

## TWELFTH DIVISION

[ CA-G.R. SP. No. 102686, March 14, 2014 ]

**VIVIAN VILLANUEVA, VOLTAIRE VILLANUEVA, VILMA VILLANUEVA, VERGEL VILLANUEVA, CONCHITA VILLANUEVA, AND SPS. TOMAS GOMEZ AND ENCARNACION GOMEZ, REP. BY OSCAR R. VILLANUEVA, AND OSCAR R. VILLANUEVA, PETITIONERS, V. FELIPE V. TORRES, ISAAC V. TORRES, GAUDELIA V. TORRES AND AMPARO V. TORRES, RESPONDENTS.**

### DECISION

**ELBINIAS, J.:**

For disposition is a Petition<sup>[1]</sup> for Indirect Contempt filed under Rule 71 of the Rules of Court by petitioners against respondents in connection with the Petition for Review pending before the Court of Appeals, Former Second Division, docketed as CA-G.R. SP No. 98923 entitled "Vivian Villanueva, et al., v. Sps. Felipe V. Torres and Zenaida V. Culali, et al."<sup>[2]</sup>

The salient facts are as follows:

Respondents Felipe Torres, Isaac Torres, and Amparo Torres ("respondents" for brevity), as plaintiffs, filed before the Municipal Trial Court ("MTC" for brevity) of Baliuag, Bulacan, a Complaint<sup>[3]</sup> for "RECONVEYANCE, RECOVERY and DAMAGES" against petitioners Vivian Villanueva, Voltaire Villanueva, Vilma Villanueva, Vergel Villanueva, Conchita Villanueva, and Spouses Tomas Gomez and Encarnacion Gomez ("petitioners" for brevity). The case was docketed as Civil Case No. 1885. Petitioner Oscar Villanueva intervened in the case before the MTC.<sup>[4]</sup>

On October 26, 2005, the MTC rendered a Judgment<sup>[5]</sup> in Civil Case No. 1885 in favor of respondents. Petitioners appealed from the MTC's Judgment<sup>[6]</sup> to the Regional Trial Court ("RTC" for brevity) of Bulacan. The case was docketed as Civil Case No. 45-M- 06. Respondents' counsel before the RTC was Atty. Jackson V. Yabut ("Atty. Yabut" for brevity).<sup>[7]</sup>

When the MTC's Judgment<sup>[8]</sup> was affirmed by the RTC in its Decision<sup>[9]</sup> of July 27, 2006, petitioners, including petitioner Oscar Villanueva, filed a Petition for Review<sup>[10]</sup> with the Court of Appeals. This Petition for Review<sup>[11]</sup> was raffled to the Court of Appeals, Former Second Division, and was docketed as CA-G.R. SP No. 98923 ("Petition for Review" for brevity).

Before respondents could receive the Court of Appeals' Resolution in CA-G.R. SP No. 98923 directing them to file a Comment to the Petition for Review,<sup>[12]</sup> Atty. Yabut, counsel of respondents, turned over to respondents the entire records of the case. Because of this, respondents secured the services of Atty. Hipolito dela Vega ("Atty.

Dela Vega" for brevity) to represent them in the Petition for Review<sup>[13]</sup> before the Court of Appeals.<sup>[14]</sup>

However, due to reasons concerning his wife's health, Atty. Dela Vega requested respondents for him to be relieved from the case, and asked them to secure the services of another lawyer to represent them in their Petition for Review<sup>[15]</sup> before the Court of Appeals.<sup>[16]</sup>

Considering that the period granted by the Court of Appeals for respondents to file their Comment was about to expire with respondents still having no lawyer, respondents, by themselves, filed a "MOTION FOR EXTENSION OF TIME WITHIN WHICH TO FILE COMMENT ON OR OPPOSITION TO PETITIONERS' 'PETITION FOR REVIEW'"<sup>[17]</sup> (" Motion for Extension to File Comment" for brevity).

On November 13, 2007, Atty. Angela T. Abrea ("Atty. Abrea" for brevity) filed before the Court of Appeals, a "Notice of Appearance of Counsel"<sup>[18]</sup> with the conformity of respondent Felipe Torres as lawyer for respondents.<sup>[19]</sup> Respondents, through Atty. Abrea, then filed their "Comment on or Opposition to Petitioners' Petition for Review."<sup>[20]</sup>

On December 3, 2007, pursuant to Section 4, Rule 71 of the Rules of Court,<sup>[21]</sup> petitioners filed before the Court of Appeals, Former Second Division, where the Petition for Review<sup>[22]</sup> was pending, a "Manifestation and Motion"<sup>[23]</sup> stating that they were making an express reservation to file a Petition for Indirect Contempt against respondents due to acts committed by respondents which petitioners claimed to be contemptuous. Petitioners also prayed that respondents' "Comment on or Opposition to Petitioners' Petition for Review"<sup>[24]</sup> filed by Atty. Abrea be expunged from the records.<sup>[25]</sup>

On August 18, 2011, the Court of Appeals, Seventeenth Division rendered a Decision<sup>[26]</sup> denying petitioners' Petition for Review<sup>[27]</sup>.

By virtue of petitioners' "Manifestation and Motion,"<sup>[28]</sup> which petitioners filed before the Court of Appeals, Former Second Division in order to make a reservation of filing a Petition for Indirect Contempt against respondents, petitioners filed the Petition<sup>[29]</sup> at bench, praying for the following:

"WHEREFORE, premises considered, it is most respectfully (*sic*) of this Honorable Court that after due notice and hearing, and the opportunity for the respondents to answer the charges in the instant petition, judgment be rendered adjudging respondents guilty of indirect contempt under Sec. 3 pars. (c) and (d) of Rule 71 of the Revised Rules of Court of the Philippines and to suffer the penalty provided under Sec. 7, Rule 71 thereof.

Other relief[s] and remedies just and equitable in the premises are prayed for further."<sup>[30]</sup>

The Petition<sup>[31]</sup> for Indirect Contempt at bench should be docketed, heard, and decided separately from the Petition for Review<sup>[32]</sup> pending before Court of Appeals, Former Second Division. This, considering also that the Court of Appeals, Former

Second Division did not order the consolidation of the Petition at bench and the Petition for Review<sup>[33]</sup> for joint hearing and decision. All of these are in accordance with Section 4, Rule 71 of the Rules of Court, which states:

"SEC. 4. *How proceedings commenced.* - Proceedings for indirect contempt may be initiated *motu proprio* by the court against which the contempt was committed by an order or any other formal charge requiring the respondent to show cause why he should not be punished for contempt.

**In all other cases, charges for indirect contempt shall be commenced by a verified petition with supporting particulars and certified true copies of documents or papers involved therein, and upon full compliance with the requirements for filing initiatory pleadings for civil actions in the court concerned. If the contempt charges arose out of or are related to a principal action pending in the court, the petition for contempt shall allege that fact but said petition shall be docketed, heard and decided separately, unless the court in its discretion orders the consolidation of the contempt charge and the principal action for joint hearing and decision."** (*Emphasis supplied*)

The issue to be resolved here is whether respondents are guilty of Indirect Contempt.

Contrary to petitioners' allegations, respondents did not commit acts that would constitute Indirect Contempt.

Petitioners had argued that:

**"The contemptuous acts of the respondents complained of in this petition consist of their having committed a contemptuous abuse of a process in attempting to obtain an extension of time by themselves by means of purported motion for extension of time to file their comment to petitioners' Petition For Review in CA-G.R. SP No. 98923 on a false representation that their counsel, Atty. Jackson Yabut who, for all intents, is NOT respondents' counsel of record, had already withdrawn his appearance as their counsel, and falsely represented to the Honorable Court of Appeals in the said motion that respondents have secured the legal services of Atty. Hipolito dela Vega in substitution of Atty. Jackson V. Yabut and for whom respondents requested the extension of time sought in their said motion, when Atty. Hipolito dela Vega never entered his appearance as counsel for respondents in CA-G.R. SP No. 98923.**

Further, respondents committed acts constituting indirect contempt of court **in pretending to have been given and are possessed of the authority to represent all the respondents in CA[-]G.R. SP No. 98923 in their motion for extension of time when they signed the same without incorporating therein the supposed letter of authority or special power of attorney for the purpose."**<sup>[34]</sup>  
(*Emphasis supplied*)