

## THIRD DIVISION

[ G.R. No. 120654, September 11, 1996 ]

**MARIA LOURDES PAREDES-GARCIA, PETITIONER, VS. COURT OF APPEALS AND HON. ESCOLASTICO M. CRUZ, JR., RESPONDENTS.**

### D E C I S I O N

**DAVIDE, JR., J.:**

This is a petition for review on *certiorari* under Rule 45 of the Rules of Court to set aside the decision of 19 June 1995<sup>[1]</sup> of the Court of Appeals in CA-G.R. SP No. 37081 dismissing the petitioner's special civil action for *certiorari* to annul the order of respondent Judge Escolastico M. Cruz, Jr., which cited the petitioner for contempt and ordered her to pay a fine of P100.00.

The pleadings and the annexes thereto disclose the following uncontroverted facts:

The petitioner, an Assistant Provincial Prosecutor of Rizal, was deputized at the Office of the City Prosecutor of Makati City and assigned at the Regional Trial Court (RTC), Branch 58, Makati City. The respondent is the presiding judge of the said branch.

At 8:30 a.m. of 11 April 1995, the respondent Judge commenced the session of his court. When Criminal Cases Nos. 93-7434 to 39 (*People of the Philippines vs. Ofelia Baja*) was called, the petitioner, who was the prosecutor assigned to the said case, was not yet around. She arrived ten minutes later, just when the second case in the calendar was on its first call. The respondent Judge forthwith ordered the petitioner to explain within seventy-two hours her failure to come to court on time.

Before the "finalization of the aforesaid open court order," the petitioner filed her Explanation.<sup>[2]</sup> She alleged therein that she actually reported to her office at 8:00 a.m., as shown by a copy of a page of the Prosecutor's logbook, and that she went to the respondent Judge's court. However, she returned to her office to attend to some matters prior to the hearing. She thereafter proceeded back to the respondent Judge's court for the hearings, but was late for ten minutes. At the time, the second case was just on its first call. She asserted further that she had never been late in any of the hearings of the court nor previously fined or ordered to explain for tardiness in any hearing, which is the respondent Judge's usual practice for lawyers and litigants who come late.

On 12 April 1996, the respondent Judge issued the following order,<sup>[3]</sup> which cited the petitioner in contempt of court and directed her to pay within seventy-two hours from receipt of the order a penalty in the amount of P100.00.

In an open court order dated April 11, 1995, the Public Prosecutor and the Public Attorney were ordered to explain their failure to come to court

at 8:30 in the morning.

On even date and before the finalization of the aforesaid open court order, Public Prosecutor Maria Lourdes P. Garcia submitted an 'Explanation' alleging, among other things, that on April 11, 1995, she reported for work at around 8:00 a.m. as shown by the logbook, a photocopy of which she appended to her 'Explanation.'

In paragraph 5 of her 'Explanation,' she contends that she had never been late in any of the court hearings as in fact she had never been ordered to explain nor imposed a fine, a usual practice as a matter of course.

The time has come for the Court to advice [sic] Asst. Prosecutor Garcia of the need to disabuse her mind with the thought that the xerox copy of the logbook she attached to her 'Explanation' has evidentiary value insofar as coming to court on time is concerned. She maybe [sic] in her office at 8:00 a.m. or even earlier, but it does not follow that she is also in the court room before sessions begin. Under the law on physics, no creature can occupy two different spaces at the same time. Coming to her office on time is certainly different from coming to court on time.

On the argument that she had never been ordered to explain nor imposed a fine, Asst. Prosecutor Garcia is well aware that her allegation of 'for the record, undersigned had never been late in any of the hearings of this Court x x x' is a downright lie. If only she will examine her conscience, she would know that paragraph 5 of her 'Explanation' is a falsity. The only reason why the court never ordered her to explain her tardiness is because of PAKIKISAMA ('companionship' as translated into the English language by Mr. Leo James English).

Asst. Prosecutor Garcia's verbal clash with the branch clerk of court yesterday, April 11, 1995 is the proverbial 'last straw that broke the camel's back.' The branch clerk's refusals to let her enter the undersigned's chambers are all orders of the undersigned out of propriety. Propriety dictates that no lawyer with a pending case -- government or private -- should be allowed to talk with the undersigned. Asst. Prosecutor Garcia has not only been improper in her several attempts to enter the undersigned's chambers -- she has also been improper in asking the staff of this court to carry her travelling bags/paraphernalias [sic] for her, to buy food, to deposit her pay checks, to run errands for her -- all reaching the knowledge of the branch clerk of court and the undersigned. Worse, if the Asst. Prosecutor would perhaps 'get down to brass tacks' and remain in the court room while criminal proceedings are going on, no case on technicality could have been lost (re: People vs. Cawili).

In defiance of Memorandum # 1-95 dated March 28, 1995 conspicuously posted right at the court room door, she still attempted several times to talk to the undersigned in chambers, prompting the branch clerk of court to exercise her 'administrative powers' to rightfully prevent as she did, the Asst. Prosecutor from doing so.

WHEREFORE, with all these and more, finding the 'Explanation' a downright lie, Asst. Prosecutor MARIA LOURDES P. GARCIA is hereby cited in CONTEMPT of Court. Consequently, she is hereby ordered to pay within seventy-two (72) hours from receipt of this order, a penalty in the amount of P100.00 to the branch clerk, this court, who in turn is directed to turn over the fine to the Office of the Clerk of Court after issuing the corresponding receipt therefor.

The petitioner filed a motion for a reconsideration of the order, which was, however, denied by the respondent Judge. Pertinent portion of the order of denial reads:

Paragraph 9 of Asst. Prosecutor Maria Lourdes P. Garcia's Motion for Reconsideration alleging that "x x x this being the first incident at that, she does not deserve such cruel and harsh treatment from this Honorable Court"; is false, for the truth is what is stated in page 2 of the contempt order reproduced hereunder, thus:

On the argument that she had never been ordered to explain nor imposed a fine, Asst. Prosecutor Garcia is well aware that her allegation of 'for the record, undersigned had never been late in any of the hearings of this court x x x' is a downright lie. If only she will examine her conscience, she would know that paragraph 5 of her "Explanation" is a falsity. The only reason why the court never asked her to explain her tardiness is because of PAKIKISAMA ('companionship' as translated in the English language by Mr. Leo James English).<sup>[4]</sup>

Aggrieved by the aforementioned orders, the petitioner instituted with the Court of Appeals a special civil action for certiorari, which was docketed as CA-G.R. SP No. 37081, wherein she challenged the orders in this manner:

FIRST: BEING UNINTENTIONALLY LATE FOR TEN (10) MINUTES DUE TO THE PERFORMANCE OF OTHER OFFICIAL FUNCTIONS BY THE PETITIONER WHO IS AN ASSISTANT PUBLIC PROSECUTOR ASSIGNED IN MAKATI CITY IS NOT A CALLOUS DISREGARD TO THE ORDERS OF THE COURT NOR A CONTUMACIOUS ACT AGAINST THE DIGNITY OF THE COURT AND AGAINST THE SOLEMNITY OF ITS PROCEEDINGS.

SECOND: THE CONTEMPT ORDER AND THE SUBSEQUENT ORDER OF THE HONORABLE PUBLIC RESPONDENT DENYING PETITIONER'S MOTION FOR RECONSIDERATION ARE HARSH AND CRUEL AND THAT THEY WERE DONE AND ISSUED WITH GRAVE ABUSE OF DISCRETION.

THIRD: THE ISSUANCE OF A WARRANT OF ARREST IS A MISAPPLICATION AND A CLEAR MISAPPRECIATION ON THE PART OF THE HONORABLE PUBLIC RESPONDENT OF SECTION 1, RULE 70 OF THE RULES OF COURT.

FOURTH: THE ASSAILED ORDERS AND THE PENALTIES IMPOSED BY THE HONORABLE PUBLIC RESPONDENT WILL WORK GREAT INJUSTICE TO THE PETITIONER.

FIFTH: THERE IS NO OTHER PLAIN, SPEEDY AND ADEQUATE REMEDY IN

THE ORDINARY COURSE AND LAW AVAILABLE TO THE HEREIN  
PETITIONER.<sup>[5]</sup>

In his comment on the petition in CA-G.R. SP No. 37081, the respondent Judge defended the correctness of his orders and attached thereto, among other things, (a) his Office Memorandum 1-95 of 28 March 1995 outlining his policy on those who wish to see him in his chambers; (b) his own affidavit narrating his policies on how to conduct sessions in relation to tardiness and imposition of fines in particular, the instances when the petitioner personally apologized to him for her tardiness, and the reason why he cited the petitioner for contempt; (c) copies of eight of his orders imposing fines on government and private prosecuting lawyers and litigants who arrived late in court; (d) separate affidavits of the personnel of his sala (branch clerk of court, Criminal Cases in-charge, legal researcher, two court stenographers, branch sheriff, process server, court aide, two casual employees), a prosecution witness, and a private complainant, attesting to instances of tardiness of the petitioner.

The Court of Appeals limited the issues to whether the petitioner was tardy and whether she committed falsehood in her explanation.<sup>[6]</sup>

In its decision of 19 June 1995,<sup>[7]</sup> the Court of Appeals dismissed CA-G.R. SP No. 37081. As to the first issue, it held that the petitioner herself admitted the fact of her tardiness. As to the second issue, it found that the petitioner was not honest about her punctual attendance in court, which if considered together with her tardiness, may be punished with contempt. Thus:

The possibility is, the petitioner was penalized for contempt not only because she was late or tardy, but also because of falsehood in her April 11, [1995] "explanation". Precisely, the respondent said, despite her tardiness, she offered no apology and worst she allegedly lied. Her "temerity" in alleging a falsehood is a "callous disregard" of the dignity of the court and a "manifestation of disregard" of the virtue of honesty. Besides, petitioner's "blatant allegation of an obvious falsehood" is a wrongful act.<sup>[8]</sup>

The Court of Appeals gave credence to the affidavits of the respondent Judge and several court employees attesting to the tardiness of the petitioner on certain occasions. It concluded that although "a late appearance by only about 10 minutes does not per se amount to a stubborn or perverse disobedience," that "tardiness coupled with statements less than truthful should certainly be castigated." It went on to state that:

The respondent Judge should not be faulted for being strict in the matter of time attendance during trials. He has . . . consistently penalized private as well as government lawyers, litigants, witnesses and court personnel who are remiss in their duties to come to court on time, a policy he adopted without exemptions, since 1989 when he was still a Presiding Judge of the Metropolitan Trial Court of Manila.<sup>[9]</sup>

The petitioner then came to this Court through the instant petition for review contending that the decision of the Court of Appeals is based on a mere possibility, thereby depriving her of her constitutional right to be presumed innocent. She

would never have the nerve or temerity to violate the court's rules, indulge in any falsehood, or commit any act which would taint her record and jeopardize her burning ambition to join the judiciary in the future. She argues that if indeed she had been late, the best evidence would have been a reprimand or admonition in an order issued by the respondent Judge; no such order exists. The fact that she immediately submitted her explanation indicated her unfailing respect to the court. She also attacks the value of the affidavits submitted by the respondent Judge before the Court of Appeals for having been executed through the respondent Judge's influence, who exercises moral ascendancy over the affiants. She attached to her petition machine copies of several pages of the Prosecutor's Logbook showing her daily attendance from 16 August 1994 to 11 April 1995.<sup>[10]</sup>

The petitioner also alleges that the contempt order was a retaliatory act because she had spurned the respondent Judge's amorous advances to her. Describing herself as a young woman, who is, by standards of physical beauty, "well-endowed and physically attractive," she claims that the respondent Judge had been extending unusual courtesies to her. There were numerous occasions when he would visit her in her office or invite her for lunch at his chambers or elsewhere; he also allowed her frequent access to his chambers and provided her an electric fan and a cellular phone. These were discreet ministrations for her to give in to his offers for cocktails or a date at karaoke clubs. But prior to the issuance of the contempt order, she earned the ire of the respondent Judge, because on a trip to Cagayan de Oro City, she failed to call him despite his numerous requests to do so. She explained to him that she had lost the phone. At another time, he sought her for the *jurat* in his affidavit; but when she requested him to personally appear before her and take his oath, the respondent Judge was apparently insulted and had the affidavit retrieved and referred to another prosecutor instead. She was, in fact, the prime target of Memorandum No. 1-95, to sever whatever free access she had previously enjoyed.

Finally, the petitioner asserts that the respondent Judge acted with unusual haste in dismissing her explanation and motion for reconsideration. If she were indeed guilty of anything, it would only be an indirect contempt.

In his Comment, the respondent Judge questions the viability of this petition for its failure to raise questions of law and to show that it falls within the exceptions to the rule on conclusiveness of the findings of fact of the Court of Appeals. He underscores the fact that the petitioner admitted her tardiness. The affidavits he submitted cannot be taken lightly, for they have been obtained from various affiants whose positive assertions cannot prevail over the petitioner's self-serving denial. He also observes that some annexes<sup>[11]</sup> of the petition readily show that the petitioner had been late seven times when she logged her time of arrival at her office at 8:30 a.m., 8:35 a.m., and 8:45 a.m. Evidently, if she arrived at her office at 8:30 a.m., she could not have been in court at the same time. He claims that he has consistently fined public and private lawyers and litigants who arrived late in court.

The respondent Judge further alleges that the electric fan was lent to the petitioner by the officer-in-charge of the court, not by him, and that the cellular phone was just borrowed from him by the petitioner. He denies the alleged amorous advances and claims that the petitioner is suffering from some delusion of beauty.<sup>[12]</sup>

Finally, the respondent Judge avers that all these years his record as a trial court