

FIRST DIVISION

[A.M. No. MTJ-01-1349, July 12, 2001]

BERNADETTE MONDEJAR, COMPLAINANT, VS. JUDGE MARINO S. BUBAN, MTCC, TACLOBAN CITY BRANCH 1, RESPONDENT.

R E S O L U T I O N

KAPUNAN, J.:

In a sworn letter complaint dated May 31, 1999, complainant Bernadette Mondejar charged Judge Marino S. Buban, MTCC, Tacloban City, Branch 1, with gross ignorance of the law, partiality, serious irregularity and grave misconduct relative to Criminal Case No. 98-07-CR-133 entitled "People of the Philippines v. Bernadette Mondejar and Arlette Mondejar" for violation of Batas Pambansa Blg. 22. She alleged that respondent judge issued a "hold departure order" against her on October 23, 1998 in violation of Supreme Court Circular No. 39-97 which provides that "hold departure orders" shall be issued only in criminal cases within the exclusive jurisdiction of the Regional Trial Courts. She further alleged that respondent judge did not give her an opportunity to be heard before issuing the questioned order.

When required to comment on the matter, respondent judge admitted having issued said order because he was not aware of the Supreme Court Circular No. 39-97. He alleged that he was not furnished a copy of the circular and managed to secure a copy only after he instructed his legal researcher to get one from the Executive Judge of the Regional Trial Court of Tacloban City. Accordingly, on April 14, 1997, he issued an order lifting and setting aside the hold departure order dated October 23, 1998. As regards the issue of denial of due process, respondent judge averred that complainant and her counsel were duly notified of the scheduled hearing but neither appeared on said date.

The Court Administrator after finding that respondent judge erred in issuing the assailed "hold departure order," recommended that he be severely reprimanded with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely.

The recommendation of the Court Administrator is well-taken.

Circular No. 39-97 limits the authority to issue hold-departure orders to criminal cases within the jurisdiction of second level courts. Paragraph No. 1 of the said circular specifically provides that "hold-departure orders shall be issued only in criminal cases within the exclusive jurisdiction of the regional trial courts." Clearly then, criminal cases within the exclusive jurisdiction of first level courts do not fall within the ambit of the circular, and it was an error on the part of respondent judge to have issued one in the instant case.