

ALBERTO SIBULO, COMPLAINANT, VS. JUDGE LORINDA B. TOLEDO-MUPAS, MUNICIPAL TRIAL COURT, DASMARIÑAS, CAVITE, RESPONDENT.

A.M. No. MTJ-07-1686 (Formerly OCA IPI No. 07-1896-MTJ). June 12, 2008

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an administrative case for abuse of authority against respondent Judge Lorinda B. Toledo-Mupas, who, as of now, has already been dismissed from service.

The Facts

In his verified complaint-affidavit received by the Office of the Court Administrator (OCA) on January 18, 2007, Alberto Sibulo charged MTC Judge Lorinda B. Toledo-Mupas with abuse of authority.

Complainant alleged that he is the accused in Criminal Case Nos. 06-0402 to 03 for Grave Threat and Slight Physical Injuries, which are pending before respondent's court; that on August 9, 2006, respondent directed complainant to submit his counter-affidavit within ten (10) days from receipt of the Order[1] and set the case for "conference" on October 11, 2006; that as the parties failed to amicably settle, the case was submitted for resolution; and that on October 25, 2006, respondent set the case for arraignment after finding probable cause to indict complainant of the crimes charged. Complainant asserted that respondent, being a judge of a first level court, no longer had authority to conduct preliminary investigation under Rules 112 and 114 of the Rules on Criminal Procedure, as amended.

On February 27, 2007, respondent filed her Comment praying for the summary dismissal of the complaint. She argued that even with the amendment of Rules 112 and 114 the cases against complainant are still within the jurisdiction of the MTC, considering that the crimes involved are Grave Threats and Slight Physical Injuries which are defined and penalized by Articles 282 and 266, respectively, of the Revised Penal Code, and governed by the Rules on Summary Procedure which no longer requires the conduct of preliminary investigation. Respondent claimed that complainant is merely using this administrative complaint to evade his own liability on the pending criminal cases.

The OCA Findings

In its August 28, 2007 Report, the OCA noted that the criminal cases filed against complainant are indeed covered by the provisions of the 1991 Revised Rule on Summary Procedure. However, it found that respondent did not observe Sections 12, 13, and 14 of the Rule which provide that after the accused has submitted his counter-affidavit and the judge found reasonable ground to hold him for trial, the court should set the case for arraignment and, thereafter, conduct a preliminary conference before trial proper. "Basic" and "elementary" as the rules are, the OCA opined that respondent displayed gross ignorance of the law and procedure when she conducted the conference before complainant was arraigned.

Also, the OCA considered that this administrative matter is not the first time for respondent since she had already been previously sanctioned in: *Español v. Mupas* (A.M. No. MTJ-01-1348, November 11, 2004, 442 SCRA 13), where she was meted a fine of P21,000 for gross ignorance of the law and violation of the Code of Judicial Conduct; *Loss of Court Exhibits at MTC-Dasmariñas, Cavite* (A.M. No. MTJ-03-1491, June 8, 2005, 459 SCRA 313), where she was suspended for three (3) months without pay for gross misconduct and gross ignorance of the law; *Bitoon v. Toledo-Mupas* (A.M. No. MTJ-05-1598, August 9, 2005, 466 SCRA 17), where she was again suspended for three (3) months without salary and benefits and fined in the amount of P40,000 for gross ignorance of the law and incompetence;^[2] and in *Español v. Toledo-Mupas* (A.M. No. MTJ-03-1462, April 19, 2007, 521 SCRA 403), where she was finally ordered dismissed from service for gross ignorance of the law. Hence, it was proposed that respondent be ordered to pay a fine in the amount of P40,000, to be deducted from whatever benefits are due her.

The Court's Ruling

As correctly pointed out by complainant, judges of first level courts are no longer authorized to conduct preliminary investigation. This is pursuant to the amendment made by this Court on August 30, 2005 in A.M. No. 05-8-26-SC Re: Amendment of Rules 112 and 114 of the Revised Rules on Criminal Procedure by Removing the Conduct of Preliminary Investigation from Judges of the First Level Courts, which took effect on October 3, 2005.^[3]

Even so, the determination of whether respondent judge has authority to conduct preliminary investigation in the criminal cases filed against complainant is not decisive in the resolution of this administrative case. As the OCA fittingly observed, the Rules on Summary Procedure govern the conduct of the criminal proceedings. Said Rules state:

Sec. 12. Duty of court. --

(a) If commenced by complaint. -- On the basis of the complaint and the affidavits and other evidence accompanying the same, the court may dismiss the case outright for being patently without basis or merit and order the release of the accused if in custody.

(b) If commenced by information. -- When the case is commenced by information, or is not dismissed pursuant to the next preceding paragraph, the court shall issue an order which, together with copies of the affidavits and other evidence submitted by the prosecution, shall require the accused to submit his counter-affidavit and the affidavits of his witnesses as well as any evidence in his behalf, serving copies thereof on the complainant or prosecutor not later than ten (10) days from receipt of said order. The prosecution may file reply affidavits within ten (10) days after receipt of the counter-affidavits of the defense.

Sec. 13. Arraignment and trial. -- Should the court, upon a consideration of the complaint or information and the affidavits submitted by both parties, find no cause or ground to hold the accused for trial, it shall order the dismissal of the case; otherwise, the court shall set the case for arraignment and trial.

If the accused is in custody for the crime charged, he shall be immediately arraigned and if he enters a plea of guilty, he shall forthwith be sentenced.

Sec. 14. Preliminary conference. -- Before conducting the trial, the court shall call the parties to a preliminary conference during which a stipulation of facts may be entered into, or the propriety of allowing the accused to enter a plea of guilty to a lesser offense may be considered, or such other matters may be taken up to clarify the issues and to ensure a speedy disposition of the case. However, no admission by the accused shall be used against him unless reduced to writing and signed by the accused and his counsel. A refusal or failure to stipulate shall not prejudice the accused.

Sec. 15. Procedure of trial. -- At the trial, the affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed the same. Witnesses who testified may be subjected to cross-examination, redirect or re-cross examination. Should the affiant fail to testify, his affidavit shall not be considered as competent evidence for the party presenting the affidavit, but the adverse party may utilize the same for any admissible purpose.

Except in rebuttal or surrebuttal, no witness shall be allowed to testify unless his affidavit was previously submitted to the court in accordance with Section 12 hereof.

However, should a party desire to present additional affidavits or counter-affidavits as part of his direct evidence, he shall so manifest during the preliminary conference, stating the purpose thereof. If allowed by the court, the additional affidavits of the prosecution or the counter-affidavits of the defense shall be submitted to the court and served on the adverse party not later than three (3) days after the termination of the preliminary conference. If the additional affidavits are presented by the prosecution, the accused may file his counter-affidavits and serve the same on the prosecution within three (3) days from such service.

Hence, the order of respondent for complainant to submit his counter-affidavit is but proper. The directive should not be taken as a requirement of preliminary investigation but one simply intended to comply with the provisions of the Rules that state that the affidavits submitted by the parties shall constitute the direct testimonies of the witnesses who executed the same and that failure to submit the same would not allow any witness to testify, except by way of rebuttal or surrebuttal.

In this case, however, respondent committed an error not subject of the complaint. As the OCA found, instead of conducting the preliminary conference after arraignment and prior to trial, respondent held the conference before complainant was arraigned. To the OCA, this constitutes gross ignorance of the law considering that the rule itself is "basic" and "elementary"; hence, deserving of a fine amounting to P40,000.

The Court does not agree.

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 must be established to have been done with bad faith, dishonesty, hatred or some similar motive.^[4] In this case, the record is wanting in any showing that respondent was moved by wrongful, improper or unlawful conduct in setting the preliminary conference before the accused was arraigned. Complainant failed to substantiate any bad faith, malice or corrupt purpose that may have been present at the time the mistaken procedure was carried out by respondent.

Moreover, the fact that a judge failed to recognize a "basic" or "elementary" law or rule of procedure would not automatically warrant a conclusion that he is liable for gross ignorance. What is significant is whether the subject order, decision or actuation of the judge unreasonably defeated the very purpose of the law or rule under consideration and unfairly prejudiced the cause of the litigants. This was not present here. Note that even if the conference was held prior to the arraignment of complainant, the resolution of respondent finding probable cause against him was issued on October 25, 2006, or just a little over a month after he filed his counter-affidavit on September 22, 2006. Thus, no remarkable delay in the proceedings resulted. Further, no substantial injury was caused to the accused or to the private complainant in the criminal cases.

In light of these, the Court holds that an order to pay a fine of P40,000 would not be commensurate to the error of respondent. A penalty of reprimand would be sufficient for the mistake. Considering, however, respondent's severance from judicial service as of last year, such penalty no longer finds relevance.

This ruling does not grant tolerance to non-compliance with the rules of procedure. The Court even now strongly reiterates that incumbent judges should relentlessly be mindful that the Rules on Summary Procedure were issued

for the purpose of achieving "an expeditious and inexpensive determination of cases"[5] and were espoused primarily to enforce the constitutional rights of litigants to the speedy disposition of cases;[6] hence, strict adherence to their letter and intent should at all times be earnestly observed.

WHEREFORE, in view of the foregoing, the complaint is DISMISSED.

No costs.

SO ORDERED.

Puno, C.J., (Chairperson), Carpio, Corona, and Leonardo-De Castro, JJ., concur.

[1] It appears on record that complainant filed a "Kontra Salaysay" on September 22, 2006.

[2] Upon respondent's motion for reconsideration, however, the Court deleted the fine of P40,000 (see A.M. No. MTJ-05-1598, January 23, 2006, 479 SCRA 351).

[3] See *Martinez v. Court of Appeals*, G.R. No. 168827, April 13, 2007, 521 SCRA 176, 191; *Verzosa v. Contreras*, A.M. No. MTJ-06-1636, March 12, 2007, 518 SCRA 94,106; *Lumbos v. Baliguat*, A.M. No. MTJ-06-1641, July 27, 2006, 496 SCRA 556, 571-572; *Landayan v. Quilantang*, A.M. No. MTJ-06-1632, May 4, 2006, 489 SCRA 360, 366; *Bitoon v. Toledo-Mupas*, A.M. No. MTJ-05-1598, January 23, 2006, 479 SCRA 351, 354; *Ora v. Almajar*, A.M. No. MTJ-05-1599, October 14, 2005, 473 SCRA 17, 21; and *Gozun v. Gozum*, A.M. No. MTJ-00-1324, October 5, 2005, 472 SCRA 49, 62-63.

[4] *Mabini v. Judge Toledo-Mupas*, 457 Phil. 19, 24 (2003).

[5] *Balajedeong v. Del Rosario*, A.M. No. MTJ-07-1662, June 8, 2007, 524 SCRA 13, 19; and *Arcenas v. Avelino*, A.M. No. MTJ-05-1583, March 11, 2005, 453 SCRA 202, 209.

[6] *Bernaldez v. Avelino*, A.M. No. MTJ-07-1672, July 9, 2007, 527 SCRA 11, 20; and *Tugot v. Coliflores*, A.M. No. MTJ-00-1332, February 16, 2004, 423 SCRA 1, 9.

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