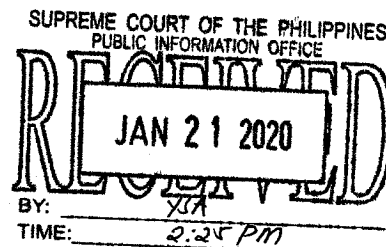




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION



NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Special Second Division, issued a Resolution dated **11 December 2019** which reads as follows:*

“A.C. No. 11987 (*Re: Order dated November 16, 2017 in Criminal Case No. M-PSY-15-22820-CR v. Atty. Maverick S. Sevilla*). – This administrative case against Atty. Maverick S. Sevilla (Atty. Sevilla) emanated from the Order¹ dated November 16, 2017 issued by Branch 45, Metropolitan Trial Court (MeTC), Pasay City, finding him guilty of indirect contempt for disobedience to a lawful order of the court.

The Antecedents

In its aforesaid Order, the MeTC declared that despite notice, Atty. Sevilla failed to attend as prosecution witness during the continuation of the hearing in Criminal Case No. M-PSY-15-22820-CR (entitled *People of the Philippines v. Virgilio P. Abenoja, Jr.*), and neither did he explain his absence during the previous hearing despite receipt of its Order dated October 10, 2017.

Consequently, the MeTC ordered Atty. Sevilla to pay a fine in the amount of ₱5,000.00. It also ordered that the Office of the Bar Confidant (OBC) and the Integrated Bar of the Philippines be furnished with a copy of its Order of November 16, 2017 for their information and appropriate action.

On January 22, 2018, the OBC recommended, among other matters, that Atty. Sevilla be required to comment on why he should not be disciplinary dealt with for his disobedience to a lawful order of the court.²

In his Comment³ dated July 5, 2018, Atty. Sevilla stated that he was holding the position of City Government Department Head II of

¹ *Rollo*, pp. 1-2; penned by Presiding Judge Remeibel U. Mondia, LL.M.

² *Id.* at 4.

³ *Id.* at 8-13.

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Pasay City and had been in government service for 17 years. According to him, based on the Memorandum⁴ dated January 5, 2012, it had been the policy of their Human Resource Management Office (HRMO) that all compliance with *subpoenas* issued by courts and other government agencies would be processed by the Records Section and Iluminada⁵ R. Any (Iluminada) and one Marlon H. Manalo were deputized to appear before the requesting court or agency.

Atty. Sevilla claimed that he did not disobey the lawful order of the MeTC. He explained that when he received a *subpoena duces tecum* on November 9, 2017, he made a marginal note⁶ thereto addressed to Rodelyn Calapati for her to direct Iluminada to comply. He thought that Iluminada attended the hearing on November 16, 2017.

Atty. Sevilla added that it was only when he received the MeTC Order citing him for indirect contempt that he learned that Iluminada failed to attend the hearing because she was feeling sick. He claimed that Iluminada did not communicate such absence to the HRMO, and insisted that had Iluminada communicated the fact of her absence, he or the HRMO could have authorized another staff member to appear and bring the necessary documents before the MeTC.

Moreover, Atty. Sevilla stressed that after learning of the MeTC Order dated November 16, 2017, he immediately filed a motion for reconsideration⁷ stating therein that he prepared the required documents before the scheduled hearing and directed his staff to attend and submit the necessary documents, but he failed to monitor if his representative attended the hearing. He, nevertheless, stated that his representative would definitely attend the hearing on January 23, 2018 and bring the required documents and testify on them. He averred that he did not intend to delay the court proceedings and he would ensure that his duties to it were attended to.

In the Order⁸ dated January 23, 2018, the MeTC granted the motion for reconsideration and accordingly, set aside its Order dated November 16, 2017.

⁴ *Id.* at 16.

⁵ Iluminda in some parts of the records.

⁶ *Rollo*, p. 14.

⁷ *Id.* at 17.

⁸ *Id.* at 19-20.

Report and Recommendation of the OBC

In its Report and Recommendation⁹ dated April 15, 2019, the OBC elucidated that Atty. Sevilla inadvertently fell short of his duty to assist in the speedy and efficient administration of justice. The OBC, nonetheless, noted that Atty. Sevilla showed respect for the law and its procedures, as well as the court and its officers, when he pleaded for the court to look at his innocence and good intention in resolving the matter. Given these observations, the OBC made the recommendation as follows:

WHEREFORE, IN VIEW OF THE FOREGOING, it is respectfully recommended that (a) the Order dated January 23, 2018 of [the MeTC] which reconsidered and set aside the Order dated November 16, 2017 adjudging respondent Atty. Maverick J. Sevilla guilty of indirect contempt and imposing a fine of Five Thousand Pesos (P5,000.00) be ADOPTED; (b) this case now be CONSIDERED CLOSED AND TERMINATED; and (c) respondent Atty. Maverick S. Sevilla be REMINDED to be more circumspect in his dealings with the court WITH WARNING that a repetition of the same or similar acts will be dealt with severely.¹⁰

Our Ruling

The instant administrative complaint is hereby dismissed for want of merit.

Section 3,¹¹ Rule 71 of the Rules of Court provides that a person may be punished for indirect contempt when he or she disobeys or resists a lawful order of a court, among other acts therein enumerated. In addition, Section 4¹² of the Rules of Court stresses that when a court initiates on its own or *motu proprio* an indirect contempt case, its proceeding is commenced by the court's issuance of an order or any other formal charge requiring the respondent to show cause why he or she should not be punished for contempt.

⁹ *Id.* at 23-25.

¹⁰ *Id.* at 25.

¹¹ Section 3. *Indirect Contempt to be Punished After Charge and Hearing.* — After 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:

x x x x

(b) Disobedience of or resistance to a lawful x x x order x x x of a court x x x [.]

¹² Section 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.

Notably, in *Baculi v. Belen*,¹³ the Court explained the procedure in indirect contempt proceedings initiated *motu proprio* by the court in this manner:

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. x x x

In this case, the MeTC initiated *motu proprio* the indirect contempt charge against Atty. Sevilla. However, it did not observe the foregoing procedure and hastily arrived at its conclusion that Atty. Sevilla was guilty of indirect contempt.

More particularly, the MeTC did not, *first* and foremost, issue an order requiring Atty. Sevilla to show cause why he should not be cited in contempt. Such show cause order must be one that is clear and specific in nature as to give Atty. Sevilla the opportunity to explain why he should not be cited in contempt. *Second*, it did not give him the opportunity to comment on the charge against him. *Third* and last, there was no hearing held to investigate the matter. Resultantly, the MeTC failed to observe its duty to inform Atty. Sevilla of the charge against him and violated the latter's right to due process of law. Indeed, the court cannot decide summarily the charge of indirect contempt. It must give the respondent the chance to defend oneself and have a day in court.¹⁴

While the Court agrees with the OBC that a lawyer has a primary duty to assist in the administration of justice and any act which tends to delay or obstruct the administration of justice contravenes such duty,¹⁵ a lawyer, or any individual, for that matter, must be given the opportunity, as above-discussed, to defend oneself from any accusation against him or her. Verily, such opportunity to be heard was not properly accorded to Atty. Sevilla.

Furthermore, the Court shares the observation of the OBC that Atty. Sevilla did not exhibit a blatant disrespect for legal order and

¹³ 695 Phil. 598, 613 (2012), citing *In Re: Calimlim*, 584 Phil. 377 (2008).

¹⁴ *Id.* at 614-615.

¹⁵ See *Batac, Jr. v. Cruz, Jr.*, 467 Phil 773, 785 (2004).

procedures but instead, he committed an inadvertent noncompliance with the MeTC Order dated November 16, 2017.

To note, despite the aforesaid defects in the proceedings in the indirect contempt charge against him, Atty. Sevilla acknowledged the MeTC Order against him but he, nevertheless, filed a motion for reconsideration thereon. While it cannot be denied that he committed an oversight in assuming that Iluminada had complied with the order to attend the hearing, the Court cannot brush aside the gesture of Atty. Sevilla when he timely filed his motion for reconsideration and aptly explained therein that, all the while, he really thought that his representative attended the hearing. He also admitted his oversight and assured the court that his representative will be present and will bring the necessary documents in the subsequent hearing. Definitely, in the absence of any contumacious refusal to comply with the order of the court, the MeTC had no reason to adjudge Atty. Sevilla guilty of indirect contempt.¹⁶

Indeed, the power of the court to punish for contempt must be exercised with observance of the provisions of the law and due regard to the constitutional rights of the concerned individual.¹⁷ Considering the non-observance with the required procedure and given the fact that Atty. Sevilla gave a satisfactory explanation on his failure to attend to the court's hearing on November 16, 2017, the Court finds that he committed *no* indirect contempt against the MeTC.

WHEREFORE, the administrative complaint against Atty. Maverick S. Sevilla is **DISMISSED** for lack of merit.

SO ORDERED."

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

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¹⁶ *In Re: Calimlim*, 584 Phil. 377, 383 (2008).

¹⁷ *Id.* at 384-385.

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