

JUDGE DOLORES L. ESPAÑOL, REGIONAL TRIAL COURT, BRANCH 90, DASMARIÑAS, CAVITE, COMPLAINANT, VS. JUDGE LORINDA B. TOLEDO- MUPAS, MUNICIPAL TRIAL COURT, DASMARIÑAS, CAVITE, RESPON...

A.M. NO. 03-1462-MTJ. April 19, 2007

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PER CURIAM:

Bizarre. The word would aptly describe this tale of the accuser turning out to be the culprit.

This case started with Judge Lorinda B. Toledo-Mupas (Judge Mupas) of the Municipal Trial Court (MTC) of Dasmariñas, Cavite, filing an administrative complaint (Administrative Matter No. OCA IPI No. 02-1515-RTJ) against Judge Dolores L. Español (Judge Español) of the Regional Trial Court (RTC), Branch 90, Dasmariñas, Cavite, for Gross Ignorance of the Law, Grave Abuse of Authority, Misconduct, and Conduct Prejudicial to the Best Interest of the Service. She imputed these offenses against Judge Español for allegedly illegally usurping the functions of the Executive Judge of Dasmariñas, Cavite, and for ordering her (Mupas) on April 18, 2002, in connection with Criminal Case No. 9292-01 (People v. Belinda Ventura Singello), "to desist from accepting, for 'preliminary investigation,' criminal cases falling within the exclusive jurisdiction of the Regional Trial Court, where suspects are apprehended pursuant to Sec. 7, Rule 112 of the Revised Rules of Criminal Procedure."

Judge Español filed her Comment dated September 16, 2002^[1] stating that since she was appointed to the single sala RTC of Dasmariñas, Cavite, under Supreme Court Administrative Order No. 6 of 1975, she ipso facto became the Executive Judge exercising supervision over the MTC of Dasmariñas, Cavite. She further stated that her Order dated April 18, 2002, directing the respondent to desist from conducting preliminary investigation, did not deprive the latter of the authority to conduct preliminary investigation but merely stopped her from conducting the same for being violative of the Revised Rules of Criminal Procedure, Article 125 of the Revised Penal Code and Republic Act No. 7438.

In the same Comment, Judge Español said that Judge Mupas operated the MTC of Dasmariñas, Cavite as a "One-Stop Shop" where criminal suspects apprehended without a warrant are ordered detained in the municipal jail by virtue of an unsigned "Detention Pending Investigation of the Case," in lieu of a waiver of the provisions of Article 125 of the Revised Penal Code, as prescribed by R.A. No. 7438 and by Section 7, Rule 112 of the Revised Rules of Criminal Procedure. Thus, according to Judge Español, the apprehended persons were detained for a long time until Judge Mupas set the case for preliminary investigation. If the detainee can post bail, Judge Mupas would fix the amount of bail and require that the premium, usually equivalent to 20% or 30% thereof, be paid in cash. If the surety bond was secured outside of the MTC, the bond would be rejected. Hence, the applicants for bail bonds would go to the RTC of Dasmariñas, Cavite to complain and apply for the release of the detention prisoners.

This Court, acting on the Report dated July 4, 2003 of the Office of the Court Administrator (OCA), issued on August 6, 2003 a Resolution,^[2] the dispositive portion of which reads:

"(T)he Court Resolved to ADOPT the following recommendations:

(a) to DISMISS the charges against Judge Dolores L. Español for lack of merit;

(b) to TREAT the comment dated September 16, 2002 of Judge Español as a SEPARATE ADMINISTRATIVE COMPLAINT against Judge Lorinda Mupas of MTC, Dasmariñas, Cavite; and

(c) to REQUIRE Judge Toledo-Mupas to COMMENT on the allegations against her, contained in Judge Español's comment."

Thus, a complaint against the respondent Judge Mupas was deemed filed, and docketed as OCA IPI No. 03-1462-MTJ.

On September 8, 2003, Judge Mupas filed a motion seeking reconsideration of this Court's Resolution. On October 1, 2003, this Court required the OCA to file its comment thereon within 15 days from notice. The OCA wrote a Memorandum dated April 15, 2004[3] to then Chief Justice Hilario G. Davide, Jr. recommending the denial of the respondent's motion being a mere reiteration of her arguments already passed upon by the Court. This Court adopted the said recommendation of the OCA in its Resolution dated May 31, 2004.[4]

Accordingly, Judge Mupas faced the following charges: (1) violation of Rule 112, Section 7 of the Revised Rules of Criminal Procedure, Article 125 of the Revised Penal Code, and Republic Act No. 7438; and (2) violation of the rules on preliminary investigation (a) for the delay in the resolution of preliminary investigation cases pending in [Judge Mupas'] court; (b) for failure to perform her ministerial duty of transmitting the records of the case, including the resolution on the preliminary investigation, within 10 days from the issuance of the said resolution to the provincial prosecutor of Cavite; and (c) for conducting preliminary investigation despite the fact that there were many prosecutors in Cavite not indisposed to do the job.

On September 19, 2005, Judge Mupas filed her Reply[5] (should be Comment) to Judge Español's Comment which was treated as a separate administrative complaint. She claimed that the August 6, 2003 Resolution of this Court failed to consider relevant laws, rules, and pronouncements of the Court itself. She further said that under Rule 112, Section 2 of the Revised Rules of Criminal Procedure, she is expressly authorized to conduct preliminary investigation. She questioned the authority of Judge Español in ordering her to desist from conducting preliminary investigations in the guise of "supervising" or "reviewing" her actions, as the said authority was lodged in the provincial prosecutors. She pointed out that, in the case of "People vs. Belinda Ventura Singello" (Criminal Case No. 9292-01), subject of Judge Español's Order dated April 18, 2002, the provincial prosecutor affirmed her (Mupas') finding of probable cause against the accused without any question on the manner in which the preliminary investigation was conducted.

She likewise claimed that, pursuant to Administrative Order No. 59-99 dated 1 June 1999, while in single-sala stations the presiding judges are ex officio executive judges, for purposes of supervision in the interest of the service, their salas may be merged with multi-sala stations. Therefore, the RTC of Dasmariñas, Cavite had long been merged with the multi-sala station of the RTC of Imus, Cavite. In support of this claim, Judge Mupas noted that then Executive Judge Lucenito N. Tagle of the RTC of Imus, Cavite issued a Memorandum to all judges within his supervision, including both Judge Español and Judge Mupas, to submit periodic reports on detention prisoners.

She further argued that none of the detention prisoners had filed an administrative complaint against her. She said that it was her duty to conduct preliminary investigation of complaints filed with her sala. In addition, Judge Mupas posited that Judge Español could not entertain applications for bail in the RTC because the cases were pending before the MTC.

On January 30, 2006, the Court noted this Reply (should be Comment), and referred the same to the OCA for evaluation, report, and recommendation.

In the Memorandum dated July 26, 2006[6] addressed to then Chief Justice Artemio V. Panganiban, the OCA found that the Reply of Judge Mupas was merely a rehash of the arguments she raised in her Motion for Reconsideration; it did not refute the specific allegations of Judge Español. The OCA said that the explanation given by the respondent was unsatisfactory and insufficient to absolve her from administrative liability. However, the OCA recommended that this case be referred to an Associate Justice of the Court of Appeals for investigation, report, and recommendation. Eventually, this case was referred to Court of Appeals Associate Justice Myrna Dimaranan-Vidal.

During the proceedings before Justice Vidal, Judge Español filed her Rejoinder [Re: Reply dated September 19, 2005] dated December 8, 2006[7] reiterating that: (1) her Order dated April 18, 2002 was lawful and within her authority to issue as the OCA declared that she was merely performing her function as Executive Judge of Dasmariñas, Cavite; (2) Judge Mupas violated the rights of the accused whose preliminary investigation is pending in her court, they being detained by virtue only of a "Detention Pending Investigation of the Case" in place of a valid waiver signed in the presence of counsel for considerable lengths of time; (3) there was no basis for Judge Mupas' counter-charge that she could not grant bail while preliminary investigation was pending before the Mupas court, considering the latter's absence upon the prisoners' applications for bail; and (4) Judge Mupas failed to adequately explain her failure to forward the records and the resolution of the preliminary investigation of accused Belinda Singello in Criminal Case No. 9292-01.

Judge Mupas filed her Comment (Re: Rejoinder Dated December 8, 2006) dated December 21, 2006[8] and averred that: (1) acts made in her judicial capacity and in good faith could not be subject to disciplinary action; (2) as judge, she enjoys the presumption of regularity in the performance of her duties; (3) the preliminary investigation she conducted was within the scope of her authority; and (4) the reason behind the seeming delay in the conduct of preliminary investigation was the heavy congestion of the dockets of the MTC of Dasmariñas, Cavite.

Preliminary conferences were conducted by Justice Vidal on January 2, 2007 and January 9, 2007.[9] However, both parties opted not to present any testimonial evidence. In fact, Judge Español filed on January 5, 2007 an Urgent Manifestation and Motion to Resolve,[10] praying that, inasmuch as the proceedings were summary in nature, the case be decided based on the available records and pleadings submitted.

On the same day, Judge Español filed her Reply [Re: Comment dated December 21, 2006],[11] arguing that: (1) Judge Mupas is guilty of gross ignorance of the law even if she acted in good faith; and (2) the presumption of regularity in the performance of her judicial function could not cure the incompetence of the respondent.

Both the complainant[12] and the respondent[13] filed their respective memoranda encompassing all the arguments they raised in their respective pleadings. Judge Español also filed a Counter Memorandum (Re: Memorandum of the Respondent dated January 18, 2007) dated January 29, 2007.[14]

In an undated Resolution filed with the OCA on February 9, 2007, Justice Myrna Dimaranan-Vidal found, contrary to Judge Mupas' claim, that the document entitled "Detention Pending Investigation of Cases" cannot validly be deemed to be an implied waiver of the rights of the accused under Article 125 of the Revised Penal Code. Justice Vidal submits the following findings:

"Extant from the records, is Respondent's admission of her practice in the issuance of the document entitled 'Detention Pending Investigation of Cases' claiming, however, that such document served as an implied waiver of the rights of the accused under Article 125 of the Revised Penal Code.

"The undersigned disagrees.

"Sec. 2 e) of RA 7438 is in point, thus:

xxx Any waiver by a person arrested or detained under the provisions of Article 125 of the Revised Penal Code, or under custodial investigation, shall be in writing and signed by such person in the presence of his counsel; otherwise the waiver shall be null and void and of no effect. (Underscoring supplied)

"The afore cited law is clear and simple. Thus, construction is unnecessary. Clearly, what the said provision requires to protect the rights of the accused is a written waiver signed by the accused with the assistance of a counsel. However, the procedure adopted by the Respondent runs counter thereto. She resorted to the issuance of a commitment order dubbed as 'Detention Pending Investigation of the Case' to legally prolong the detention of the accused pending the resolution of the preliminary investigation. Obviously, this is not within the contemplation of the law. Thus, the practice is highly erroneous — a blatant manifestation of ignorance in the legal procedure.

"The New Code of Judicial Conduct for the Philippine Judiciary[15] provides:

Canon 6 — Competence and Diligence

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Sec. 3. Judges shall take reasonable steps to maintain and enhance their knowledge, skills and personal qualities necessary for the proper performance of judicial duties, taking advantage for this purpose of the training and other facilities which should be made available, under judicial control, to judges.

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"Otherwise put, Respondent is presumed to know the basic measures to protect the rights of the accused during preliminary investigation. Sadly, Respondent failed in this regard. Instead, she maintained the practice of issuing this highly improper order, i.e., 'Detention Pending Investigation of the Case', just to put a semblance of legality in the detention of the accused." [16]

With respect to the other charges, Justice Vidal found the evidence insufficient to support the accusations that Judge Mupas: (1) detained the accused for a long period of time while the preliminary investigation was pending in her court; (2) failed to transmit to the Provincial Prosecutor of Cavite the records of the case within 10 days after preliminary investigation; and (3) acted without authority to conduct preliminary investigation because there were enough prosecutors in Cavite to conduct the same.

Justice Vidal then concludes:

"However, the undersigned finds that Respondent should still be held administratively liable. Respondent's act of issuing orders dubbed as 'Detention Pending Investigation of Cases' instead of requiring the accused to execute a written waiver, with the assistance of counsel, pursuant to Article 125 of the Revised Penal Code, fall [sic] short of the measure of responsibility expected from a judge.

"Respondent should be reminded that the actions of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the clerk of lowest rank, should be circumscribed with a high degree of responsibility. The image of a court, as a true temple of justice, is mirrored in the conduct, official or otherwise, of the men and women who work thereat. Judicial personnel are expected to be living examples of uprightness in the performance of official duties [and] preserve at all times the good name and standing of the courts in the community." [17]

Thus, the dispositive portion of her Resolution reads:

"WHEREFORE, premises considered, and it appearing that this is the first time the Respondent has committed the infraction, supra, the undersigned respectfully recommends that she be REPRIMANDED for her practice

of issuing the "Detention Pending Investigation of the Case" orders with STERN WARNING that a repetition thereof or any similar act will be dealt with more severely".

We agree with the findings of Justice Vidal, but We find the recommended penalty too light, grossly disproportionate to the offense committed, especially when viewed in the light of Judge Mupas' record of incorrigible misconduct.

There is no gainsaying that Judge Mupas' practice of issuing "Detention Pending Investigation of the Case" orders in lieu of a written waiver signed by the accused with the assistance of counsel is, in the words of Justice Vidal, "a blatant manifestation of ignorance in the legal procedure." It is gross ignorance of the law, pure and simple.

Under Rule 140, Section 8, of the Rules of Court, as amended by A.M. No. 01-8-10 SC, gross ignorance of the law or procedure is classified as a serious charge, and Section 11 thereof provides the sanctions, as follows:

SEC. 11. Sanctions. — A. If the respondent is guilty of a serious charge, any of the following sanctions may be imposed:

- Dismissal from the service, forfeiture of all or part of the benefits as the Court may determine, and disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations: Provided, however, that the forfeiture of benefits shall in no case include accrued leave credits;
- Suspension from office without salary and other benefits for more than three (3) but not exceeding six (6) months; or
- A fine of more than P20,000.00 but not exceeding P40,000.00.

While Justice Vidal considered the respondent's practice of issuing "Detention Pending Investigation of the Case" orders as a first-time infraction, We note that this case is not the first time the respondent was charged and found guilty of gross ignorance of the law.

In *Español v. Mupas*,^[18] the respondent judge was fined the amount of P21,000.00 for violation of the Code of Judicial Conduct and for gross ignorance of the law when she ordered the arrest of the accused in six criminal cases before the expiration of the 10-day period she gave them to file their counter-affidavits, and without any finding of probable cause.

In *Loss of Court Exhibits at MTC-Dasmariñas, Cavite*,^[19] aside from being found guilty of grave misconduct for refusing to turn over to the National Bureau of Investigation (NBI) for ballistics examination a firearm that a court employee surreptitiously took from the court's steel cabinet and used to commit suicide, Judge Mupas was held administratively liable for gross ignorance of the law for her failure to submit to the provincial prosecutor her resolution and the records of the case within 10 days after preliminary investigation. The Court imposed on the respondent the penalty of suspension for three (3) months without pay, with a stern warning that a similar infraction will be dealt with more severely.

In *Bitoon, et al. v. Toledo-Mupas*,^[20] the respondent was also found administratively liable for gross ignorance of the law for changing the designation of the crime from a non-bailable offense to a bailable one, i.e., syndicated estafa to simple estafa, and granted bail without hearing on the ground that the accused is entitled to it as a matter of right. The Court found her to have exceeded her authority in the conduct of preliminary investigation and to have failed to observe the elementary rules on bail. She was meted the penalties of a fine in the amount of P40,000.00, suspension for three (3) months without salaries and benefits, and a stern warning that a same or similar offense will be dealt with more severely.

Upon motion for reconsideration, however, the penalty of fine of P40,000.00 was deleted on the ground that the acts of the respondent in the *Español v. Mupas* and the *Loss of Court Exhibits* cases were done after the acts complained of in *Bitoon*. While the Court maintained that the respondent's acts in *Bitoon* remain inexcusable, the respondent was not found to be an incorrigible third-time offender deserving the penalty originally imposed. The Court also noted that the respondent was not motivated by malice, bad faith or corrupt motives and that there was an absence of any serious damage to the complainants. However, the stern warning of the Court should have been ample reminder that the penalty of dismissal would be imposed should the respondent commit the same or a similar infraction.[21]

In the present case, while the documents denominated "Detention Pending Investigation of the Case" were issued during the same period of time that the three (3) above-cited cases were decided, it is noteworthy that Judge Mupas continued with the practice even after her attention had been called. Worse, she remained insistent that the document was an implied waiver of the rights of the accused under Article 125 of the Revised Penal Code.[22] Judge Mupas must be reminded that although judges have in their favor the presumption of regularity and good faith in the performance of their official functions, a blatant disregard of the clear and unmistakable terms of the law obviates this presumption and renders them susceptible to administrative sanctions.[23] Being among the judicial front-liners who have direct contact with the litigants, a wanton display of utter lack of familiarity with the rules by the judge inevitably erodes the confidence of the public in the competence of our courts to render justice. [24] It subjects the judiciary to embarrassment. Worse, it could raise the specter of corruption.

When the gross inefficiency springs from a failure to consider so basic and elemental a rule, a law, or a principle in the discharge of his or her duties, a judge is either too incompetent and undeserving of the exalted position and title he or she holds, or the oversight or omission was deliberately done in bad faith and in grave abuse of judicial authority.[25]

All said, this Court finds the respondent, Judge Lorinda B. Toledo-Mupas, administratively liable for gross ignorance of the law. Considering that this is her fourth offense, she deserves to be meted the supreme penalty of dismissal from the service, with all the accessory penalties appurtenant thereto.

WHEREFORE, Judge Lorinda B. Toledo-Mupas of the Municipal Trial Court of Dasmariñas, Cavite is found guilty of gross ignorance of the law. This being her fourth offense, she is hereby ORDERED DISMISSED FROM THE SERVICE with forfeiture of all benefits due her, excluding her accrued leave benefits, and with perpetual disqualification from reinstatement or appointment to any public office, including government-owned or controlled corporations.

This Decision is final and immediately executory.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, Tinga, Chico-Nazario, Garcia, and Nachura, JJ., concur.
Velasco, Jr., J., no part due to prior action in OCA.

[1] Rollo, pp. 3-18.

[2] Ibid., pp. 1-2.

[3] Ibid., pp. 35-36.

[4] Ibid., p. 39.

- [5] Ibid., pp. 40-50.
- [6] Ibid., pp. 54-58.
- [7] Ibid., pp. 70-88.
- [8] Ibid., pp. 93-96.
- [9] Ibid., pp. 98-98 and 222-223, respectively.
- [10] Ibid., pp. 100-103.
- [11] Ibid., pp. 122-136.
- [12] Dated January 12, 2007; Ibid., pp. 224-254.
- [13] Dated January 18, 2007; Ibid., pp. 255-274.
- [14] Rollo, pp. 277-295.
- [15] AM No. 03-05-01-SC; June 1, 2004.
- [16] Resolution of Justice Myrna Dimaranan-Vidal, pp. 10-12.
- [17] Resolution of Justice Vidal, pp. 14-15, citing Mataga v. Rosete, AM No. MTJ-03-1488, October 13, 2004.
- [18] A.M. No. MTJ-01-1348, November 11, 2004; 442 SCRA 13.
- [19] A.M. No. MTJ-03-1491, June 8, 2005; 459 SCRA 313.
- [20] A.M. No. MTJ-05-1598, August 9, 2005; 466 SCRA 17.
- [21] Bitoon, et al. vs. Toledo-Mupas, A.M. No. MTJ-05-1598, January 23, 2006; 479 SCRA 351.
- [22] Rollo, p. 262.
- [23] Caguioa v. Laviña, A.M. No. RTJ-00-1553, 345 SCRA 49 (2000).
- [24] Enriquez vs. Caminade, A.M. No. RTJ-05-1966, March 21, 2006; 485 SCRA 98; Landayan v. Quilantang, A.M. No. MTJ-06-1632, May 4, 2006; 489 SCRA 360.
- [25] De Guzman, Jr. v. Judge Sison, *supra*.

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