

SECOND DIVISION

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

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

RESOLUTION

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