

FIRST DIVISION

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

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

DECISION

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