

SECOND DIVISION

[A.M. No. MTJ-00-1337, April 27, 2004]

**JUDGE DONATO SOTERO A. NAVARRO, PETITIONER, VS. JUDGE
ROSABELLA M. TORMIS, RESPONDENT.**

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

Complainant Judge Donato Sotero A. Navarro of MTCC, Cebu City, Branch 6, sent a letter dated September 15, 2000 to the Office of the Court Administrator (OCA), requesting for an opinion on the propriety of the alleged conduct of respondent Executive Judge Rosabella M. Tormis, MTCC of Cebu City in the following instances:

1. Finding Criminal Case No. 106436-R, entitled, *People vs. Comparativo*, to be covered by the Rule on Summary Procedure, Judge Tormis removed the Order of Commitment issued by Judge Navarro^[1] from the records of the case and substituted it with her own order directing the release of the accused;
2. Judge Tormis uttered derogatory remarks against Judge Navarro and his court, to wit: "for me, Branch 6 does not exist";
3. Judge Tormis rendered an opinion in a case pending before Judge Grace Orma E. Ypil, MTCC of Cebu City, Branch 8, in violation of Rule 2.04 of Canon 2 of the Code of Judicial Ethics.

Upon recommendation of the OCA, the Court, in a Resolution dated December 13, 2000,^[2] resolved to treat the letter as an administrative complaint against Judge Tormis, directing Judge Navarro to have his letter verified and Judge Tormis to comment thereon.

Meanwhile, in a Motion dated 24 April 2001, Judge Navarro informed the Court that Judge Tormis personally posted on the door of her courtroom, a copy of the Court's Resolution dated 14 February 2001 which reads:

Administrative Matter No. MTJ-00-1337 (Judge Donato Sotero A. Navarro vs. Executive Judge Rosabella M. Tormis) – The manifestation of compliance with the resolution of December 13, 2000 filed by Judge Donato Sotero A. Navarro is NOTED.

Very truly yours,

VIRGINIA ANCHETA-SORIANO
Clerk of Court
First Division

By: ENRIQUETA ESGUERRA-VIDAL
Asst. Clerk of Court
First Division^[3]

with a handwritten note "Please Read," to call the attention of the lawyers and the public. A similar notice was also posted at the door of the office of MTCC, Branch 8, which some court personnel removed, but another copy was again posted. For this reason, he asked the Acting Clerk of Court Evelyn Bacalla to explain the matter but instead, the latter handed to him another copy of the Resolution.

In a Resolution dated July 2001,^[4] the Court directed Evelyn Bacalla to desist from committing further acts which may tend to unduly publicize the instant case, to immediately remove copies of the notices posted on the doors, and to explain within ten days how these notices came to be posted thereat. In a Resolution dated September 10, 2001, the Court noted the compliance/explanation of Evelyn Bacalla saying that she had no hand in or knowledge about the posting of the papers.

In her Comment,^[5] respondent explains that:

1. Anent Criminal Case No. 106436-R (People vs. Comparativo) -

a) she never removed nor substituted any order of Judge Navarro from the records since the latter had not issued any order at all. What was in the records was an order issued by his Clerk of Court, Prospero M. Sincero;

b) the said criminal case was referred to her for raffle when the accused had already been in jail for two days. She admitted having ordered the release of the accused considering the value of the article stolen was even less than P52.45, and as such, fell within the coverage of the Rule on Summary Procedure.

2. If ever she made the statement that MTCC, Branch 6, did not exist, this should not be taken seriously as this can only be interpreted in the context of "light banter" and did not at all place Branch 6 in disrepute.

3. As to the issue that she rendered an opinion on a criminal case raffled to another sala -

a) as the Executive Judge, she immediately conducted an investigation on Evelyn Bacalla. In the process, she discovered "grave injustice committed against an urban poor family" charged with "illegal squatting" in Criminal Case No. 99796-12-R (People vs. Garduque), so she called the attention of Presiding Judge Ypil, in a letter dated January 5, 2000, regarding the legal and factual circumstances of the case which she believed justified a dismissal of the case since the act complained of had already been decriminalized by virtue of R.A. No. 7276.

b) Complainant's intervention in said case is not only unethical but oppressively unjust, he being the former private prosecutor of the case together with his mother, retired Judge Exaltacion Navarro and that according to some of his staff, complainant was angry at those whom he perceived thwarted his entitlement to attorney's fees of not less than P100,000.00 should

he successfully eject the accused from the premises.

c) this administrative complaint is part of complainant's obsession to compel her to relinquish her position as Executive Judge and to fulfill his ambition to replace her as such.

In his Reply, complainant reiterated that respondent had been making derogatory remarks about him both in print and on television which were not only damaging to him and his family but also to the entire Judiciary. Complainant asserts that the fact that the order of commitment removed by respondent from the records of the case was signed by the Clerk of Court is of no significance since it is likewise her practice that her commitment orders are signed by her Clerk of Court Reynaldo S. Teves; that he has not intervened in the case because his letter to Evelyn Bacalla was dated 25 November 1999 when he was not yet a judge; and thereafter, he refrained from pursuing the case to its conclusion.

As the matter involves members of the bench accusing each other and finding that it cannot be resolved satisfactorily on the basis alone of the documents submitted, the Court, upon recommendation of the OCA, issued a Resolution dated December 9, 2002, referring the instant administrative matter to Executive Judge Galicano C. Arriesgado, RTC, Cebu City for investigation, report and recommendation. Upon retirement of Judge Arriesgado, the case was inherited by Executive Judge Pampio A. Abarintos who formed a panel, composed of three members, namely: himself, First Vice Executive Judge Isaias P. Dicdican and Second Vice Executive Judge Simeon K. Dumdum, Jr., to continue with the investigation.

In their Report dated August 25, 2003, the Investigating Panel submitted the following findings, portions of which are reproduced hereunder:

FINDINGS:

The rift between the two judges started sometime immediately after January 5, 2000 when then Acting Executive Judge Tormis issued a letter to Judge Ypil (Annex "I") in reply to the 1st Endorsement (Annex "H") of Judge Ypil (judge designate of MTCC 8 Cebu) on the letter-complaint of Atty. Donato Navarro (now Judge Navarro) against Legal Researcher (then acting Branch Clerk of Court MTCC 8 Cebu City) Evelyn Bacalla (now Branch Clerk of Court MTCC 8 Cebu City).

On (sic) November 1999, while Judge Donato Navarro was still a practicing lawyer, he was the private prosecutor in the criminal case entitled Pp vs. Garduque, et al. CBU-99796-R pending at MTCC Branch 8 Cebu City, involving the issue on professional squatters. Atty. Navarro wrote a letter addressed to the Branch Clerk of Court, MTCC Branch 8 Cebu City, asking for a written explanation from Evelyn Bacalla why she set the Motion to Quash for hearing without the authority of the Judge and when the accused had not yet been arrested. Acting on the letter-complaint of Atty. Navarro, Judge Ypil endorsed the same to the Office of the Executive Judge. The controversy now starts on the letter reply of Executive Judge Tormis, copy furnished to Judge Navarro, as the latter was already appointed as Judge sometime on (sic) December, 2000.