

**PABLO B. MABINI, COMPLAINANT, VS. JUDGE LORINDA B. TOLEDO-MUPAS, MUNICIPAL TRIAL COURT, DASMARIÑAS, CAVITE, RESPONDENT.**

*A.M. No. MTJ-03-1506 (AM OCA-IPI No. 01-995-MTJ). August 28, 2003*

Ponente: YNARES-SANTIAGO, J.

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**YNARES-SANTIAGO, J.:**

This is an administrative complaint against respondent Judge Lorinda B. Toledo-Mupas for Abuse of Authority and Ignorance of the Law relative to Criminal Case No. 98-0939 entitled, "People of the Philippines versus Ruel Tasoy," for Frustrated Homicide.

It appears that respondent Judge conducted the preliminary investigation of the above-entitled case and found probable cause against the accused for Frustrated Homicide. However, when the case was remanded to the Office of the Provincial Prosecutor of Cavite, the latter downgraded the charge to Attempted Homicide and returned the case, together with the Information for Attempted Homicide, to respondent Judge considering that the same was within her jurisdiction.

Complainant filed the instant complaint against respondent Judge, alleging that the preliminary investigation of the complaint was not conducted by a public prosecutor. Moreover, he assails the resolution reducing the charge from Frustrated Homicide to attempted homicide and the recommended bail from P24,000.00 to only P12,000.00.

In sum, complainant argues that only the Provincial Prosecutor is empowered to conduct a preliminary investigation and not the Municipal Trial Court Judge of Dasmariñas, Cavite. Complainant also contends that the case should have been forwarded to the Regional Trial Court of Imus. It appears that complainant, not being conversant with the court procedure, suspected respondent and her staff of wrongdoing when Criminal Case No. 98-0939 was remanded to the Municipal Trial Court instead of being elevated to the Regional Trial Court of Imus.

The complaint was referred to Executive Judge Lucenito Tagle of the Regional Trial Court of Imus, Cavite for investigation. Judge Tagle thereafter submitted a report, recommending the dismissal of the complaint after finding that the charges against respondent are without basis.

We agree.

Respondent Judge had the authority to conduct the preliminary investigation of the complaint. Rule 112, Section 2, of the 2000 Revised Rules of Criminal Procedure enumerates those who may conduct preliminary investigation:

SEC. 2. Officers authorized to conduct preliminary investigations. - The following may conduct preliminary investigations:

- (a) Provincial or City Prosecutors and their assistants;
- (b) Judges of the Municipal Trial Courts and Municipal Circuit Trial Courts;

(c) National and Regional State Prosecutors; and

(d) Other officials as may be authorized by law.

Their authority to conduct preliminary investigations shall include all crimes cognizable by the proper court in their respective territorial jurisdictions. (emphasis ours)

In administrative proceedings, the complainants have the burden of proving by substantial evidence the allegations in their complaints.[1] In the absence of contrary evidence as in this case, what will prevail is the presumption that the respondent has regularly performed his duties.[2] The Rules, even in an administrative case, demand that, if the respondent judge should be disciplined for grave misconduct or any graver offense, the evidence against him should be competent and should be derived from direct knowledge.[3] The Judiciary to which the respondent belongs demands no less. Before any of its members could be faulted, it should only be after due investigation and after the presentation of competent evidence, especially since the charge is penal in character.[4]

For liability to attach for ignorance of the law, the assailed order, decision or actuation of the judge in the performance of official duties must not only be found to be erroneous but, most importantly, it must be established that he was moved by bad faith, dishonesty, hatred or some other like motive.[5]

This yardstick, however, can hardly apply to respondent Judge since the record is bereft of any persuasive showing of a wrongful, improper or unlawful conduct on her part. Assuming for the nonce that respondent judge may have erred at all, the lapse would be an error of judgment. A judge may not be administratively charged for mere errors of judgment, in the absence of showing of any bad faith, malice, or corrupt purpose.[6] Indeed, it is settled that judges can not be held to account criminally, civilly or administratively for an erroneous decision rendered in good faith.[7]

WHEREFORE, in view of all the foregoing, the complaint is DISMISSED for lack of merit.

**SO ORDERED.**

Davide, Jr., C.J., Vitug, Carpio, and Azcuna, JJ., concur.

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[1] Lorena v. Encomienda, 362 Phil. 248 [1999]; Cortes v. Agcaoili, 355 Phil. 848 [1998].

[2] Oniquit v. Binamira-Parcia, 358 Phil. 1 [1998].

[3] Raquiza v. Castaneda, Jr., A.M. No. 1312-CFI, 31 January 1978, 81 SCRA 235.

[4] OCA v. Judge Filomeno Pascual, 328 Phil. 978 [1996].

[5] De la Cruz v. Concepcion, A.M. No. RTJ-93-1062, 25 August 1994, 235 SCRA 597.

[6] Re: Judge Silverio S. Tayao, RTC Branch 143, Makati, A.M. No. 93-8-1204-RTC, 7 February 1993, 229 SCRA 723.

[7] In Re: Petition for Dismissal from Service and/or Disbarment of Judge Baltazar R. Dizon, A.M. No. 3086, 31 May 1989, 173 SCRA 719.

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