



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

**RICARDO C. SILVERIO, SR. and
LORNA CILLAN-SILVERIO,**

Petitioners,

- versus -

RICARDO S. SILVERIO, JR.,

Respondent.

G.R. No. 186589

Present:

CARPIO, *Chairperson,*
BRION,
DEL CASTILLO,
PEREZ, *and*
MENDOZA, * *JJ.*

Promulgated:

JUL 18 2014

X ----- X

DECISION

DEL CASTILLO, J.:

A hearing is required in order to resolve a charge of indirect contempt; the respondent to the charge may not be convicted on the basis of written pleadings alone.

This Petition for Review on *Certiorari*¹ seeks to set aside the February 25, 2009 Decision² of the Court of Appeals (CA) in CA-G.R. SP No. 104060, entitled “Ricardo C. Silverio, Sr. and Lorna Cillan-Silverio, Petitioners, versus Ricardo S. Silverio, Jr., Respondent.”

Factual Antecedents

In an October 31, 2006 Omnibus Order³ issued by Branch 57 of the Regional Trial Court of Makati in Spec. Proc. M-2629 entitled “*In re: Intestate*”

* Per Raffle dated July 17, 2014.

¹ *Rollo*, pp. 10-31.

² CA *rollo*, pp. 278-284; penned by Associate Justice Myrna Dimaranan Vidal and concurred in by Associate Justices Martin S. Villarama, Jr. (now a member of this Court) and Rosalinda Asuncion-Vicente.

³ Records of Spec. Proc. M-2629, Vol. VI, pp. 3684-3695; penned by Judge Reinato G. Quilala.

Estate of the Late Beatriz S. Silverio, Ricardo C. Silverio, Sr., Petitioner, versus Ricardo S. Silverio, Jr., Heir-Administrator Designate, Edmundo S. Silverio, Heir-Movant, and Ligaya S. Silverio, represented by her Legal Guardian Nestor Dela Merced II, Heir-Intervenor,” it was decreed as follows:

WHEREFORE, above premises considered, this Court for the foregoing reasons resolves to grant the following:

(1) Partially reconsidering Nos. 1 and 5 of its Order dated December 12, 2005, thus upholding the granting of Letters of Administration to Ricardo S. Silverio, Jr. anent the Estate of Beatriz S. Silverio in lieu of Ricardo C. Silverio, Sr., who is removed as Administrator for gross violation of his duties and functions under Section 1, Rule 81 of the Rules of Court;

(2) Allowing Ricardo S. Silverio, Jr. to immediately take his oath as Administrator and exercise his duties and functions under his Administrator's Bond Utasco No. JCL(1)-001-1001, if still valid, or upon posting a new Administrator's Bond of PHP1,000,000.00;

(3) Allowing the sale of the properties located at (1) No. 82 Cambridge Circle, Forbes Park, Makati City, covered by T.C.T. No. 137155 issued by Register of Deeds of Makati City; (2) No. 3 Intsia Road, Forbes Park, Makati City covered by T.C.T. No. 137154 issued by the Register of Deeds of Makati City; and (3) No. 19 Taurus St., Bel-Air Subd., Makati City covered by TCT No. 137156 issued by the Register of Deeds of Makati City to partially settle the intestate estate of the late Beatriz S. Silverio, and authorizing the Administrator to undertake the proper procedure of transferring the titles involved to the name of the estate; and

(4) To apply the proceeds of the sale mentioned in Number 3 above to the payment of the taxes, interests, penalties and other charges, if any, and to distribute the residue among the heirs Ricardo [C.] Silverio, Sr., Ricardo S. Silverio, Jr., Ligaya S. Silverio represented by Legal Guardian Nestor S. Dela Merced II, Edmundo S. Silverio and Nelia S. Silverio-Dee in accordance with the law on intestacy.

SO ORDERED.⁴

Petitioner Ricardo C. Silverio, Sr. (Ricardo Sr.) is the surviving spouse of the decedent Beatriz S. Silverio, with whom he has children: herein respondent Ricardo Jr. (Ricardo Jr.); Edmundo; Ligaya; and Nelia Silverio-Dee (Nelia). Lorna Cillan-Silverio (Lorna) is Ricardo Sr.'s second wife. The subject matter of Spec. Proc. M-2629 is the decedent's intestate estate (the estate), which includes, among others, shares of stock in Pilipinas Development Corporation (PDC) and a residential house in Urdaneta Village (house at Urdaneta Village).

Nelia filed a Petition for *Certiorari* with the CA – docketed as CA-G.R. SP

⁴ Id. at 3694-3695.

No. 97196⁵ – questioning the trial court’s October 31, 2006 Omnibus Order, particularly Ricardo Jr.’s appointment as the new administrator. The CA later issued two Resolutions, which granted Nelia’s application for a writ of preliminary injunction, to wit:

1. A July 4, 2007 Resolution,⁶ with the following decretal portion:

WHEREFORE, premises considered, the Private Respondents’ motion(s) for the reconsideration of Our February 5, 2007 Resolution are DENIED. The Petitioner’s application for a writ of injunction is hereby GRANTED.

Accordingly, let a Writ of Preliminary Injunction issue upon posting of the bond in the amount of two million pesos (PhP2,000,000.00) enjoining the Respondents from enforcing the October 31, 2006 *Omnibus Order* issued in Sp. Proc. M-2629; and, allowing Ricardo [C.] Silverio, Sr. to continue as administrator, pending resolution of the instant petition.

It appearing that the required pleadings have already been filed and no other pleading may be forthcoming per the Judicial Records Division’s verification report of June 19, 2007, the main petition may be considered submitted for resolution.

SO ORDERED.⁷

2. A February 29, 2008 Resolution,⁸ which decreed:

WHEREFORE, the ten million[-]peso (PhP10,000,000.00) bond posted by the Petitioner under PSIC Bond No. JCL (8) 00207102119 is APPROVED. Accordingly, by this WRIT OF PRELIMINARY INJUNCTION, the Respondents, their agents or anybody acting in their behalf, are ENJOINED from executing, enforcing or implementing any writ of execution, order, or resolution for the enforcement of the October 31, 2006 *Omnibus Order* issued by the Respondent Court in Sp. Proc. M-2629 thereby allowing Ricardo [C.] Silverio, Sr. to continue as administrator during the pendency of this case.

The Petitioner’s motion seeking the reconsideration of Our January 3, 2008 Resolution increasing the amount of the bond from two (2) million to ten (10) million pesos, having been rendered moot and academic by her subsequent submission of a bond in the increased amount, is DENIED.

SO ORDERED.⁹

⁵ Entitled “*Nelia Silverio Dee, Petitioner, versus Hon. Renato Quilala, Presiding Judge, Regional Trial Court, Br. 57, Makati City, et al., Respondents.*”

⁶ CA *rollo*, pp. 120-122; penned by Associate Justice Normandie B. Pizarro and concurred in by Associate Justices Edgardo P. Cruz and Fernanda Lampas Peralta.

⁷ Id. at 122.

⁸ Id. at 123-124.

⁹ Id. at 124.

On September 3, 2007, Ricardo Jr. filed with this Court an “Appeal under Rule 45 and/or *Certiorari* under Sec. 1, Rule 65” with a prayer for the issuance of a temporary restraining order and/or writ of preliminary injunction, docketed as G.R. No. 178676,¹⁰ seeking among others a reversal of the CA’s July 4, 2007 Resolution and the issuance of injunctive relief. Respondent contended therein that the CA acted with grave abuse of discretion in issuing the July 4, 2007 Resolution and in granting injunctive relief against him.

On June 13, 2008, Ricardo Jr. wrote and sent two letters, one each to petitioners. Ricardo Jr. demanded in the first letter that Ricardo Sr. cease and desist from 1) exercising the rights of a stockholder in PDC; 2) managing PDC’s affairs and business; and 3) transacting with third persons for and in behalf of PDC and to turn over all of its books and records. In the second letter, Ricardo Jr. demanded that Lorna immediately vacate the house at Urdaneta Village.¹¹

Ruling of the Court of Appeals

On June 25, 2008, petitioners filed with the CA a Petition for Indirect Contempt,¹² docketed as CA-G.R. SP No. 104060, seeking that herein respondent Ricardo Jr. be declared in indirect contempt of court and punished accordingly. They charged that respondent’s June 13, 2008 demand letters violate and defy the CA’s July 4, 2007 and February 29, 2008 Resolutions in CA-G.R. SP No. 97196, which enjoined respondent’s appointment as administrator pursuant to the October 31, 2006 Omnibus Order; allowed petitioner Ricardo Sr. to continue as administrator of the estate; and enjoined Ricardo Jr. and his co-respondents in Spec. Proc. M-2629 from executing, enforcing or implementing any writ of execution, order, or resolution for the enforcement of the Omnibus Order. Petitioners likewise charged that –

14. [Last] June 20, 2008 at about 2:00 in the afternoon, respondent Silverio Jr., accompanied by his two lawyers: Attys. Efren Vincent M. Dizon and Charlie Mendoza and some John Does, without the benefit of a final court order or writ of execution and without the assistance of a sheriff, attempted to enforce the Decision of the Regional Trial Court of Makati City, Branch 145 which was appealed to the Court of Appeals by way of Notice of Appeal, by trying to forcibly evict against their will, the occupants of one of the residence(s) of his petitioner father Silverio Sr. at #21 Cruzada, Urdaneta Village, Makati City, covered by the Testate Intestate Case appealed to this Honorable Court which issued the aforementioned injunction. In the process, respondent Silverio Jr. created quite a commotion and public disturbance inside the subdivision. Only [with] the timely intervention of the officers of the homeowners association, barangay officials, some policemen and this representation was respondent

¹⁰ Rollo, pp. 74-121; entitled “*Ricardo S. Silverio, Jr., Petitioner, versus Court of Appeals (Former 13th Division) and Nelia S. Silverio-Dee, Respondents.*”

¹¹ Id. at 122-125.

¹² Id. at 46-56.

Silverio Jr. prevailed upon to peacefully leave the place.

15. Such acts of respondent Ricardo S. Silverio, Jr. in trying to eject his father from his residence without the benefit of a final court order/writ of execution, [are] not only x x x illegal and show disrespect for elders, but also smack a lot of bad taste in contravention [of] our established customs and tradition[s].¹³

Petitioners argued further that PDC and the house at Urdaneta Village are assets of the estate placed under Ricardo Sr.'s charge as administrator through the July 4, 2007 and February 29, 2008 Resolutions, which characterize respondent's acts as undue interference with Ricardo Sr.'s administratorship; moreover, respondent's acts contravene Philippine customs and traditions. Thus, respondent's acts constitute indirect contempt as defined and punished under Rule 71, Section 3 of the 1997 Rules of Civil Procedure¹⁴ (1997 Rules).

On February 25, 2009, the CA issued the assailed Decision, which held thus –

After a careful evaluation of the evidentiary records, this Court finds it inappropriate to make a ruling on whether or not the Respondent has committed certain acts, *supra.*, violative of Revised Rule 71 of the Rules.

Records show that on 3 September 2007, the Respondent has interposed an appeal from the CA Resolution dated 4 July 2007, *supra.*, before the Supreme Court questioning in essence said resolution as having been granted to the Petitioners with grave abuse of discretion amounting to lack or in excess of jurisdiction, hence, allegedly null and void.

Accordingly, in the light of the foregoing development, this Court is compelled to restrain itself from resolving the issues in the instant petition.

¹³ Id. at 20.

¹⁴ Sec. 3. *Indirect contempt to be punished after charge and hearing.*

After a charge in writing has been filed, and an opportunity given to the respondent to comment thereon within such period as may be fixed by the court and to be heard by himself or counsel, a person guilty of any of the following acts may be punished for indirect contempt:

(a) Misbehavior of an officer of a court in the performance of his official duties or in his official transactions;

(b) Disobedience of or resistance to a lawful writ, process, order, or judgment of a court, including the act of a person who, after being dispossessed or ejected from any real property by the judgment or process of any court of competent jurisdiction, enters or attempts or induces another to enter into or upon such real property, for the purpose of executing acts of ownership or possession, or in any manner disturbs the possession given to the person adjudged to be entitled thereto;

(c) Any abuse of or any unlawful interference with the processes or proceedings of a court not constituting direct contempt under section 1 of this Rule;

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

(e) Assuming to be an attorney or an officer of a court, and acting as such without authority;

(f) Failure to obey a subpoena duly served;

(g) The rescue, or attempted rescue, of a person or property in the custody of an officer by virtue of an order or process of a court held by him.

But nothing in this section shall be so construed as to prevent the court from issuing process to bring the respondent into court, or from holding him in custody pending such proceedings.

Otherwise put, it is imperative that We instantly pull the plug and let the High Tribunal settle the controversy surrounding the propriety in the issuance of CA Resolution dated 4 July 2007, *supra.*, from which order the Respondent has allegedly committed acts in defiance thereof.

As laid down by the High Tribunal in *Manila Electric Company v. Phil. Consumers Foundation, Inc. et al.*, thus:

...it is the duty of the lower courts to obey the Decisions of this Court and render obeisance to its status as the apex of the hierarchy of courts. "A becoming modesty of inferior courts demands conscious realization of the position that they occupy in the interrelation and operation of the integrated judicial system of the nation." "There is only one Supreme Court from whose decisions all other courts should take their bearings"...

WHEREFORE, premises considered, the instant Petition is hereby DISMISSED.

SO ORDERED.¹⁵

On this account, petitioners filed the present Petition.

Issue

In the Petition, it is submitted that –

THE PENDENCY OF AN APPEAL BEFORE THE [SUPREME COURT] ON THE VALIDITY OF AN INJUNCTION ISSUED BY THE COURT OF APPEALS DOES NOT PRECLUDE THE [LATTER] FROM ADJUDICATING THE QUESTION OF WHETHER X X X SUPERVENING ACTS COMMITTED BY ONE OF THE PARTIES IN THE COURT OF APPEALS CASE CONSTITUTE INDIRECT CONTEMPT BASED ON THE PRINCIPLE OF RESPECT FOR HIERARCHY OF COURTS. THUS, THE COURT OF APPEALS ERRED WHEN IT INVOKED THE PRINCIPLE OF RESPECT FOR HIERARCHY OF COURTS IN DISMISSING THE PETITION FOR INDIRECT CONTEMPT.¹⁶

Petitioners' Arguments

Petitioners, in praying that the assailed Decision be set aside and that the Court declare respondent guilty of indirect contempt, maintain that the July 4, 2007 and February 29, 2008 CA Resolutions in CA-G.R. SP No. 97196 are valid and standing orders that must be obeyed unless and until they are reversed or set aside, and despite the pendency of the petition in G.R. No. 178676; respondent is

¹⁵ CA rollo, pp. 283-284.

¹⁶ Rollo, p. 22.

bound by what is decreed in the July 4, 2007 Resolution, and without injunctive relief from this Court, any act performed in contravention thereof constitutes indirect contempt. Petitioners thus conclude that in refusing to take cognizance of their petition for indirect contempt, the CA in CA-G.R. SP No. 104060 committed error.

Finally, petitioners urge this Court to take the initiative in finding respondent guilty of indirect contempt for issuing the June 13, 2008 letters and for attempting to evict them from their Urdaneta Village home on June 20, 2008, which acts they believe amount to a defiance and disobedience of the CA's dispositions in CA-G.R. SP No. 97196.

Respondent's Arguments

Arguing for the denial of the Petition, respondent in his Comment¹⁷ submits that the mere act of writing and sending the June 13, 2008 letters to petitioners does not make him liable for indirect contempt of court, as they "do not deal directly or indirectly with any of the enjoined acts enumerated in the 31 October 2006" Omnibus Order. Respondent adds that petitioners have not shown that petitioner Ricardo Sr. has filed an administrator's bond and has taken his administrator's oath; because if he has not, then it may not be said that respondent acted in defiance of the appellate court's Resolutions since he continued to act as the administrator on the strength of the October 31, 2006 Omnibus Order in Spec. Proc. M-2629. Finally, respondent submits that he may not be found guilty of indirect contempt in the absence of proof that he physically carried out the demands contained in his June 13, 2008 letters; though he admits that he wrote the letters, he nonetheless claims that he did nothing more beyond sending them.

Our Ruling

The Petition is granted in part.

The pendency of a special civil action for *certiorari* instituted in relation to a pending case does not stay the proceedings therein in the absence of a writ of preliminary injunction or temporary restraining order. Rule 65, Section 7 of the 1997 Rules makes this clear:

The court in which the petition is filed may issue orders expediting the proceedings, and it may also grant a temporary restraining order or a writ of preliminary injunction for the preservation of the rights of the parties pending such proceedings. **The petition shall not interrupt the course of the principal case unless a temporary restraining order or a writ of preliminary**

¹⁷ Id. at 162-169.

injunction has been issued against the public respondent from further proceeding in the case.

The public respondent shall proceed with the principal case within ten (10) days from the filing of a petition for *certiorari* with a higher court or tribunal, absent a temporary restraining order or a preliminary injunction, or upon its expiration. Failure of the public respondent to proceed with the principal case may be a ground for an administrative charge. (Emphasis supplied)

Petitioners are thus correct in arguing that the pendency of G.R. No. 178676 did not interrupt the course of CA-G.R. SP No. 97196, in the absence of a temporary restraining order or writ of preliminary injunction issued in the former case. This is because “an original action for *certiorari* is an independent action and is neither a continuation nor a part of the trial resulting in the judgment complained of.”¹⁸ The CA therefore committed error in dismissing CA-G.R. SP No. 104060, or petitioners’ indirect contempt petition, on the ground of pendency of G.R. No. 178676. It need not wait for this Court to resolve G.R. No. 178676 before the petitioners’ contempt charge may be heard.

However, at this point, this Court cannot grant petitioners’ plea to resolve the merits of their petition for indirect contempt; it is the CA that should properly try the same. Aside from the fact that the CA is the court against which the alleged contempt was committed, a hearing is required in resolving a charge for indirect contempt. The respondent in an indirect contempt charge may not be convicted on the basis of written pleadings alone.¹⁹

Sections 3 and 4, Rule 71 of the Rules of Court, specifically [outline] the **procedural requisites before the accused may be punished for indirect contempt**. *First*, there must be an order requiring the respondent to show cause why he should not be cited for contempt. *Second*, the respondent must be given the opportunity to comment on the charge against him. *Third*, **there must be a hearing** and the court must investigate the charge and consider respondent's answer. *Finally*, only if found guilty will respondent be punished accordingly. The law requires that there be a charge in writing, duly filed in court, and an opportunity given to the person charged to be heard by himself or counsel. **What is most essential is that the alleged contemner be granted an opportunity to meet the charges against him and to be heard in his defenses.** This is due process, which must be observed at all times.

X X X X

In contempt proceedings, the prescribed procedure must be followed. To be sure, since an indirect contempt charge partakes the nature of a criminal charge, conviction cannot be had merely on the basis of written pleadings. A respondent in a contempt charge must be served with a copy of the motion/petition. Unlike in civil actions, the Court does not issue

¹⁸ *Philippine Veterans Bank v. Solid Homes, Inc.*, G.R. No. 170126, June 9, 2009, 589 SCRA 40, 49.

¹⁹ *Esperida v. Jurado*, G.R. No. 172538, April 25, 2012, 671 SCRA 66, 72-74; *Aquino v. Ng*, 555 Phil. 253, 259-261 (2007); *Soriano v. Court of Appeals*, G.R. No. 128938, June 4, 2004, 431 SCRA 1, 6-8.

summons on the respondent. While the respondent is not required to file a formal answer similar to that in ordinary civil actions, **the court must set the contempt charge for hearing on a fixed date and time on which the respondent must make his appearance to answer the charge.** x x x²⁰ (Emphasis supplied)

To be sure, there are more pressing matters that require the attention of this Court; petitioners' complaint for indirect contempt could very well be resolved by the appellate court.

WHEREFORE, the Petition is **GRANTED IN PART**. The February 25, 2009 Decision of the Court of Appeals in CA-G.R. SP No. 104060 is **SET ASIDE**. The Court of Appeals is **ORDERED** to take cognizance of petitioners' June 25, 2008 Petition for Indirect Contempt.

SO ORDERED.


MARIANO C. DEL CASTILLO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice

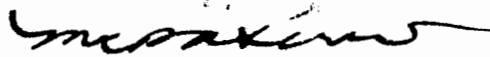
²⁰ *Esperida v. Jurado*, supra at 72-76.

ATTESTATION

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

**ANTONIO T. CARPIO***Associate Justice**Chairperson***CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Decision 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*