

JUDGE LORINDA T. MUPAS, PETITIONER, VS. JUDGE DOLORES L. ESPAÑOL, REGIONAL TRIAL COURT, BRANCH 90, DASMARIÑAS, CAVITE, RESPONDENT.

A.M. No. RTJ-04-1850. July 14, 2004

Ponente: AUSTRIA-MARTINEZ, J.

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AUSTRIA-MARTINEZ, J.:

In a letter-complaint^[1] dated October 29, 2001 filed with the Office of the Court Administrator (OCA for brevity), Judge Lorinda T. Mupas (complainant Judge for brevity) of the Municipal Trial Court of Dasmariñas, Cavite (MTC for brevity), charges Judge Dolores L. Español, Regional Trial Court (Branch 90) of Dasmariñas, Cavite (RTC for brevity), in her capacity as Executive Judge, with Gross Ignorance of the Law and Usurpation of Authority.

It appears from the records that on August 23, 2001, private complainants Leonora Bituon, Florencio Cantada, Anita Mendoza, Rodelia Callo and Cael M. Glorioso (private complainants for brevity) filed three separate criminal complaints for syndicated estafa against Eva Malihan, Sister Trinidad Sinagbulo, Mely Vargas, Geraldine Sine Baldovino, Belen Liwanag, Juanita Sanchez and Nelia Tizon before the MTC, docketed as Criminal Cases Nos. 01-1485 to 01-1487.^[2] On August 24, 2001, acting upon a motion of private complainants,^[3] herein complainant Judge conducted a preliminary investigation.^[4] On the same day, she issued a warrant of arrest against the accused and recommended no bail for their provisional liberty.^[5] On August 28, 2001, private complainants filed a motion to transfer accused Eva Malihan from the municipal jail to the provincial jail.^[6] On August 29, 2001, complainant Judge required the Chief of Police of Dasmariñas, Cavite to comment on the motion to transfer within five days from receipt of the order.^[7] Meanwhile, on August 31, 2001, accused Eva Malihan filed an urgent petition for bail.^[8] On September 3, 2001, the private complainants filed a supplemental pleading to support their previous motion to transfer accused Eva Malihan.^[9] Invoking that the Executive Judge has authority to supervise all detainees in the municipal jail of Dasmariñas, Cavite under Section 25 of Rule 114 of the Revised Rules of Criminal Procedure, the private complainants sent copies of the motion to transfer and supplemental pleading to respondent. On September 4, 2001, complainant Judge required the private complainants in the criminal case to file their comment or opposition to the petition for bail.^[10] However, on that same day, respondent issued two orders in connection with Criminal Cases Nos. 01-1485 to 01-1487. The first Order directed the transfer of the accused Eva Malihan from the Municipal Jail to the Provincial Jail,^[11] while the second Order directed the Commissioner on Immigration and Deportation to hold and prevent the departure from the Philippines of the accused Eva Malihan while the cases are pending.^[12]

Complainant Judge alleges that respondent's act of issuing said assailed orders, despite the fact that the cases are pending with the MTC, constitutes gross ignorance of the law and usurpation of authority.

In her Comment^[13] dated February 4, 2002, respondent claims that the complaint is baseless and retaliatory as it is founded on intrigue and spite for blowing the whistle concerning complainant's activities that are pernicious to

the judiciary. Respondent states that complainant's involvement in a "scam in the form of commissions from bail bond applicants" is the main reason why complainant clings dearly to the delegated authority in the conduct of preliminary investigation of cases filed with her court.

Respondent explains that she was surprised when she was furnished a copy of the two pleadings relating to cases pending with the MTC, but admits that she acted on the motions as Executive Judge "in order not to frustrate the administration of justice."

With respect to the transfer order, she claims that under Section 25 of Rule 114 of the Revised Rules of Criminal Procedure, she has the authority to supervise all persons in custody.

As regards the hold-departure order, she argues that she is authorized under Supreme Court Circular No. 39-97, which does not require that the subject criminal cases be in her court for the issuance of a hold-departure order. She argues further that she issued the questioned hold-departure order based on the allegation of the complaining witnesses that accused is trying to abscond from prosecution in the criminal case. Furthermore, she decided to act on the motions because of the fact that complainant chose to ignore said motions to the prejudice of the complaining witnesses.

Subsequently, in a letter^[14] dated February 8, 2002, complainant Judge iterates her earlier inquiry in 1999 involving the practice of respondent in granting bail on cases within the exclusive jurisdiction of the MTC.

On May 15, 2002, the OCA treated complainant's letter as a supplemental complaint and referred it to respondent for her comment.^[15]

In a letter^[16] dated July 3, 2002, respondent avers that the matter raised in the supplemental complaint is a mutation of A.M. No. MTJ-01-1348, entitled Judge Dolores L. Español, et al. vs. Judge Lorinda T. Mupas, pending resolution with the Court along with A.M. No. 01-2-39-RTC, entitled Wilma Go-Amposta and Medy M. Patricio vs. Judge Lorinda T. Mupas, and A.M. No. MTJ-01-1352, entitled Employees of MTC Dasmariñas, Cavite vs. Judge Lorinda T. Mupas. She alleges that the issue raised in said supplemental complaint is one of complainant's defenses in A.M. No. MTJ-01-1348. Consequently, she submits that this issue should not be treated as separate and distinct therefrom.

In her comment to the supplemental complaint^[17] dated July 31, 2002, respondent further maintains that the issue of granting bail is subject of investigation in A.M. No. MTJ-01-1348.

She contends that the complaint is frivolous considering that the hold-departure order she issued against Eva Malihan was sustained by the prosecutor. She claims that it is complainant Judge who should be investigated on irregularities in approving bail bonds of detention prisoners. She avers further that complainant Judge falsified her report on detention prisoners and purposely delayed the resolution of preliminary investigation cases until after a considerable period of time which is a clear instance of complainant Judge's gross abuse of authority and gross ignorance of the law.

In her Reply^[18] dated May 29, 2003, complainant Judge brandishes as lies the allegations of respondent in her Comment. She adds that the issues therein are subject of investigation in A.M. No. MTJ-01-1348. Moreover, in A.M. No. MTJ-01-1352, which was allegedly initiated by employees of her court through an anonymous letter, she claims that the said employees denied authorship of the anonymous letter. With respect to A.M. No. 01-2-39-RTC, she alleges that the said complaint has already been dismissed by the court. As regards the hold-departure order, complainant Judge claims that the case was eventually dismissed by the RTC of Imus, Cavite. Lastly, she claims that respondent continues to defy the rules on bail since she still issues release orders on detention prisoners whose cases are filed either for preliminary investigation or trial in the MTC.

On February 28, 2004, complainant Judge filed a supplement[19] to her allegations in the letter dated February 8, 2002 regarding the practice of respondent to grant bail in cases within the exclusive jurisdiction of the MTC. She cites nine cases pending with the MTC wherein respondent granted bail and subsequently released the accused even though the judge where the case is pending is neither absent, unavailable nor even alleged to be absent or unavailable.

Complainant Judge emphatically submits that without the necessity of a formal investigation on the matter, the records of the case involved will bear out the culpability of respondent Judge Español and will more than justify the imposition of the most severe penalty upon her.

In its Memorandum[20] dated May 19, 2004, the OCA opines that respondent's order to transfer the accused from the municipal jail to the provincial jail cannot be justified under Section 25 of Rule 114 of the Revised Rules of Criminal Procedure, which provides, in part:

SEC. 25. Court supervision of detainees. – The court shall exercise supervision over all persons in custody for the purpose of eliminating unnecessary detention. The executive judges of the Regional Trial Courts shall conduct monthly personal inspections of provincial, city and municipal jails and the prisoners within their respective jurisdictions. They shall ascertain the number of detainees, inquire on their proper accommodation and health and examine the condition of the jail facilities. They shall order the segregation of sexes and of minors from adults, ensure the observance of the right of detainees to confer privately with counsel, and strive to eliminate conditions inimical to detainees.

The OCA expounds that as Executive Judge, respondent exercises supervision over all persons in custody for the purpose of eliminating unnecessary detention but the rule does not give her the authority to arrogate upon herself a power vested upon a presiding judge of the court where the case is pending. Instead of issuing an order transferring the accused, the OCA observes that respondent should have called the attention of the complainant regarding the motions which allegedly required immediate action; that there was no showing that she called the attention of complainant Judge on the alleged motion to transfer accused Eva Malihan, neither was there any indication that the accused in the subject cases was in a situation which requires the interference of the Executive Judge. The OCA concludes that respondent encroached upon the power of complaining judge when respondent took cognizance of the motions not pending in her court.

With regard to the hold-departure order, the OCA opines that the same cannot be sustained since it is contrary to the mandates of Supreme Court Circular No. 39-97 inasmuch as at the time of its issuance, no case has yet been filed in the RTC. It adds that while Section 1 of said circular states that "Hold-Departure Orders shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Court" the same should be read that the subject criminal case has been filed and pending with the RTC. In the criminal cases subject of the present administrative case, there is even no final determination yet of a prima facie case that would warrant the filing of an information in court. The determination made by an MTC would still be reviewed by the Office of the Provincial Prosecutor. The OCA concludes that respondent went against the injunction in Circular No. 39-97 that judges of the RTC's should be cautious and avoid the indiscriminate issuance of hold-departure orders as this results in inconvenience to the parties affected and is tantamount to an infringement on the right and liberty of an individual to travel.

With regard to the Supplemental Complaint, the OCA opines that the same should be incorporated with A.M. No. MTJ-01-1348 entitled Judge Dolores Español, et al. vs. Judge Lorinda T. Mupas and A.M. No. MTJ-01-1358 entitled Wilma Go-Amposta and Medy Particio vs. Judge Lorinda Mupas inasmuch as the issues raised in the supplemental complaint containing the granting of bail are the same as those raised and taken up in A.M. No. MTJ-01-1348.

Thus, the OCA recommends to the Court that: (a) respondent be admonished for issuing an order transferring the accused from the municipal jail to the provincial jail; (b) respondent be reprimanded for issuing a hold departure order in Criminal Cases Nos. 01-1435 to 01-1437 considering that it is not within her authority to issue hold departure orders in cases pending preliminary investigation in the MTC; and (c) the Supplemental Complaint be incorporated with A.M. No. MTJ-01-1348 entitled Judge Dolores Español, et al. vs. Judge Lorinda T. Mupas.[21]

Respondent compulsorily retired from service on January 9, 2004.

The Court agrees with the findings of the OCA, except as to the recommended penalty.

Respondent urges that her conduct was nothing more than the zealous fulfillment of her duties as Executive Judge of the RTC, Dasmariñas, Cavite. However, it is elementary that an Executive Judge only has administrative supervision over lower courts. Her function relates only to the management of first and second level courts, within her administrative area with a view to attaining prompt and convenient dispatch of its business. Acting as such, she cannot unilaterally override the MTC's actions in cases pending with it under the guise of "administrative supervision," without running afoul of the orderly administration of justice. Only when her court's jurisdiction is appropriately invoked in an appeal or certiorari and other special civil actions can respondent judge, in her judicial capacity, override the lower court's judgment.

Although the "Guidelines on the Selection and Designation of Executive Judges and Defining their Powers, Prerogatives and Duties,"[22] to wit:

SECTION 1. Executive Judges; general powers, prerogatives and duties. – Executive Judges shall, within their respective area of administrative supervision:

- Provide leadership in, and coordinate with the management of the first and second level courts;
- Exercise supervision over the judges and personnel;
- Balance the workload among the courts and maintain equitable distribution of cases in accordance with relevant existing issuances;
- Recommend and implement policies concerning court operations;
- Identify, address and resolve problems in court administration which do not require any intervention by the Supreme Court or the Court Administrator.
- Direct, through the Clerk of Court, the undertaking of staff support activities to improve judiciary services in accordance with relevant existing issuances;
- Initiate, propose, and supervise the implementation of professional development programs for judicial personnel that the Philippine Judicial Academy, in coordination with the Office of the Court Administrator, may undertake;
- Exercise such other powers and prerogatives as may be necessary or incidental to the performance of their functions in relation to court administration; and
- Perform such other functions and duties as may be assigned by the Supreme Court or the Court Administrator.

the same is a mere reiteration of what has been in effect before said Circular.

Administrative Order No. 6, which took effect on July 1, 1975, narrates the specific power, prerogative and duties of an executive judge. Portions pertinent to his duties with respect to lower level courts, read as follows:

IV. Specific Powers, Prerogatives and Duties

The specific powers, prerogatives and duties of the Executive Judge are as follows:

- To investigate administrative complaints against Municipal and City Judges, and other court personnel within his administrative area; and to submit his findings and recommendations to the Supreme Court.

...

- To visit and inspect municipal and provincial jails and their prisoners as required by Section 1730 of the Revised Administrative Code and by applicable rules and regulations.

...

- To designate, with immediate notice to the Supreme Court, the municipal judge to try cases in other municipalities within his area of administrative supervision, in case of absence or incapacity of the municipal judge concerned, which designation shall be effective immediately, unless revoked by the Supreme Court.

- To assign, with the prior approval of the Chief Justice, Municipal and City Judges to hear and determine cadastral cases as provided by law.

...

the executive judge has not been given any authority to interfere with the transfer of detainees in cases handled by other judges, be it of the first or second level; nor to grant hold-departure orders in cases not assigned to her sala.

The powers of an executive judge relate only to those necessary or incidental to the performance of his/her functions in relation to court administration.

Time and again the Court has adverted to the solemn obligation of judges to be very zealous in the discharge of their bounden duties. Nonetheless, the earnest efforts of judges to promote a speedy administration of justice must at all times be exercised with due recognition of the boundaries and limits of their jurisdiction or authority. Respondent's ardent determination to expedite the case and render prompt justice may be a noble objective but she did so in a manner which took away from the complainant MTC judge the initiative which by constitutional and legal mandates properly belongs to her.

The Court agrees with the observations of the OCA that respondent should have conferred with complainant regarding the criminal cases and relayed her concerns to the latter, rather than precipitately issuing the assailed orders.

The Court further notes that, contrary to respondent's allegation, complainant did not choose to simply ignore the pending motion to transfer but, in fact, promptly directed the Chief of Police to comment thereon.

With regard to the hold-departure order, Circular No. 39-97 limits the authority to issue hold-departure orders to criminal cases within the jurisdiction of second level courts.[23] Criminal cases within the exclusive jurisdiction of first level courts do not fall within the ambit of the circular. It is logical to state that the criminal cases must be pending in the sala of the RTC concerned.

In this case, at time of the issuance of the hold-departure order, the criminal cases were only in the preliminary investigation stage in the MTC to determine whether there is reasonable ground to believe that accused Eva Malihan is guilty of the offense charged and should be held for trial. Complainant Judge's findings had not yet been elevated to and reviewed by the provincial prosecutor. Respondent's issuance of the hold-departure order was therefore premature and clearly contravenes the mandate of Circular No. 39-97 proscribing the precipitate and indiscriminate issuance of hold-departure orders. All told, respondent's claim of good intention finds no

convincing justification.

The Court recognizes that not every judicial error bespeaks ignorance of the law and that, if committed in good faith, does not warrant administrative sanction, but only in cases within the parameters of tolerable misjudgment. Where, however, the procedure is so simple and the facts so evident as to be beyond permissible margins of error, to still err thereon amounts to ignorance of the law.[24]

Considering the respondent's ten years of service as a judge, her judicial mind should have been tempered with the delicate intricacies of the law and procedure. Respondent's confusion between her administrative and judicial functions betrays the degree of her competency and displays her unfamiliarity with basic procedural rules. Respondent ought to have known the correct procedure to be followed in order to ensure proper administration of justice with due regard to her jurisdictional boundaries. She was bound to discharge her duties with competence, prudence, caution and attention inasmuch as she is a reflection of the entire judiciary.

Thus, the Court finds the penalty of admonition and reprimand recommended by the OCA to be too lenient.

Besides, the recent cases[25] wherein the penalty of reprimand was imposed on erring judges for the issuance of hold-departure orders beyond the ambit of Circular 39-97 is not applicable because of the different circumstance in this case where respondent precipitately issued orders in criminal cases still undergoing preliminary investigation in the MTC.

Under Section 8 of A.M. No. 01-8-10-SC amending Rule 140 of the Rules of Court on the Discipline of Justices and Judges, which took effect on October 1, 2001, gross ignorance of the law is classified as a serious charge which carries with it a penalty of either dismissal from service, suspension or a fine of more than P20,000.00 but not exceeding P40,000.00. However, considering that the incident took place on September 4, 2001 which is before A.M. No. 01-8-10-SC took effect, the Court finds that a fine of P5,000.00 is sufficient for unduly transferring the detainee and arrogating upon herself the authority to issue a hold-departure order.

With regard to the Supplemental Complaint, the Court finds the recommendation of the OCA that the same should be incorporated with A.M. No. MTJ-01-1348 to be well-taken since it refers to an issue subject of said administrative case.

WHEREFORE, respondent Judge Dolores L. Español is found guilty of Gross Ignorance of the Law and is FINED Five Thousand Pesos (P5,000.00) to be deducted from whatever retirement benefits due her. With regard to the supplemental complaint, the same is incorporated with A.M. No. MTJ-01-1348 entitled "Judge Dolores Español, et al. vs. Judge Lorinda T. Mupas."

SO ORDERED.

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

[1] Rollo, p. 1.

[2] Id., pp. 8, 51 and 72.

[3] Id., p. 25.

[4] Id., pp. 23-24, 27-29 and 69-70.

[5] Id., p. 26.

[6] Id., p. 124.

[7] Id., p. 47.

[8] Id., p. 33.

[9] Id., p. 43.

[10] Id., p. 48.

[11] Id., p. 6.

[12] Id., p. 7.

[13] Id., p. 109.

[14] Id., p. 144.

[15] Id., p. 183.

[16] Id., p. 184.

[17] Id., p. 189.

[18] Id., p. 226.

[19] Id., p. 301.

[20] Id., p. 338.

[21] Id., p. 338.

[22] Issued on January 27, 2004.

[23] *Mondejar vs. Judge Buban*, 361 SCRA 119, 121 (2001).

[24] *Alib vs. Labayen*, 360 SCRA 29, 32 (2001); *Development Bank of the Philippines vs. Llanes, Jr.*, 266 SCRA 212, 222-223 (1997).

[25] *Office of the Court Administrator vs. Tagle*, 389 SCRA 18 (2002); *Mondejar vs. Judge Buban*, 361 SCRA 119 (2001); *Office of the Court Administrator vs. Judge Mendoza*, 340 SCRA 285 (2000); Hold-Departure Order dated 22 December 1998 issued by Acting Judge Aniceto L. Madronio, Jr., MTC, Manaoag, Pangasinan, 323 SCRA 345 (2000); Hold-Departure Order issued by Judge Felipe M. Abalos, MTCC-Br. 1, Dipolog City in Criminal Cases Nos. 15521 & 15522, 319 SCRA 131 (1999); Issuance of Hold-Departure Order of Judge Luisito T. Adaoag, MTC, Camiling, Tarlac, 315 SCRA 9 (1999); Hold-Departure Order issued by Judge Eusebio M. Barot, MCTC, Branch 2, Aparri, Calayan, Cagayan, 313 SCRA 44 (1999); and, *Re: Hold Departure Order Issued by Judge Juan C. Nartatez*, 298 SCRA 710 (1998).

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