

## JUDGE DONATO SOTERO A. NAVARRO, PETITIONER, VS. JUDGE ROSABELLA M. TORMIS, RESPONDENT.

*A.M. No. MTJ-00-1337. April 27, 2004*

Ponente: AUSTRIA-MARTINEZ, J.

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### AUSTRIA-MARTINEZ, J.:

Complainant Judge Donato Sotero A. Navarro of MTCC, Cebu City, Branch 6, sent a letter dated September 15, 2000 to the Office of the Court Administrator (OCA), requesting for an opinion on the propriety of the alleged conduct of respondent Executive Judge Rosabella M. Tormis, MTCC of Cebu City in the following instances:

- Finding Criminal Case No. 106436-R, entitled, *People vs. Comparativo*, to be covered by the Rule on Summary Procedure, Judge Tormis removed the Order of Commitment issued by Judge Navarro[1] from the records of the case and substituted it with her own order directing the release of the accused;
- Judge Tormis uttered derogatory remarks against Judge Navarro and his court, to wit: “for me, Branch 6 does not exist”;
- Judge Tormis rendered an opinion in a case pending before Judge Grace Orma E. Ypil, MTCC of Cebu City, Branch 8, in violation of Rule 2.04 of Canon 2 of the Code of Judicial Ethics.

Upon recommendation of the OCA, the Court, in a Resolution dated December 13, 2000,[2] resolved to treat the letter as an administrative complaint against Judge Tormis, directing Judge Navarro to have his letter verified and Judge Tormis to comment thereon.

Meanwhile, in a Motion dated 24 April 2001, Judge Navarro informed the Court that Judge Tormis personally posted on the door of her courtroom, a copy of the Court’s Resolution dated 14 February 2001 which reads:

Administrative Matter No. MTJ-00-1337 (Judge Donato Sotero A. Navarro vs. Executive Judge Rosabella M. Tormis) – The manifestation of compliance with the resolution of December 13, 2000 filed by Judge Donato Sotero A. Navarro is NOTED.

Very truly yours,

VIRGINIA ANCHETA-SORIANO  
Clerk of Court  
First Division

By: ENRIQUETA ESGUERRA-VIDAL  
Asst. Clerk of Court  
First Division[3]

with a handwritten note “Please Read,” to call the attention of the lawyers and the public. A similar notice was also posted at the door of the office of MTCC, Branch 8, which some court personnel removed, but another copy was again posted. For this reason, he asked the Acting Clerk of Court Evelyn Bacalla to explain the matter but

instead, the latter handed to him another copy of the Resolution.

In a Resolution dated July 2001,[4] the Court directed Evelyn Bacalla to desist from committing further acts which may tend to unduly publicize the instant case, to immediately remove copies of the notices posted on the doors, and to explain within ten days how these notices came to be posted thereat. In a Resolution dated September 10, 2001, the Court noted the compliance/explanation of Evelyn Bacalla saying that she had no hand in or knowledge about the posting of the papers.

In her Comment,[5] respondent explains that:

- Anent Criminal Case No. 106436-R (People vs. Comparativo) -

a) she never removed nor substituted any order of Judge Navarro from the records since the latter had not issued any order at all. What was in the records was an order issued by his Clerk of Court, Prospero M. Sincero;

b) the said criminal case was referred to her for raffle when the accused had already been in jail for two days. She admitted having ordered the release of the accused considering the value of the article stolen was even less than P52.45, and as such, fell within the coverage of the Rule on Summary Procedure.

- If ever she made the statement that MTCC, Branch 6, did not exist, this should not be taken seriously as this can only be interpreted in the context of “light banter” and did not at all place Branch 6 in disrepute.

- As to the issue that she rendered an opinion on a criminal case raffled to another sala -

a) as the Executive Judge, she immediately conducted an investigation on Evelyn Bacalla. In the process, she discovered “grave injustice committed against an urban poor family” charged with “illegal squatting” in Criminal Case No. 99796-12-R (People vs. Garduque), so she called the attention of Presiding Judge Ypil, in a letter dated January 5, 2000, regarding the legal and factual circumstances of the case which she believed justified a dismissal of the case since the act complained of had already been decriminalized by virtue of R.A. No. 7276.

b) Complainant’s intervention in said case is not only unethical but oppressively unjust, he being the former private prosecutor of the case together with his mother, retired Judge Exaltacion Navarro and that according to some of his staff, complainant was angry at those whom he perceived thwarted his entitlement to attorney’s fees of not less that P100,000.00 should he successfully eject the accused from the premises.

c) this administrative complaint is part of complainant’s obsession to compel her to relinquish her position as Executive Judge and to fulfill his ambition to replace her as such.

In his Reply, complainant reiterated that respondent had been making derogatory remarks about him both in print and on television which were not only damaging to him and his family but also to the entire Judiciary. Complainant asserts that the fact that the order of commitment removed by respondent from the records of the case was signed by the Clerk of Court is of no significance since it is likewise her practice that her commitment orders are signed by her Clerk of Court Reynaldo S. Teves; that he has not intervened in the case because his letter to Evelyn Bacalla was dated 25 November 1999 when he was not yet a judge; and thereafter, he refrained from pursuing the case to its conclusion.

As the matter involves members of the bench accusing each other and finding that it cannot be resolved satisfactorily on the basis alone of the documents submitted, the Court, upon recommendation of the OCA, issued a Resolution dated December 9, 2002, referring the instant administrative matter to Executive Judge Galicano C. Arriesgado, RTC, Cebu City for investigation, report and recommendation. Upon retirement of Judge Arriesgado, the case was inherited by Executive Judge Pampio A. Abarintos who formed a panel, composed of three members, namely: himself, First Vice Executive Judge Isaias P. Dicdican and Second Vice Executive Judge

Simeon K. Dumdum, Jr., to continue with the investigation.

In their Report dated August 25, 2003, the Investigating Panel submitted the following findings, portions of which are reproduced hereunder:

FINDINGS:

The rift between the two judges started sometime immediately after January 5, 2000 when then Acting Executive Judge Tormis issued a letter to Judge Ypil (Annex “I”) in reply to the 1st Endorsement (Annex “H”) of Judge Ypil (judge designate of MTCC 8 Cebu) on the letter-complaint of Atty. Donato Navarro (now Judge Navarro) against Legal Researcher (then acting Branch Clerk of Court MTCC 8 Cebu City) Evelyn Bacalla (now Branch Clerk of Court MTCC 8 Cebu City).

On (sic) November 1999, while Judge Donato Navarro was still a practicing lawyer, he was the private prosecutor in the criminal case entitled Pp vs. Garduque, et al. CBU-99796-R pending at MTCC Branch 8 Cebu City, involving the issue on professional squatters. Atty. Navarro wrote a letter addressed to the Branch Clerk of Court, MTCC Branch 8 Cebu City, asking for a written explanation from Evelyn Bacalla why she set the Motion to Quash for hearing without the authority of the Judge and when the accused had not yet been arrested. Acting on the letter-complaint of Atty. Navarro, Judge Ypil endorsed the same to the Office of the Executive Judge. The controversy now starts on the letter reply of Executive Judge Tormis, copy furnished to Judge Navarro, as the latter was already appointed as Judge sometime on (sic) December, 2000.

Executive Judge Tormis, in reply to the 1st Endorsement, stated that “while there might have been a transgression committed by Evelyn Bacalla with respect to some procedural matter, the motion to quash for hearing without order from the judge, the same is not of such grave nature as would necessitate such a drastic action.” In addition, however, Executive Judge Tormis made a comment that the case ought to be dismissed as the act complained of had already been decriminalized under R.A. No. 8368.

This additional comment irked Judge Navarro. As a result, he came barging into the office of Judge Tormis, bringing along certain books on the matter, splashing the same to the latter’s staff, saying: “Tell your Judge, she does not know her law!”. Naturally, upon learning of said incident, Judge Tormis flared up especially because it was only a month or two that Judge Navarro was appointed as judge.

Judge Navarro complains that Judge Tormis had been downgrading him and his Court, stating the words: “For me, Branch 6 does not exist!” Instead of patching things up with the Executive Judge, who is supposed to be his superior, on September 15, 2000, he sent a letter to then Hon. Court Administrator Alfredo L. Benipayo entitled “Request for an Opinion about the Propriety of Certain Acts of the Executive Judge”. In turn, Executive Judge Tormis filed a Complaint against Judge Sotero Navarro docketed as Adm. Matter No. 01-6-188 MTCC accusing him of his alleged failure to timely dispose of the cases pending before his court and of his wife’s interference with the judicial functions of her husband and with the duties of the court personnel. Judge Navarro then accused Judge Tormis to have expressed derogatory remarks against him both in television and in print.

On the first issue:

Acting in her capacity as Executive Judge, she carefully reviewed the case involving theft of an Eskinol. After careful scrutiny, she discovered that the amount involved was less than P50.00. Since the case falls under the Rules on Summary Procedure, Executive Judge Tormis ordered for the release of the accused and had the case raffled. . . .

On the second issue:

As testified by Executive Judge Tormis, she may have uttered those words but the same were never meant to downgrade Branch 6, they were only made in a light banter or in jest. The panel believes that while Executive Judge Tormis might have uttered the words, “FOR ME, BRANCH 6 DOES NOT EXIST!” against Judge

Navarro's Court, the same was only a result of the arrogance and demeaning words which Judge Navarro uttered against her: "TELL YOUR JUDGE, SHE DOES NOT KNOW HER LAW!" The panel finds it understandable to have uttered those words especially because of the words previously uttered by complainant.

On the third issue:

Judge Navarro insists that Executive Judge Tormis may have committed acts of impropriety. The panel finds that Judge Tormis was just acting within her duties as Executive Judge when she made a letter reply to the 1st Endorsement issued by Judge Ypil.

Based on the foregoing, the Investigating Panel recommends the dismissal of the administrative complaint against Judge Tormis. Court Administrator Presbitero J. Velasco, Jr., in his Memorandum dated January 20, 2004, agrees with the findings and recommendation of the Investigating Panel.

The Court does not fully agree.

As to the first issue – Respondent reviewed Criminal Case No. 106436-R when it was referred to her by the Clerk of Court of Branch 4, MTCC, Cebu City. She testified that when the record was forwarded to her, there was no previous order that was attached to it so she had the impression she was acting on the case for the first time as Executive Judge; that she even interviewed the representative of the complainant who said that it only involves the amount of less than P52.45; and that in the exercise of her discretion, the case should be covered by the Rules of Summary Procedure.[6] When asked further by the Investigating Panel if it is true that she replaced the commitment order which is attached to the record with her order, she answered that she was not aware of it[7] which is consistent with her assertion that she saw no previous order attached to the records. Complainant failed to demonstrate that respondent had acted on this matter in bad faith or with malice.

Anent the second issue – Indeed, the Court agrees with the Investigating Panel and Court Administrator that the alleged derogatory remarks uttered by respondent against Branch 6, MTCC, Cebu City could have been uttered in a sudden burst of emotion when complainant uttered demeaning words against her and that her action was not intentional and in bad faith.

As to the third issue – The act of respondent in giving an opinion in a criminal case raffled to Judge Ypil was in response to an indorsement made by the latter. Respondent claims that she rendered an opinion because the case was referred to her in her capacity as executive judge. However, a perusal of the said indorsement shows that Judge Ypil merely referred to respondent the letter of complainant, filed when he was still a practicing lawyer, seeking explanation why legal researcher Evelyn Bacalla set the Motion to Quash for hearing despite the fact that the accused had not been arrested and Judge Ypil had not issued a verbal or written order to set the motion for hearing.[8] Clearly, Judge Ypil did not seek the opinion of respondent about the merits of the case, but the latter delved thereon and "advised" Judge Ypil, as follows:

All the foregoing considered, the undersigned believes that it would be a better part of your discretion if you order the dismissal of the case, as the act complained of has been decriminalized under RA 8368.[9]

Respondent may not have any ulterior motive nor was there any showing that she was after monetary consideration still it is beyond her authority to render such an opinion. Wittingly or unwittingly, respondent violated Rule 2.04, Canon 2 of the Code of Judicial Conduct, which provides:

Rule 2.04 – A judge shall refrain from influencing in any manner the outcome of litigation or dispute pending before another court or administrative agency.

In the absence of any showing that respondent's interference was in bad faith or with malice and considering that this is the first time on record that he committed such infraction of the Code of Judicial Conduct, a mere

reprimand is just and reasonable.

It is imperative that we call the attention of both complainant and respondent judges regarding their unbecoming conduct. It is very apparent that the rift between them transcended the professional level to a personal one. Worse, their fight was picked up by the local media and for a while they were an item in the local newspapers.[10] This is very unfortunate for it puts the judiciary in a bad light. Certainly, when judges of the same court in the same place fight, the image of the judiciary is impaired rather than enhanced.[11] Their positions as judges demand utmost caution and circumspection to avoid poor public impression on the Judiciary.[12] Magistracy is after all about character.[13] It is incumbent upon them to so behave at all times as to promote public confidence in the integrity and impartiality of the judiciary. Being the dispensers of justice, judges should not act in a way that would cast suspicion in order to preserve faith in the administration of justice. They should avoid impropriety and the appearance of impropriety in all activities.[14]

Judge Navarro and Judge Tormis should bear in mind that no position is more demanding than a seat in the Bench. Occupying as they do, an exalted position in the administration of justice, as judges, they must pay a high price for the honor bestowed upon them.[15] A judge must comport himself at all times in such a manner that his conduct, can bear the most searching scrutiny of the public that looks up to him as the epitome of integrity and justice.[16] Public confidence in the judiciary is eroded by irresponsible or improper conduct of judges.[17] As the visible representation of law and justice, judges are expected to conduct themselves in a manner that would enhance the respect and confidence of our people in the judicial system.[18]

WHEREFORE, Judge Rosabelle M. Tormis is found guilty of improper conduct for trying to influence the course of litigation in Criminal Case No. 99796-12. Accordingly, Judge Tormis is hereby REPRIMANDED with a stern warning that a repetition of the same will be dealt with more severely.

Both Judge Rosabelle M. Tormis and Judge Donato Sotero A. Navarro are ADMONISHED for their unbecoming conduct as dispensers of justice with a stern warning that a repetition of the same shall be dealt with more severely.

### **SO ORDERED.**

Puno, (Chairman), Quisumbing, Callejo, Sr., and Tinga, JJ., concur.

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[1] Judge Navarro's sala was designated as a bail court for persons arrested in flagrante and in the custody of arresting officers, Rollo, p. 4.

[2] Rollo, p. 33.

[3] Id., p. 66.

[4] Rollo, p. 109.

[5] Id., p. 93.

[6] TSN, August 22, 2003, p. 10.

[7] Ibid.

[8] Rollo, pp.17 and 170.

[9] Rollo, p. 19.

[10] Rollo, pp. 148-151; 164- 166.

[11] Bravo vs. Merdegia, 317 SCRA 160, 165 (1999).

[12] Ibid.

[13] OCA vs. Judge de Guzman, Jr., 267 SCRA 291, 293 (1997).

[14] Id., p. 301.

[15] Jugueta vs. Boncaros, 60 SCRA 27, 31 (1974).

[16] Association of Court Employees of Panabo, Davao vs. Tupas, 175 SCRA 292, 296 (1989).

[17] Dela Cruz vs. Bersamira, 349 SCRA 626, 632 (2001).

[18] Capuno vs. Jaramillo, July 20, 1994.

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