892, 900 (1962); citing *People v. Alarcon*, 69 Phil. 265 (1939).

⁸ *People v. Alarcon*, 69 Phil. 265, 271 (1939).

⁹ *Romero v. Estrada*, G.R. No. 174105, April 2, 2009, 583 SCRA 396, 403; citing *Nestle Philippines v. Sanchez*, 238 Phil. 543 (1987).

¹⁰ *Cabansag v. Fernandez*, 102 Phil. 152, 161 (1957).

¹¹ *Id.* at 161-162.

As to the merits, the comments seem to be what the respondents claim to be an expression of their opinion that their loved ones were murdered by Marantan. This is merely a reiteration of their position in G.R. No. 199462, which precisely calls the Court to upgrade the charges from homicide to murder. The Court detects no malice on the face of the said statements. The mere restatement of their argument in their petition cannot actually, or does not even tend to, influence the Court.


As to the conduct of the Court, a review of the respondents' comments reveals that they were simply stating that it had not yet resolved their petition. There was no complaint, express or implied, that an inordinate amount of time had passed since the petition was filed without any action from the Court. There appears no attack or insult on the dignity of the Court either.

"A public utterance or publication is not to be denied the constitutional protection of freedom of speech and press merely because it concerns a judicial proceeding still pending in the courts, upon the theory that in such a case, it must necessarily tend to obstruct the orderly and fair administration of justice."¹² By no stretch of the imagination could the respondents' comments pose a serious and imminent threat to the administration of justice. No criminal intent to impede, obstruct, or degrade the administration of justice can be inferred from the comments of the respondents.

Freedom of public comment should, in borderline instances, weigh heavily against a possible tendency to influence pending cases.¹³ The power to punish for contempt, being drastic and extraordinary in its nature, should not be resorted to unless necessary in the interest of justice.¹⁴ In the present case, such necessity is wanting.

WHEREFORE, the petition is DISMISSED.

SO ORDERED.



JOSE CABRAL MENDOZA
Associate Justice

¹² Id. at 162.

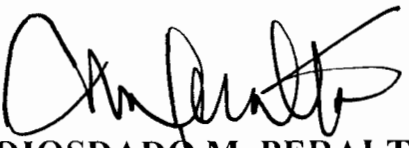
¹³ Id.

¹⁴ *Austria v. Masaquel*, 127 Phil. 677, 691 (1967).


WE CONCUR:



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice




ROBERTO A. ABAD
Associate Justice



MARVIC MARIO VICTOR F. LEONEN
Associate Justice

A T T E S T A T I O N

I attest that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson, Third Division

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



MARIA LOURDES P. A. SERENO
Chief Justice

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