

SECOND DIVISION

**[A.M. NO. RTJ-01-1660 (IN CONNECTION WITH
G.R. NO. 139519), August 25, 2005]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
JUDGE MAXIMO G.W. PADERANGA, REGIONAL TRIAL COURT,
BRANCH 38, MISAMIS ORIENTAL, CAGAYAN DE ORO CITY,
RESPONDENT.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

The administrative case before us stems from the directive issued by this Court in its Decision promulgated on January 24, 2001 in G.R. No. 139519 entitled *Conchito J. Oclarit vs. Judge Maximo G.W. Paderanga, Judge, Regional Trial Court, Misamis Oriental*,^[1] requiring the Office of the Court Administrator (OCA) of this Court to file an administrative charge against herein respondent for gross misconduct and grave abuse of authority.

The factual antecedents as recited in this Court's Decision in G.R. No. 139519 are as follows:

Petitioner [referring to Atty. Conchito J. Oclarit] is a lawyer engaged in the private practice of law principally in the City of Cagayan de Oro and the province of Misamis Oriental.

At times material hereto, petitioner was counsel for the plaintiffs in the case entitled, spouses Gregorio and Pelegrina Babatido v. Elnora and Teodoro Abella, et. al., Civil Case No. 99-194, Regional Trial Court, Misamis Oriental, Branch 38, Cagayan de Oro City. Judge Maximo G.W. Paderanga was the presiding judge, Regional Trial Court, Misamis Oriental, Branch 38.

On June 1, 1999, the aforecited case was scheduled for continuation of pre-trial before the lower court. The case was first heard on pre-trial on April 30, 1999. In that hearing, petitioner filed a motion to approve compromise agreement entered into by the parties pointing out that the compromise agreement was reached before a barangay captain. Counsel for the defendants opposed the motion because the defendants were placed in a disadvantageous condition, arguing that the case was before the court not before the barangay. The court ruled that the compromise agreement was not before the barangay captain but before the court. The parties settled before the barangay captain. At this point, petitioner informed the court that the compromise agreement was signed and was explaining further when the court told him repeatedly to "shut up." Then petitioner requested the court to stop shouting at him. The court

retorically asked: "why should the court precisely not cite you for contempt for doing that," that is, for settling the case before the barangay captain.

Consequently, the presiding judge cited petitioner in contempt of court and imposed on him a fine of P1,000.00. Petitioner remarked that the presiding judge was becoming very arrogant. In reply to that, respondent judge declared: "I will put you in jail. Get a policeman." At that moment, the court issued a verbal order holding petitioner for direct contempt of court and sentencing petitioner to serve one (1) day in jail and to pay a fine of P1,000.00. Petitioner indicated that he would challenge the ruling. Then, respondent judge issued a "detention commitment" to the Jail Warden, City Jail, Cagayan de Oro City, committing the person of petitioner Conchito J. Oclarit for direct contempt.

The next day, with petitioner in jail, he received a copy of the written order declaring him in direct contempt of court and sentencing him to pay a fine of P1,000.00 and also to serve one (1) day in jail. He was released after serving one (1) day in jail. Apparently, he also paid the fine of P1,000.00.^[2]

In said case, this Court held that:

... respondent judge gravely abused his discretion in declaring petitioner guilty of direct contempt of court, sentencing him to pay a fine of P1,000.00 and to serve one day in jail. It was respondent judge who first shouted successively at petitioner to "shut up." When petitioner persisted in making his explanation, the court declared him in direct contempt, to the extent of stating that the judge had "absolute power." The lawyer's remarks explaining his position in the case under consideration do not necessarily assume the level of contumely that justifies the court to exercise the power of contempt. Courts must be slow to punish for direct contempt. This drastic power must be used sparingly in cases of clearly contumacious behavior in *facie curiae*. The salutary rule is that the power to punish for contempt must be exercised on the preservative, not vindictive principle, and on the corrective and not retaliatory idea of punishment. The courts must exercise the power to punish for contempt for purposes that are impersonal, because that power is intended as a safeguard not for the judges as persons but for the functions that they exercise.

Accordingly, this Court disposed of the case as follows:

IN VIEW WHEREOF, the Court GRANTS the petition and renders judgment declaring VOID the order finding petitioner guilty of direct contempt of court in Civil Case No. 99-194, and sentencing him to pay a fine of P1,000.00 and to serve one (1) day in jail. The court orders respondent judge to reimburse petitioner the sum of P1,000.00, not out of the amount paid by petitioner to the court but from his own funds. The Court regrets that petitioner had to serve time in jail by a despotic act of respondent judge.

The Court orders the Court Administrator, Supreme Court, to file an

administrative charge against respondent Judge Maximo G.W. Paderanga, Regional Trial Judge, Regional Trial Court, Misamis Oriental, Branch 38, Cagayan de Oro City, for gross misconduct and grave abuse of authority, within fifteen (15) days from notice.

This decision is immediately executory.

Costs against respondent Judge.

SO ORDERED.^[3]

In compliance with the directive of the Court, the OCA, in a complaint dated October 4, 2001, charged Judge Paderanga with gross misconduct and grave abuse of authority.^[4] In the same administrative complaint, the OCA, through Deputy Court Administrator Christopher O. Lock, prayed that respondent be required to file his comment and that the case be submitted to an Associate Justice of the Court of Appeals (CA) for investigation, report and recommendation.^[5]

On November 21, 2001, this Court issued a resolution requiring respondent to file his Comment to the administrative complaint filed by the OCA.^[6] Respondent failed to comply.

In a Resolution dated January 12, 2004, this Court, noting respondent's failure to file his comment, directed the latter to report whether he had complied with the Decision of this Court dated January 24, 2001, and if in the affirmative, submit proof of compliance therewith; and to show cause why he should not be disciplinarily dealt with or held in contempt for failure to file comment on the administrative complaint filed against him, and to submit the required comment, ten (10) days from notice thereof.^[7]

In his Compliance with Manifestation with Request and Clarification, respondent, through counsel, informed the Court of his compliance with the Court's Decision of January 24, 2001. As to his failure to file his comment to the administrative complaint filed by the OCA, respondent reasoned out that neither he nor his counsel received or was furnished a copy of the said complaint.^[8]

On May 24, 2004, this Court issued another resolution stating among others that:

The Court notes from the registry return cards for the Resolution of November 21, 2001, which required respondent judge to comment on the administrative complaint for gross misconduct and gross abuse of authority filed by the Office of the Court Administrator, that copies of said resolution were received by respondent judge as well as Arcol and Musni Law Offices on an unstated date in December 2001 and December 19, 2001, respectively. The records do not show whether copies of the administrative complaint were attached to the copies of the resolutions received by them. However, even assuming that copies of the complaint were inadvertently omitted, respondent judge or his counsel should have immediately called the attention of the Court to the omission. It is only after they have received the Court's Resolution dated January 12, 2004 that they informed the Court that they have not received a copy of the

complaint, thereby unduly delaying the proceedings and resolution of this administrative matter.

In view thereof, the Court Resolves to:

- a) **NOTE** the compliance of respondent judge with the directive in the Decision dated January 24, 2001 to reimburse petitioner Conchito J. Oclarit the amount of P1,000.00;
- b) **DECLARE** the explanation for failure to file comment on the administrative complaint NOT **SATISFACTORY** and to **ADMONISH** Judge Paderanga and Atty. Arcol to be more prudent in dealing with the Court;
- c) **DIRECT** the Division Clerk of Court to furnish Judge Paderanga and Arcol and Musni Law Offices with copies of administrative complaint; and
- d) **REQUIRE** Judge Paderanga to file **COMMENT** thereon within a non-extendible period of ten (10) days from receipt hereof, with warning that upon failure to file his comment within said period, he shall be deemed to have waived his right to comment and the complaint of the Office of the Court Administrator shall be deemed submitted for resolution of the Court.

SO ORDERED.^[9]

On July 28, 2004, respondent filed his Comment.^[10]

On September 22, 2004, this Court issued a resolution referring the instant matter to Justice Magdangal M. de Leon of the CA for investigation, report and recommendation.^[11]

In conformity with the directive of this Court, Justice de Leon set the case for preliminary conference and required the parties to submit their pre-trial briefs.^[12]

Respondent and private complainant Atty. Oclarit submitted their pre-trial briefs, respectively.^[13] In his brief, respondent manifested his willingness to enter into an amicable settlement or alternative mode of dispute resolution.

In the initial hearing conducted on January 13, 2005, respondent reiterated his willingness to enter into a settlement with the private complainant. Accordingly, Justice de Leon reset the hearing to February 24, 2005 to give the parties opportunity and time to explore the possibility of settlement.^[14]

On February 22, 2005, Atty. Oclarit submitted a Manifestation with an attached Affidavit of Desistance explaining his desire to be permitted to desist from pursuing the complaint against respondent.^[15]

The following day, or on February 23, 2005, respondent filed his own Manifestation

with Motion indicating that he and private complainant Oclarit "have come to terms and thus, without going further into the merits of the case, in their honest intention in good faith to have peace of mind, have expressed their desire and decided to put an amicable closure to their controversy."^[16]

Consequently, both parties did not appear during the scheduled hearing on February 24, 2005.

In his Report and Recommendation dated April 8, 2005, Justice de Leon came up with the following evaluation of the case, pertinent portions of which read as follows:

Notwithstanding the desistance of private complainant from participating in this administrative case, coupled with respondent Judge's affirmation that they have long come to terms, a determination of the veracity of the administrative charge against respondent Judge must still be made.

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Indeed, respondent Judge's action in forthwith declaring and punishing Atty. Oclarit in direct contempt of court constituted misconduct and an abuse of authority. The same was all the more highlighted by his failure to state in the written order of direct contempt the specific cause thereof. Respondent Judge's defense that his resort to such a drastic action was prompted by the manner by which Atty. Oclarit argued as to the propriety of submitting for approval a compromise agreement reached before a Barangay Captain is not well-taken.

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There was nothing in the records to show that Atty. Oclarit was disrespectful to the trial court at the inception of the hearing where respondent Judge cited Atty. Oclarit in direct contempt of court. Atty. Oclarit was only trying to explain the propriety of obtaining a settlement before a Barangay Captain but respondent Judge would not listen. The Supreme Court even found that it was respondent Judge who first shouted successively at Atty. Oclarit to "shut up", an act unbecoming of an impartial and a neutral judge.

Respondent Judge should have given Atty. Oclarit the opportunity to fully present his side and only if his explanation was found unmeritorious or his manner clearly spiteful should respondent Judge have acted according to what was called for by the circumstances. A lawyer's remarks explaining his position in a case under consideration do not necessarily assume the level of contempt that justifies the court to exercise the power of contempt.

Although Atty. Oclarit might have also addressed the trial court in a way not altogether tolerable, respondent Judge was not justified in resorting to drastic action especially like in this case where the measure taken involved a deprivation of liberty. More than anyone else in the hierarchy of court personnel, "Judges are enjoined to behave at all times to