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# Republic of the Philippines
# Supreme Court
## Manila

## THIRD DIVISION

**HUBERT JEFFREY P. WEBB,**
Petitioner,

-versus-

**NBI DIRECTOR MAGTANGGOL B. GATDULA, FORMER NBI DIRECTOR CARLOS S. CAABAY, FORMER NBI DIRECTOR NESTOR M. MANTARING, DR. RENATO C. BAUTISTA, DR. PROSPERO CABANAYAN, ATTY. FLORESTO P. ARIZALA, JR., ATTY. REYNALDO O. ESMERALDA, ATTY. ARTURO FIGUERAS, ATTY. PEDRO RIVERA and JOHN HERRA,**
Respondents.

**G.R. No. 194469**

Present:

PERALTA, *J., Chairperson,*
LEONEN,
REYES, A., JR.,
HERNANDO,* and
INTING, *JJ.*

**Promulgated:**
September 18, 2019
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## RESOLUTION

**LEONEN, *J*.:**

While this Court's power to cite persons in contempt should be used sparingly, it should be wielded to ensure the infallibility of justice where the

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* On Leave.

defiance or disobedience is patent and contumacious that there is an evident refusal to obey.[1]

In criminal contempt proceedings, the presumption of innocence exists. Proof beyond reasonable doubt is but necessary; absent this, the accused cannot be cited in contempt.

This Court resolves a Petition for Indirect Contempt[2] under Rule 71 of the Rules of Court. The case was filed against officers of the National Bureau of Investigation, namely: (1) Director Magtanggol B. Gatdula (Gatdula); (2) former Director Carlos S. Caabay (Caabay); (3) former Director Nestor M. Mantaring (Mantaring); (4) Dr. Renato C. Bautista (Dr. Bautista); (5) Dr. Prospero Cabanayan (Dr. Cabanayan); (6) Atty. Floresto P. Arizala, Jr. (Atty. Arizala); (7) Atty. Reynaldo O. Esmeralda (Atty. Esmeralda); (8) Atty. Arturo Figueras (Atty. Figueras);[3] (9) Atty. Pedro Rivera (Atty. Rivera); and (10) Agent John Herra (Herra).

This Petition is an offshoot of the rape-homicide case of *Lejano v. People*.[4] In that case, Hubert Jeffrey P. Webb (Webb), among others, was charged with the crime of rape with homicide for allegedly raping Carmela Vizconde (Carmela), then killing her, her mother, and her sister in 1991—the events of which had been infamously called the Vizconde Massacre.[5]

While the criminal case was pending before the trial court, Webb filed a Motion to Direct the National Bureau of Investigation (NBI) to Submit Semen Specimen to DNA Analysis. As he claims in his Petition, the DNA testing would establish his innocence since the results would show that the semen found in Carmela did not belong to him.[6] When the Motion was denied, Webb filed a Petition for Certiorari assailing the denial.[7]

In an April 20, 2010 Resolution, this Court granted Webb's request to order a testing on the semen specimen found in Carmela's cadaver, in view of the Rules on DNA Evidence.[8] It ordered the National Bureau of Investigation to assist the parties in submitting the semen specimen to the University of the Philippines Natural Science Research Institute.[9]

This Court ruled:

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[1] *Oca v. Custodio*, 814 Phil. 641, 665 (2017) [Per J. Leonen, Second Division].
[2] *Rollo*, pp. 3–64, Petition to Cite Officers of the NBI in Contempt.
[3] Died during the pendency of this case.
[4] 652 Phil. 512 (2010) [Per J. Abad, En Banc].
[5] Id. at 554.
[6] *Rollo,* pp. 9 and 52–54.
[7] Id. at 44.
[8] Id. at 11.
[9] Id. at 12.

> "WHEREFORE, in the higher interest of justice, the request of appellant Webb to submit for DNA analysis the semen specimen taken from the cadaver of Carmela Vizconde under the custody of the National Bureau of Investigation is hereby GRANTED. The NBI is ORDERED to ASSIST the parties in facilitating the submission of said specimen to the UP-Natural Science and Research Institute, Diliman, Quezon City and they (NBI and UP-NSRI) are further ORDERED to REPORT to this Court within fifteen (15) days from notice hereof regarding compliance with and implementation of this Resolution."[10]

In its Compliance and Manifestation dated April 27, 2010, the National Bureau of Investigation claimed that the semen specimen was no longer in its custody. It alleged that the specimen had been submitted as evidence to the trial court when its Medico-Legal Chief, Dr. Cabanayan, testified on January 30, 31, and February 1, 5, 6, and 7, 1996.[11]

The trial court denied this claim.[12] The Branch Clerk of Court explained that what were marked in evidence were photographs of the slides containing the vaginal smear, not the slides themselves.[13]

However, in a Certification dated April 23, 1997, Dr. Bautista of the National Bureau of Investigation's Medico-Legal Division confirmed that the slides containing the specimen were still in the Bureau's custody.[14]

When required by this Court to explain the discrepancies, the National Bureau of Investigation filed its Compliance dated July 16, 2010. In its Compliance, Dr. Cabanayan explained that he submitted the semen specimen to the trial court during his direct and cross-examinations. Dr. Bautista, denying responsibility, clarified that he issued the certification based on the information given to him by the medical technologist of the Bureau's Pathology Section.[15]

Due to the missing semen specimen, Webb filed this Petition for Indirect Contempt. He prays that the impleaded former and current National Bureau of Investigation officers be cited for indirect contempt for "impeding, degrading, and obstructing the administration of justice and for disobeying the April 20, 2010 Resolution of this Honorable Court[.]"[16]

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[10] Id.
[11] Id.
[12] Id. at 12–13.
[13] Id. at 46.
[14] Id. at 12.
[15] Id. at 13.
[16] Id. at 14.

Petitioner argues that the National Bureau of Investigation's claims are belied by the records of the case. He points out that based on the prosecution's Formal Offer of Evidence, the exhibits submitted to the trial court were only photographs of the slides containing the specimen.[17]

In addition, petitioner alleges that it was not mentioned during respondent Dr. Cabanayan's testimony that he turned over the actual slides to the court. On February 5, 1996, when the defense requested the production of the actual slides, the prosecution merely promised to bring them on the next hearing.[18] When he was asked the following day, Dr. Cabanayan stated that he "forgot all about"[19] the slides. On his last appearance on February 7, 1996, he still failed to submit the sperm specimen.[20]

Dr. Cabanayan's claim, petitioner submits, is also belied by the court records, among which was respondent Dr. Bautista's certification that the specimen was still in the Bureau's custody.[21] He further argues that respondent Dr. Bautista's attempt to abandon his initial certification should be doubted as it is not supported by competent evidence. For one, he did not identify the medical technologist who supposedly fed him the information. Assuming that his story were true, he forwarded no evidence that the medical technologist lied to him, petitioner points out.[22]

In essence, petitioner claims that the National Bureau of Investigation made a false report to this Court when it stated that it had submitted the specimen to the trial court.[23] The testimony and certification from respondents Dr. Cabanayan and Dr. Bautista, respectively, show that the Bureau, not the trial court, had the last custody of the specimen.[24]

Petitioner further faults the National Bureau of Investigation for its apparent lack of care and concern in preserving the vital piece of evidence. He claims that since a Motion to direct the Bureau to submit the semen specimen for DNA analysis was pending, the Bureau should have been more diligent in handling the specimen.[25] Yet, it has been nonchalant, as evinced by respondent Dr. Bautista's negligence when he admitted that he did not personally check if the slides were still in their custody.[26]

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17 Id. at 47.
18 Id.
19 Id. at 49.
20 Id.
21 Id. at 50.
22 Id. at 51.
23 Id.
24 Id.
25 Id. at 55.
26 Id.

In addition, petitioner asserts that the National Bureau of Investigation devised a deliberate scheme to falsely inculpate him and his co-accused.

First, he questions its reliance on its star witness, Jessica Alfaro (Alfaro), whom he claims to be a bogus.[27] Petitioner contends that Alfaro was a regular informant of the National Bureau of Investigation who declared that she knew someone who witnessed the killings. When she failed to produce the supposed eyewitness, Alfaro allegedly volunteered herself to be the witness despite lack of personal knowledge of the crime.[28]

Petitioner also submits that the National Bureau of Investigation knew that Alfaro's testimonies were inconsistent on several material points.[29] In her first affidavit, Alfaro admitted that she did not witness the crime's actual commission as she was a mere lookout; yet, in her second affidavit, she suddenly claimed being in the Vizconde residence and witnessing Carmela's rape.[30] To cover up the inconsistencies, Alfaro admitted to the Bureau that she shredded her first affidavit, which was only recovered from Alfaro's assisting lawyer, Atty. Arturo Mercader (Atty. Mercader).[31] Moreover, the Bureau admitted that Alfaro identified the wrong person for accused Miguel Rodriguez.[32] Alfaro also lied when she stated that she was not assisted by counsel when she executed the first affidavit, when she was, in fact, actually assisted by Atty. Mercader.[33] Petitioner argues that Alfaro is not a reliable witness, as supported by her being a self-confessed drug addict.[34]

Petitioner also implicates respondents Attys. Figueras and Rivera, claiming that they coached Alfaro in the dubious execution of the second affidavit.[35] He highlights that Alfaro did not actually know him until respondent Agent Herra and Agent Mark Anthony So (So) coached her into identifying him in court.[36] He insists that while Alfaro presented herself as his close friend or *barkada*, she did not actually know him or how he looked like prior to the case.[37]

Petitioner also alleges that National Bureau of Investigation Director Antonio Aragon (Antonio) tried to convince his nephew, Honesto Aragon (Honesto), not to testify that he was with petitioner in the United States at

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[27] Id. at 16.
[28] Id. at 16–17.
[29] Id. at 19.
[30] Id. at 20–21.
[31] Id. at 19–20.
[32] Id. at 42.
[33] Id. at 43.
[34] Id. at 44.
[35] Id. at 20–21.
[36] Id. at 25–26.
[37] Id. at 25–31.

the time the crime was committed.[38] In his testimony, Honesto admitted that his uncle, Antonio, dissuaded him from testifying because they are relatives and his testimony will not look "good for the public."[39]

Petitioner stresses that the National Bureau of Investigation disregarded the documentary evidence they obtained from the United States and Philippine governments, which would have proven that he was in the United States around the time the crime was committed. The Bureau supposedly obtained US Immigration Naturalization Service and Philippine Bureau of Immigration Certifications showing his departure for the United States on March 9, 1991 and his arrival back to the Philippines on October 27, 1992.[40] It also received documentary evidence confirming that petitioner was employed in California in June 1991, and that he purchased a bicycle on June 30, 1991 from Orange Cycle in California.[41]

Moreover, petitioner points out that the National Bureau of Investigation's Officer-in-Charge Director Federico Opinion (Opinion) admitted that petitioner's involvement in the murder was a "creation of media"[42] and that the Bureau has already confirmed through immigration records that petitioner was in the United States during the material dates.[43]

Petitioner also argues that the National Bureau of Investigation ignored the evidence showing that the fingerprints found on the fluorescent lamp in the Vizcondes' garage did not match his fingerprints, but those of Engineer Danilo Aguas, another lead suspect in the case.[44]

Despite strong contrary evidence, petitioner asserts that the National Bureau of Investigation still pursued the case and falsely implicated him in the crime. The Bureau's actions, he states, "constitute improper conduct which tends to directly or indirectly impede, obstruct, or degrade the administration of justice"[45] and willful disobedience of the order of this Court, for which the officers should be held in contempt of court.[46]

Petitioner prays that the following National Bureau of Investigation officers be cited in indirect contempt for the following acts:

1. Current NBI Director Magtanggol B. Gatdula, Former NBI Director Carlos S. Caabay and Former NBI Director Nestor M. Mantaring

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[38] Id. at 31–34.
[39] Id. at 33.
[40] Id. at 35–37.
[41] Id. at 36–37.
[42] Id. at 41.
[43] Id.
[44] Id. at 43.
[45] Id. at 56.
[46] Id.

- For failing to exercise direct supervision and due diligence in safekeeping the semen specimen which was entrusted to the custody of the NBI since 1997 until the present time and which was the subject matter of a pending Motion to Direct the NBI to Submit Semen Specimen for DNA Analysis.

2. Dr. Renato C. Bautista – Medico-Legal Officer III

   - For issuing his Certification that the slides were still in the custody of the NBI and later denying that they are.

3. Dr. Prospero Cabanayan – former Chief, Medico-Legal Division

   - For failing to bring the slides containing the semen specimen during the hearing held on 6 February 1996 as required by the Court, and for falsely claiming that he had already surrendered the slides to the trial court despite all evidence to the contrary.

4. Atty. Floresto P. Arizala, Jr., M.D. – Chief, Medico-Legal Division

   - For filing and signing, on behalf of the NBI, its Compliance and Manifestation dated 27 April 2010, wherein it was falsely claimed that the desired semen specimen/vaginal smear taken from the cadaver of Carmela Vizconde was no longer in its custody because the same was already submitted as evidence to the trial court when then NBI Medico-Legal Chief Prospero A. Cabanayan testified on January 30, 31 and February 1, 5, 6, and 7, 1996—which the trial court flatly denied.

5. Atty. Reynaldo O. Esmeralda, Deputy Director for Technical Services

   - For filing and signing, on behalf of the NBI, its Compliance and Manifestation dated 27 April 2010, wherein it was falsely claimed that the desired semen specimen/vaginal smear taken from the cadaver of Carmela Vizconde was no longer in its custody because the same was already submitted as evidence to the trial court when then NBI Medico-Legal Chief Prospero A. Cabanayan testified on January 30, 31, February 1, 5, 6, and 7, 1996—which the trial court flatly denied.

6. NBI's Atty. Arturo Figueras and Atty. Pedro Rivera

   - For coaching Jessica Alfaro in the execution of the Second Affidavit which converted her into an instant eyewitness to the crime and cured the "defects" of her First Affidavit.

7. NBI Agent John Herra

   - For coaching Jessica Alfaro by showing her pictures of Petitioner and asking NBI Agent Mark Anthony So to identify Petitioner and his facial marks so that she would be able to

> identify him in court even if they knew that Alfaro did not know him.[47]

On December 14, 2010, about two (2) weeks after the filing of this Petition for Indirect Contempt, this Court ruled on *Lejano*, the criminal case. In finding that the prosecution failed to prove their guilt beyond reasonable doubt, petitioner and his co-accused were acquitted of the crime charged.[48]

Later, the Office of the Solicitor General, representing respondents Gatdula, Atty. Esmeralda, Dr. Bautista, and Atty. Arizala, filed its Comment to this Petition.[49]

The Office of the Solicitor General argues that the Petition is rendered moot upon the promulgation of *Lejano*. Since the non-production of the specimen is merely incidental to the determination of petitioner's innocence, his acquittal has rendered the issue moot as no useful purpose can be served by its resolution.[50] It emphasizes that in *Lejano*, this Court settled that the mere loss of the specimen did not warrant petitioner's acquittal.[51] It argues that there is no violation of due process because the State is not required to preserve the semen specimen unless there was bad faith on the part of the prosecution or the police.[52]

The Office of the Solicitor General likewise avers that this Court's Resolution ordering the DNA analysis of the specimen was only to afford petitioner his constitutional right to due process and was not indispensable in determining his guilt.[53]

Moreover, the Office of the Solicitor General claims that respondents did not impede, obstruct, or degrade the administration of justice or defy this Court's order.[54] It points out that respondents Gatdula and Atty. Esmeralda are not responsible for the loss of the specimen because they assumed office only several years after the Vizconde Massacre.[55]

Meanwhile, respondent Atty. Arizala stated in his Compliance that the specimen was no longer in the National Bureau of Investigation's custody,

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47 Id.at 59–60.
48 *Lejano v. People, People v. Hubert Jeffrey P. Webb, et al.,* 652 Phil. 512 (2010) [Per J. Abad, En Banc].
49 *Rollo*, pp. 248–262. Comment of the Office of the Solicitor General. Respondents Atty. Carlos C. Caabay, Atty. Nestor M. Mantaring, Dr. Prospero A. Cabanayan, Atty. Arturo A. Figueras, Atty. Pedro L. Rivera and Mr. John Herra were not represented by the Office of the Solicitor General because they were no longer officially connected with the NBI.
50 Id. at 249–250.
51 Id. at 250.
52 Id.
53 Id. at 251.
54 Id. at 252.
55 Id. at 253.

as respondent Dr. Cabanayan had already submitted the evidence to the trial court.[56] He also claims that no bad faith can be attributed to respondent Dr. Bautista when he certified the specimen's availability, as he just relied on the medical technologist's information which he had no reason to doubt.[57]

Assuming that the specimen was still with the National Bureau of Investigation, the Office of the Solicitor General claims that the legal presumption of good faith and regularity in the performance of their official duties must prevail absent any showing of malice or gross negligence amounting to bad faith.[58] It maintains that there was no bad faith on the part of respondents for the non-production of the specimen.[59]

The Office of the Solicitor General further contends that in *Lejano*, this Court settled that at the time the petitioner requested the DNA analysis, rules governing DNA evidence did not yet exist. There is neither any technology available in the country nor any precedent recognizing its admissibility as evidence.[60] It also questions petitioner's failure to challenge the trial court's denial of his request to have the DNA analysis.[61]

In a separate Comment,[62] respondents Gatdula and Atty. Esmeralda clarify that they had no participation in the alleged misconduct because they were not yet in service. Respondent Gatdula was appointed as Director only on July 7, 2010 and assumed office on July 12, 2010, while respondent Atty. Esmeralda was appointed Director III on October 19, 2006 and assumed office as Deputy Director for Technical Services in July 2009.[63] They also point out that when this Court ordered the DNA analysis, they no longer had the power to obey because the specimen was no longer in the Bureau's custody.[64]

Respondents Gatdula and Atty. Esmeralda also stress that since this Court had already settled the issue of the loss of DNA evidence, the non-production of the specimen is a non-issue.[65] They argue that they never intended to disrespect or defy the order of this Court.[66]

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[56] Id.
[57] Id. at 253–254.
[58] Id. at 254.
[59] Id. at 255.
[60] Id. at 255–256.
[61] Id. at 256.
[62] Id. at 213–239. The Comment dated February 23, 2011 was jointly submitted by Atty. Magtanggol B. Gatdula and Atty. Reynaldo O. Esmeralda.
[63] Id. at 214–215.
[64] Id.
[65] Id. at 220–221.
[66] Id. at 221.

In his Comment,[67] respondent Atty. Arizala claims innocence, alleging that he was not privy to the specimen's actual loss since he was assigned in a different station from 2004 to late 2008. He narrates that after personally supervising and failing to find the specimen, he was informed by respondent Dr. Cabanayan that the specimen had been transferred to the trial court. Thus, in the exercise of his ministerial duty, he issued a certification in 2009 stating the absence of the specimen—but, even so, he was not privy to its actual loss.[68]

Respondent Atty. Rivera also argued in his Comment[69] that he had no hand in the incident because he was not a custodian of the evidence. He explains that he was only an agent-investigator who was asked to testify before the trial court.[70]

In his Comment,[71] respondent Mantaring argues that since he was not directly part of the task force assigned to the case, he could not have failed exercising direct supervision and due diligence in safekeeping the semen specimen.[72] Although he was the Bureau Director from 2005 to 2010, he claims that he cannot be held liable for contempt for the specimen's loss. He adds that he only relied on respondent Dr. Cabanayan's statement[73] since he did not personally know what transpired in the trial court when the specimen was presented in evidence.[74]

Respondent Mantaring also argues that whether the specimen was submitted to the trial court is a factual question which must first be judicially resolved before the allegation against him is passed upon.[75]

In his Compliance/Explanation,[76] respondent Dr. Cabanayan denies that the semen specimen was lost. He narrates that, as the medico-legal officer, he was assigned to examine and report the findings for submission to the trial court. He said that the glass slides containing the semen specimen, among other pieces of evidence and findings, were collated and kept in a file folder tagged NBI Medical Jacket No. N-91-1665. In the footnote registered in the medical jacket, he noted the date, time, and court where he testified and submitted the file folder.[77]

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67 Id. at 285–286.
68 Id.
69 Id. at 287.
70 Id.
71 Id. at 305–312.
72 Id. at 306.
73 Id. at 306–307.
74 Id. at 307.
75 Id.
76 Id. at 334–337.
77 Id. at 335.

In his Comment,[78] respondent Herra denies responsibility for the supposed loss of the specimen. He states that he was assigned with the defunct Task Force JECARES as Alfaro's lone close-in-security. As such, he did not have a hand in the investigation, much less access to any evidence.[79] He also denies that he coached Alfaro to identify petitioner.[80] He argues that he does not have any photo of petitioner, and he did not show it to Alfaro.[81]

As to respondent Caabay, despite several service of the Court's order, he failed to submit a comment.[82]

Antonio and Opinion, former National Bureau of Investigation directors, have already died and have been excluded from the contempt charges.[83] Similarly, respondent Atty. Figueras died during the pendency of this case.[84]

Petitioner manifested that he would be waiving his right to file a reply.[85]

The issues for this Court's resolution are the following:

First, whether or not this action is barred by the decision of this Court in *Lejano*; and

Second, whether or not respondents Magtanggol B. Gatdula, Carlos S. Caabay, Nestor M. Mantaring, Dr. Renato C. Bautista, Dr. Prospero Cabanayan, Atty. Floresto P. Arizala, Jr., Atty. Reynaldo O. Esmeralda, Atty. Pedro Rivera, and John Herra are guilty of indirect contempt; particularly: (1) disobedience or resistance to a lawful order of the court; and (2) improper conduct tending to impede, obstruct, or degrade the administration of justice.

**I**

*Res judicata* literally means "a matter adjudged."[86] It is an oft-repeated doctrine which bars the re-litigation of the same claim between the parties or the same issue on a different claim between the same parties.[87]

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78 Id. at 405–417.
79 Id. at 405–406.
80 Id. at 407–408.
81 Id. at 408–409.
82 Id. at 463.
83 Id. at 60.
84 Id. at 424–425.
85 Id. at 448–452.

*Res judicata* is founded on the principle of estoppel, and is based on the public policy against unnecessary multiplicity of suits.[88] In *Ligtas v. People*:[89]

> Like the splitting of causes of action, res judicata is in pursuance of such policy. Matters settled by a Court's final judgment should not be litigated upon or invoked again. Relitigation of issues already settled merely burdens the Courts and the taxpayers, creates uneasiness and confusion, and wastes valuable time and energy that could be devoted to worthier cases.[90]

In *res judicata*, primacy is given to the first case. The underlying reason for this rule is the doctrine of immutability of final judgments, which is essential for the effective and efficient administration of justice.[91] In *Siy v. National Labor Relations Commission*:[92]

> [W]ell-settled is the principle that a decision that has acquired finality becomes immutable and unalterable and may no longer be modified in any respect even if the modification is meant to correct erroneous conclusions of fact or law and whether it will be made by the court that rendered it or by the highest court of the land.
>
> The reason for this is that litigation must end and terminate sometime and somewhere, and it is essential to an effective and efficient administration of justice that, once a judgment has become final, the winning party be not deprived of the fruits of the verdict. Courts must guard against any scheme calculated to bring about that result and must frown upon any attempt to prolong the controversies.[93]

The doctrine rests upon the principle that "parties ought not to be permitted to litigate the same issue more than once[.]"[94] It "exists as an obvious rule of reason, justice, fairness, expediency, practical necessity, and public [tranquility]."[95]

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[86] *People v. Escobar*, 814 Phil. 840, 856 (2017) [Per J. Leonen, Second Division].
[87] Id.
[88] *Ligtas v. People*, 766 Phil. 750, 775 (2015) [Per J. Leonen, Second Division].
[89] 766 Phil. 750 (2015) [Per J. Leonen, Second Division].
[90] Id. at 775 *citing Co v. People*, 610 Phil. 60, 70–71 (2009) [Per J. Corona, First Division].
[91] *Pryce Corporation v. China Banking Corporation*, 727 Phil. 1 (2014) [Per J. Leonen, En Banc].
[92] 505 Phil. 265 (2005) [Per J. Corona, Third Division].
[93] Id. at 274.
[94] *Nabus v. Court of Appeals*, 271 Phil. 768, 778 (1991) [Per J. Regalado, Second Division].
[95] *People v. Escobar*, 814 Phil. 840, 856 (2017) [Per J. Leonen, Second Division] *citing Degayo v. Magbanua-Dinglasan*, 757 Phil. 376, 382 (2015) [Per J. Brion, Second Division].

Precluding re-litigation of the same dispute is made in recognition that judicial resources are finite and the number of cases that can be heard by the court is limited. Thus, the principle of *res judicata* seeks to conserve scarce judicial resources and to promote efficiency. Moreover, it precludes the risk of inconsistent results and prevents the embarrassing problem of two (2) conflicting judicial decisions when there is re-litigation.[96] Hence, *res judicata* "encourages reliance on judicial decision, bars vexatious litigation, and frees the courts to resolve other disputes."[97]

*Res judicata* embraces two (2) concepts: (1) bar by prior judgment; and (2) conclusiveness of judgment.

*Res judicata* by bar by prior judgment, enunciated in Rule 39, Section 47(b)[98] of the Rules of Court, is in effect when, "between the first case where the judgment was rendered and the second case that is sought to be barred, there is identity of parties, subject matter, and causes of action."[99] Thus, the judgment in the first case constitutes an absolute bar to the second action.

The second concept, pertaining to conclusiveness of judgment, is found in Rule 39, Section 47(c)[100] of the Rules of Court. There is conclusiveness of judgment when "there is identity of parties in the first and second cases, but no identity of causes of action[.]" Moreover, "the first judgment is conclusive only as to those matters actually and directly controverted and determined and not as to matters merely involved therein."[101] Thus, when a court of competent jurisdiction judicially tried and settled a right or fact, or an opportunity for a trial has been given, the court's judgment should be conclusive upon the parties.[102] In *Nabus v. Court of Appeals*:[103]

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[96] *Salud v. Court of Appeals*, 303 Phil. 397 (1994) [Per J. Puno, Second Division].

[97] Id. at 406.

[98] RULES OF COURT, Rule 39, sec. 47(b) provides:

SECTION 47. *Effect of judgments or final orders.* — The effect of a judgment or final order rendered by a court of the Philippines, having jurisdiction to pronounce the judgment or final order, may be as follows:

. . . .

(b) In other cases, the judgment or final order is, with respect to the matter directly adjudged or as to any other matter that could have been raised in relation thereto, conclusive between the parties and their successors in interest by title subsequent to the commencement of the action or special proceeding, litigating for the same thing and under the same title and in the same capacity[.]

[99] *Social Security Commission v. Rizal Poultry and Livestock Association, Inc.*, 665 Phil. 198, 205 (2011) [Per J. Perez, First Division].

[100] RULES OF COURT, Rule 39, Section 47(c) provides:

SECTION 47. *Effect of judgments or final orders.* — . . .

. . . .

(c) In any other litigation between the same parties or their successors in interest, that only is deemed to have been adjudged in a former judgment or final order which appears upon its face to have been so adjudged, or which was actually and necessarily included therein or necessary thereto.

[101] *Social Security Commission v. Rizal Poultry and Livestock Association, Inc.*, 665 Phil. 198, 205 (2011) [Per J. Perez, First Division].

[102] *Nabus v. Court of Appeals*, 271 Phil. 768 (1991) [Per J. Regalado, Second Division].

[103] Id.

> The doctrine [of conclusiveness of judgment] states that a fact or question which was in issue in a former suit, and was there judicially passed on and determined by a court of competent jurisdiction, is conclusively settled by the judgment therein, as far as concerns the parties to that action and persons in privity with them, and cannot be again litigated in any future action between such parties or their privies, in the same court or any other court of concurrent jurisdiction on either the same or a different cause of action, while the judgment remains unreversed or unvacated by proper authority. The only identities thus required for the operation of the judgment as an estoppel, in contrast to the judgment as a bar, are identity of parties and identity of issues.
>
> It has been held that in order that a judgment in one action can be conclusive as to a particular matter in another action between the same parties or their privies, it is essential that the issues be identical. If a particular point or question is in issue in the second action, and the judgment will depend on the determination of that particular point or question, a former judgment between the same parties will be final and conclusive in the second if that same point or question was in issue and adjudicated in the first suit; but the adjudication of an issue in the first case is not conclusive of an entirely different and distinct issue arising in the second. In order that this rule may be applied, it must clearly and positively appear, either from the record itself or by the aid of competent extrinsic evidence that the precise point or question in issue in the second suit was involved and decided in the first. And in determining whether a given question was an issue in the prior action, it is proper to look behind the judgment to ascertain whether the evidence necessary to sustain a judgment in the second action would have authorized a judgment for the same party in the first action.[104] (Citations omitted)

In essence, *res judicata* by bar by prior judgment prohibits the filing of a second case when it has the same parties, subject, and cause of action, or when the litigant prays for the same relief as in the first case. Meanwhile, *res judicata* by conclusiveness of judgment precludes the re-litigation of a fact or issue that has already been judicially settled in the first case between the same parties.[105] If, between the first and second case, the causes of action are different and only the parties and issues are the same, *res judicata* is still present by conclusiveness of judgment.[106]

To properly invoke *res judicata*, the following elements must concur:

> (1) the judgment sought to bar the new action must be final; (2) the decision must have been rendered by a court having jurisdiction over the subject matter and the parties; (3) the disposition of the case must be a

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[104] Id. at 784–785.
[105] *Presidential Decree No. 1271 Committee v. De Guzman*, 801 Phil. 731 (2016) [Per J. Leonen, Second Division].
[106] Id. at 766.

> judgment on the merits; and (4) there must be as between the first and second action, identity of parties, subject matter, and causes of action.[107]

In this case, this Court's ruling in *Lejano* cannot preclude petitioner's filing of the contempt action.

The principle of *res judicata*, a civil law principle, is not applicable in criminal cases, as explained in *Trinidad v. Office of the Ombudsman*.[108] As further held in *People v. Escobar*,[109] while certain provisions of the Rules of Civil Procedure may be applied in criminal cases, Rule 39 of the Rules of Civil Procedure is excluded from the enumeration under Rule 124 of the Rules of Criminal Procedure.

Besides, even if the principle of *res judicata* were applied, this action is still not precluded by the finality of the decision in the criminal case.

Between *Lejano* and this contempt case, only the first three (3) elements of *res judicata* are present: (1) the judgment in *Lejano* is final; (2) it was rendered by a court of competent jurisdiction; and (3) it was a judgment on the merits. The last element is absent: there is no identity of parties, issues, and cause of action in the two (2) cases.

Clearly, respondents in this contempt action are not parties in the criminal case. Moreover, the issue and the cause of action here are different from the criminal case.

Here, the action seeks to cite respondents in contempt, while in the criminal case, the accused sought to reverse his conviction. Respondents argue that this complaint is rendered "moot" because the non-production of the semen specimen is merely incidental to the issue of petitioner's innocence. Further, respondents stress that the ruling in *Lejano* as to the loss of specimen was already settled. They, thus, conclude that the judgment regarding the loss of the specimen bars the contempt case because the DNA testing is no longer of practical value to petitioner.

Respondents attempt to water down the non-production of the evidence by attacking the underlying purpose of this Court's order. Their arguments falter.

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[107] *Social Security Commission v. Rizal Poultry and Livestock Association, Inc.*, 665 Phil. 198, 206 (2011) [Per J. Perez, First Division].

[108] 564 Phil. 382 (2007) [Per J. Carpio Morales, En Banc].

[109] 814 Phil. 840 (2017) [Per J. Leonen, Second Division].

To be clear, contempt of court simply asks whether respondents willfully defied this Court's order. Their reasoning only tends to weaken the authority of this Court. They present a dangerous argument; that is, people can choose to defy this Court's orders as long as it fits their perception.

Moreover, in *Lejano*, this Court answered the question of whether the loss of the specimen entitles the accused to acquittal. In this contempt case, it only resolves if there was willful disregard or disobedience of this Court's order, regardless of its underlying purpose or value to this Court or to the parties.

In sum, there is a lack of identity of parties, issues, and cause of action between the criminal case and the contempt action. As such, the judgment in the criminal case will not preclude this case's resolution.

**II**

Contempt of court is willful disobedience to the court and disregard or defiance of its authority, justice, and dignity.[110] In *Lim-Lua v. Lua*,[111] this Court explained that contempt of court "signifies not only a willful disregard or disobedience of the court's order, but such conduct which tends to bring the authority of the court and the administration of law into disrepute or, in some manner, to impede the due administration of justice."[112]

The power to cite persons in contempt is an essential element of judicial authority.[113] All courts have the inherent power to punish for contempt to the end that they may "enforce their authority, preserve their integrity, maintain their dignity, and insure the effectiveness of the administration of justice."[114]

In *Roque, Jr. v. Armed Forces of the Philippines Chief of Staff*:[115]

> The power of contempt is exercised to ensure the proper administration of justice and maintain order in court processes. *In Re: Kelly* provides:
>
> > The summary power to commit and punish for contempt, tending to obstruct or degrade the administration of justice, as inherent in courts as essential to the execution

[110] *Oca v. Custodio*, 814 Phil. 641, 665 (2017) [Per J. Leonen, Second Division] *citing Halili v. Court of Industrial Relations,* 220 Phil. 507 (1985) [Per J. Makasiar, En Banc].
[111] 710 Phil. 211 (2013) [Per J. Villarama, Jr., First Division].
[112] Id. at 232 *citing Bank of the Philippine Islands v. Calanza*, 607 Phil. 547 (2010) [Per J. Nachura, Second Division].
[113] *In re: Vicente Sotto*, 82 Phil. 595 (1949) [Per J. Feria, En Banc].
[114] *Commissioner of Immigration v. Cloribel*, 127 Phil. 716, 723 (1967) [Per Curiam, En Banc].
[115] 805 Phil. 921 (2017) [Per J. Leonen, Second Division].

> of their powers and to the maintenance of their authority, is a part of the law of the land.
>
> Courts of justice are universally acknowledged to be vested, by their very creation, with power to impose silence, respect, and decorum in their presence and submission to their lawful mandates, and as a corollary to this provision, to preserve themselves and their officers from the approach of insults and pollution.
>
> The existence of the inherent power of courts to punish for contempt is essential to the observance of order in judicial proceedings and to the enforcement of judgments, orders, and writs of the courts, and consequently to the due administration of justice.[116] (Citations omitted)

There are two (2) types of contempt under the Rules of Court, namely: (1) direct contempt; and (2) indirect contempt.

There is direct contempt when there is a "misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before [it.]"[117] It includes disrespect toward the court, offensive personalities toward others, refusal to be sworn in or to answer as a witness, or to subscribe an affidavit or deposition.[118] It may be meted out "summarily without a hearing."[119]

Under Rule 71, Section 3 of the Rules of Court, there is indirect contempt when any of the following acts are committed:

> (a) Misbehavior of an officer of a court in the performance of his [or her] official duties or in his [or her] 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;

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[116] Id. at 942–943.

[117] RULES OF COURT, Rule 71, sec. 1 provides:

SECTION 1. *Direct Contempt Punished Summarily.* — A person guilty of misbehavior in the presence of or so near a court as to obstruct or interrupt the proceedings before the same, including disrespect toward the court, offensive personalities toward others, or refusal to be sworn or to answer as a witness, or to subscribe an affidavit or deposition when lawfully required to do so, may be summarily adjudged in contempt by such court and punished by a fine not exceeding two thousand pesos or imprisonment not exceeding ten (10) days, or both, if it be a Regional Trial Court or a court of equivalent or higher rank, or by a fine not exceeding two hundred pesos or imprisonment not exceeding one (1) day, or both, if it be a lower court.

[118] Id.

[119] *Oca v. Custodio*, 814 Phil. 641, 666 (2017) [Per J. Leonen, Second Division].

> (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 [or her].

Contempt proceedings are *sui generis*. They "may be resorted to in civil as well as criminal actions, and independently of any action."[120]

The power of contempt has a two-fold aspect, namely: "(1) the proper punishment of the guilty party for his disrespect to the court or its order; and (2) to compel his performance of some act or duty required of him by the court which he refuses to perform."[121] Due to this two-fold aspect, contempt may be classified as civil or criminal.[122]

Criminal contempt is a "conduct that is directed against the dignity and authority of the court or a judge acting judicially; it is an act obstructing the administration of justice which tends to bring the court into disrepute or disrespect."[123] On the other hand, civil contempt is one's failure to fulfill a court order in a civil action that would benefit the opposing party. It is, therefore, an offense against the party in whose behalf the violated order was made.[124]

In *People v. Godoy*,[125] this Court held that the primary consideration in determining whether a contempt is civil or criminal is the purpose for which the power of contempt is exercised.[126]

A proceeding is criminal when the purpose is primarily punishment. Criminal contempt is directed against the power and dignity of the court

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[120] *Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines*, 672 Phil. 1, 14 (2011) [Per J. Bersamin, First Division].

[121] *Halili v. Court of Industrial Relations,* 220 Phil. 507, 527 (1985) [Per J. Makasiar, En Banc].

[122] Id.

[123] *People v. Godoy*, 312 Phil. 977, 999 (1995) [Per J. Regalado, En Banc] *citing* 17 C.J.S., Contempt, sec. 5(1), p. 10.

[124] Id.

[125] 312 Phil. 977 (1995) [Per J. Regalado, En Banc].

[126] Id.

with no element of personal injury involved. The private parties' interest in the criminal contempt proceedings is tangential, if any.[127]

In contrast, a proceeding is civil when the purpose is compensatory or remedial.[128] In such case, contempt "consists in the refusal of a person to do an act that the court has ordered him to do for the benefit or advantage of a party to an action pending before the court[.]"[129] Thus, in civil contempt, the party in whose favor that judgment was rendered is the real party-in-interest in the proceedings.[130]

Furthermore, in *Godoy*:

> Criminal contempt proceedings are generally held to be in the nature of criminal or quasi-criminal actions. They are punitive in nature, and the Government, the courts, and the people are interested in their prosecution. Their purpose is to preserve the power and vindicate the authority and dignity of the court, and to punish for disobedience of its orders. Strictly speaking, however, they are not criminal proceedings or prosecutions, even though the contemptuous act involved is also a crime. The proceeding has been characterized as sui generis, partaking of some of the elements of both a civil and criminal proceeding, but really constituting neither. In general, criminal contempt proceedings should be conducted in accordance with the principles and rules applicable to criminal cases, in so far as such procedure is consistent with the summary nature of contempt proceedings. So it has been held that the strict rules that govern criminal prosecutions apply to a prosecution for criminal contempt, that the accused is to be afforded many of the protections provided in regular criminal cases, and that proceedings under statutes governing them are to be strictly construed. However, criminal proceedings are not required to take any particular form so long as the substantial rights of the accused are preserved.
>
> Civil contempt proceedings are generally held to be remedial and civil in their nature; that is, they are proceedings for the enforcement of some duty, and essentially a remedy for coercing a person to do the thing required. As otherwise expressed, a proceeding for civil contempt is one instituted to preserve and enforce the rights of a private party to an action and to compel obedience to a judgment or decree intended to benefit such a party litigant. So a proceeding is one for civil contempt, regardless of its form, if the act charged is wholly the disobedience, by one party to a suit, of a special order made in behalf of the other party and the disobeyed order may still be obeyed, and the purpose of the punishment is to aid in an enforcement of obedience.[131] (Citation omitted)

A difference between criminal and civil contempt also lies in the determination of the burden of proof. In criminal contempt proceedings, the

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127 Id.
128 Id.
129 Id. at 1000.
130 Id.
131 Id. at 1000–1001.

contemnor is "presumed innocent and the burden is on the prosecution to prove the charges beyond reasonable doubt."[132] In civil contempt proceedings, no presumption exists, "although the burden of proof is on the complainant, and while the proof need not be beyond reasonable doubt, it must amount to more than a mere preponderance of evidence."[133]

The disobedience that the law punishes as constructive contempt implies willfulness.[134] To be held liable for contempt, a person's act must be done willfully or for an illegitimate or improper purpose. Thus, the good faith, or lack thereof, of the person being cited in contempt should be considered.[135] In *Lorenzo Shipping Corporation v. Distribution Management Association of the Philippines*:[136]

> There is no question that in contempt the intent goes to the gravamen of the offense. Thus, the good faith, or lack of it, of the alleged contemnor should be considered. Where the act complained of is ambiguous or does not clearly show on its face that it is contempt, and is one which, if the party is acting in good faith, is within his rights, the presence or absence of a contumacious intent is, in some instances, held to be determinative of its character. A person should not be condemned for contempt where he contends for what he believes to be right and in good faith institutes proceedings for the purpose, however erroneous may be his conclusion as to his rights. To constitute contempt, the act must be done willfully and for an illegitimate or improper purpose.[137] (Citations omitted)

However, this Court has clarified that intent is a necessary element only in criminal contempt cases. Because the purpose of civil contempt proceeding is remedial and not punitive, intent is immaterial. Hence, good faith or lack of intent to violate the court's order is not a defense in civil contempt.[138]

Here, respondents were charged with indirect contempt on two (2) grounds under the Rules of Court: (1) "disobedience of or resistance to a lawful writ, process, order, or judgment of a court"; and (2) "improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administration of justice[.]"

**III**

On the first ground, petitioner contends that respondents Gatdula, Caabay, Mantaring, Dr. Bautista, Dr. Cabanayan, Atty. Arizala, and Atty.

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[132] Id. at 1002.
[133] Id.
[134] *Commissioner of Immigration v. Cloribel*, 127 Phil. 716 (1967) [Per Curiam, En Banc].
[135] *Lim-Lua v. Lua*, 710 Phil. 211 (2013) [Per J. Villarama, Jr., First Division].
[136] 672 Phil. 1 (2011) [Per J. Bersamin, First Division].
[137] Id. at 16.
[138] *People v. Godoy*, 312 Phil. 977 (1995) [Per J. Regalado, En Banc].

Esmeralda all disobeyed this Court's order in failing to produce the specimen for DNA analysis.

Since the order to have the DNA test was made for petitioner's benefit, disobedience of or resistance to the order is in the nature of civil contempt.

In allowing the test, this Court declared that the DNA technology would afford petitioner the fullest extent of his constitutional right to due process. In its Resolution, this Court stated:

> "It is well to remind the parties that a flawed procedure in the conduct of DNA analysis of the semen specimen on the slides used during the trial for microscopic examination of human spermatozoa may yield an inconclusive result and thus will not entitle the accused to an acquittal. More important, allowing Webb to utilize the latest available DNA technology does not automatically guarantee an exculpatory DNA evidence, but simply to afford appellant Webb the fullest extent of his constitutional right to due process."[139] (Citation omitted)

Furthermore, when this contempt petition was filed, petitioner's purpose was to seek the enforcement of this Court's order for his benefit and advantage.

Petitioner has shown that respondents acted with gross negligence in safekeeping the specimen in their custody. The records show that respondents, when repeatedly asked to produce the specimen, convinced the trial court that they have the specimen in their custody.

During the February 5, 1996 hearing, the defense lawyers requested the production of the slides containing the semen specimen. The prosecution stated that the slides were not available that day, but promised to bring them the following day:

COURT:

> Is this slide available now?

FISCAL ZUNO:

> It is not available, Your Honor with these questions propounded by the counsel, we can produce the slide itself, Your Honor, and can be produced by the laboratory technician who examined the slide, Your Honor. So that the doctor will not make any estimate of the slide. Because further questions on the slide, on the size of the

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[139] *Rollo,* p. 11.

> slide, Your Honor, we will object to it on the ground that it is not the best evidence. We will be presenting the slide, Your Honor.
>
> . . . .
>
> COURT:
>
> Is the slide not available today?
>
> FISCAL ZUNO:
>
> It is not available, Your Honor because we did not expect that questions will be asked on the slide. We will bring the slide on the next hearing, Your Honor.[140]

The following day, when respondent Dr. Cabanayan was asked to produce the slides, he testified that he forgot all about it:

> ATTY. AGUIRRE:
>
> Q: Yesterday Doctor you were drawing the size of the slides you used in taking the sample of the seminal fluid, but the prosecution objected to and instead they said it would be better they will produce in court the slides which you used for the examination of the seminal fluid or the fluid taken from the genitalia of Carmela Vizconde. Did you bring with you now those three (3) slides?
>
> WITNESS DR. CABANAYAN:
>
> A: I am sorry to inform the Honorable Court that I forgot all about it before I came here.[141]

On February 7, 1996, respondent Dr. Cabanayan still failed to produce the slides. This time, he even testified that he last saw the slides in 1995.[142]

These exchanges before the trial court belie respondents' claim that they submitted the sperm specimen to the court. Moreover, the prosecution's Formal Offer of Evidence shows that the exhibits submitted were merely the photographs of the slides containing the vaginal smear. The actual slides were never submitted in court.

Subsequently, the National Bureau of Investigation also issued a certification on April 23, 1997 that the sperm specimen was still in its custody. In their attempt to evade responsibility, respondents later claimed that it was the medical technologist who confirmed that the specimen was still in the Bureau's care, and they relied on this information in good faith. As discussed, good faith is not a defense in civil contempt proceedings.

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[140] Id. at 48 *citing* TSN dated February 5, 1996, pp. 29–34.

[141] Id. at 49 *citing* TSN dated February 6, 1996, p. 4.

[142] Id. at 49–50.

Moreover, respondents failed to convince this Court that they have acted in the regular performance of their duty. They did not controvert petitioner's allegations and evidence; particularly, they offered no explanation as to the contradicting claims of respondent Dr. Cabanayan and the facts behind the certification issued by the National Bureau of Investigation. Aside from their bare assertion that the medical technologist gave them the wrong information, no other evidence showed that they transferred the specimen to the trial court or to other agency's custody.

Finally, respondents' argument that they were not in service yet when the incident happened is untenable since the National Bureau of Investigation submitted its Compliance on April 27, 2010 and July 16, 2010, when all of them were already in service.

While this Court has ruled that the power to cite persons in contempt should be used sparingly, it should be wielded to ensure the infallibility of justice, where the defiance or disobedience is patent and contumacious that there is an evident refusal to obey.[143]

The facts here sufficiently prove that, indeed, there was willful disobedience. Respondents Gatdula, Caabay, Mantaring, Dr. Bautista, Dr. Cabanayan, Atty. Arizala, and Atty. Esmeralda should, therefore, be cited in contempt for disobedience of a lawful order of this Court.

Corollary to its power of contempt, courts have the inherent power to impose a penalty that is reasonably commensurate with the gravity of the offense.[144] This penalty must be exercised on the preservative and corrective principle, not for vindicatory or retaliatory purpose.[145]

Under Rule 71, Section 3 of the Rules of Court, if a respondent is adjudged guilty of indirect contempt committed against a regional trial court or a court of equivalent or higher rank, he or she may be punished by a fine not exceeding ₱30,000.00, or imprisonment not exceeding six (6) months.

Thus, this Court finds it proper to mete out the penalty of ₱20,000.00 on respondents Gatdula, Caabay, Mantaring, Dr. Bautista, Dr. Cabanayan, Atty. Arizala, and Atty. Esmeralda.

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[143] *Oca v. Custodio*, 814 Phil. 641, 665 (2017) [Per J. Leonen, Second Division].

[144] *Fortune Life Insurance Company, Inc. v. Commission on Audit,* G.R. No. 213525, November 21, 2017, 845 SCRA 599 [Per J. Bersamin, En Banc].

[145] Id.

**IV**

On the second ground, petitioner prays that respondents Atty. Rivera and Herra be held in contempt for coaching Alfaro in executing her dubious affidavit and in the coached identification of petitioner. Petitioner alleges that these acts amount to improper conduct tending to impede, obstruct, or degrade the administration of justice.

A contempt case on this ground is in the nature of a criminal contempt. Being a criminal contempt, it must be shown that respondents acted willfully or for an illegitimate purpose. This implies willfulness, bad faith, or deliberate intent to cause injustice.[146] In criminal contempt, the contemnor is presumed innocent and the burden of proving beyond reasonable doubt that the contemnor is guilty of contempt lies with the petitioner.[147]

Here, respondents were not shown to have planned a deliberate scheme to inculpate petitioner. Petitioner's sole evidence against respondent Atty. Rivera is Atty. Artemio Sacaguing's testimony stating that Alfaro supposedly told him that Atty. Rivera asked her to execute a second affidavit. There was no other evidence presented supporting this. This does not satisfy the quantum of evidence required of petitioner.

It was also not shown that respondent Herra coached Alfaro to identify petitioner. Allegedly, So, another Bureau agent, witnessed how respondent Herra coached Alfaro. However, in his testimony, So merely mentioned that respondent Herra asked him if petitioner was the person in the photo while Alfaro was around:

> ATTY. BAUTISTA:
> Q: Now, when you went to the room of Jessica Alfaro on the second floor where John Herra was likewise there together with the pictures of Hubert Webb, upon your arrival in the place, what happened?
>
> WITNESS SO:
> A: Agent John Herra showed me the pictures of Mr. Hubert Webb.
>
> ATTY. BAUTISTA:
> Q: Yes. And why were the pictures shown to you, were you told why those pictures were being shown to you?
>
> WITNESS SO:
> A: Agent John Herra asked me, "Is this Hubert?", "Ito ba si Hubert?"
>
> . . . .

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[146] *In the Matter to Declare in Contempt of Court Hon. Simeon A. Datumanong, Secretary of DPWH*, 529 Phil. 619 (2006) [Per J. Ynares-Santiago, First Division].

[147] *People v. Godoy*, 312 Phil. 977 (1995) [Per J. Regalado, En Banc].

A: Yes, Your Honor.

. . . .

ATTY. BAUTISTA:
Q: Who asked "Saan 'yung nunal ni Huber Webb", who asked that?

WITNESS SO:
A: Agent John Herra, Your Honor.

. . . .

ATTY. BAUTISTA:
Q: When Agent John Herra asked you kung nasaan 'yung nunal [ni] Hubert, was Jessica Alfaro present?

WITNESS SO:
A: Yes, Your Honor.[148]

Intent is a necessary element in criminal contempt. This Court cannot cite a person for criminal contempt unless the evidence makes it clear that he or she intended to commit it.[149] The evidence here does not clearly show that respondent Herra coached Alfaro to identify petitioner. This is not proof beyond reasonable doubt. As such, the contempt complaint against respondents Atty. Rivera and Herra must fail.

**WHEREFORE**, the Petition is **PARTLY GRANTED**. Respondents Magtanggol B. Gatdula, Carlos S. Caabay, Nestor M. Mantaring, Dr. Renato C. Bautista, Dr. Prospero Cabanayan, Atty. Floresto P. Arizala, Jr., and Atty. Reynaldo O. Esmeralda are found **GUILTY OF INDIRECT CONTEMPT**. They are sentenced to pay a fine of Twenty Thousand Pesos (₱20,000.00) each. However, the Petition against respondents Atty. Pedro Rivera and John Herra is **DISMISSED.**

**SO ORDERED.**

MARVIC M.V.F. LEONEN
Associate Justice

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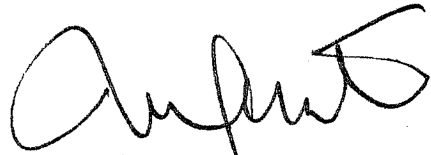
[148] *Rollo*, pp. 26–28.
[149] *Marantan v. Diokno*, 726 Phil. 642 (2014) [Per J. Mendoza, Third Division].

WE CONCUR:



**DIOSDADO M. PERALTA**
Associate Justice
Chairperson

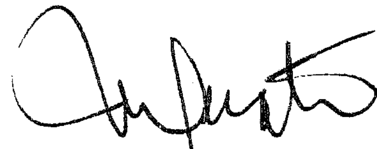
**ANDRES B. REYES, JR.**
Associate Justice

On Leave
**RAMON PAUL L. HERNANDO**
Associate Justice

**HENRI JEAN PAUL B. INTING**
Associate Justice

**ATTESTATION**

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



**DIOSDADO M. PERALTA**
Associate Justice
Chairperson, Third Division

**CERTIFICATION**

Pursuant to Section 13, Article VIII of the Constitution and the Division Chairperson's Attestation, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.

**ANTONIO T. CARPIO**
Acting Chief Justice
(Per Special Order No. 2703)

**CERTIFIED TRUE COPY**

**MISAEL DOMINGO C. BATTUNG III**
**Deputy Division Clerk of Court**
**Third Division**
JAN 08 2020