Supreme Court E-Library

REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

FIRST DIVISION

[A.M. No. P-08-2465. January 12, 2015]
(Formerly A.M. OCA IPI No. 04-1849-P)

CONCHITA S. BAHALA, *complainant, vs.* **CIRILO DUCA, SHERIFF III, MUNICIPAL CIRCUIT TRIAL COURT IN CITIES, BRANCH 1, CAGAYAN DE ORO CITY,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERIFFS; FAILURE TO FILE A RETURN OF A WRIT CONSTITUTE SIMPLE NEGLECT OF DUTY OR THE FAILURE OF AN EMPLOYEE TO GIVE HIS ATTENTION TO THE TASK EXPECTED OF HIM, SIGNIFYING A DISREGARD OF A DUTY RESULTING FROM CARELESSNESS OR INDIFFERENCE.— As an agent of the law, a sheriff must discharge his duties with due care and utmost diligence. He cannot afford to err while serving the court's writs and processes without affecting the integrity of his office and the efficient administration of justice. He is not given any discretion on the implementation of a writ of execution; hence, he must strictly abide by the prescribed procedure to avoid liability. Section 14, Rule 39 of the Rules of Court requires a sheriff implementing a writ of execution (1) to make and submit a return to the court immediately upon satisfaction in part or in full of the judgment; and (2) if the judgment cannot be satisfied in full, to make a report to the

Supreme Court E-Library

court within 30 days after his receipt of the writ and state why full satisfaction could not be made. He shall continue making the report every 30 days in the proceedings undertaken by him until the judgment is fully satisfied in order to apprise the court on the status of the execution and to take necessary steps to ensure speedy execution of decisions. Although Sheriff Duca thrice served the writ on Bahala, he filed his return only on October 7, 2003 after her property had been levied and sold on public auction. His excuses for his omission, that his "job was not yet finished," and that he had informed the plaintiff on the status of its implementation, did not exculpate him from administrative liability, because there is no question that the failure to file a return on the writ constituted "simple neglect of duty," defined as the failure of an employee to give his attention to the task expected of him, signifying a disregard of a duty resulting from carelessness or indifference.

2. ID.; ID.; ID.; ID.; SHERIFFS PLAY AN INDISPENSABLE PART IN THE ADMINISTRATION OF JUSTICE SUCH AS THE PROMPT ENFORCEMENT OF JUDGMENTS AND THE IMPLEMENTATION OF ORDERS AND WRITS ISSUED BY THE COURT.— Without doubt, Sheriff Duca played an indispensable part in the administration of justice. His duties as a sheriff included the prompt enforcement of judgments and the efficient implementation of orders and writs issued by the court. Any move or actuation in the discharge of his duties that denoted complacency, or reflected inefficiency, or constituted impropriety would equate to the disregard of the office he held. Thus, his lapses in complying with Section 14, Rule 39 of the Rules of Court constituted sufficient ground to order his dismissal, suspension from office or payment of a fine.

3. ID.; ID.; ID.; ID.; IN ADOPTING THE COMPUTATIONS SUBMITTED BY THE PLAINTIFF WITHOUT HIMSELF DETERMINING WHETHER THE COMPUTATIONS CONFORMED TO THE TERMS OF THE JUDGMENT AND THE WRIT, RESPONDENT IS ALSO GUILTY OF SIMPLE MISCONDUCT.— It was Sheriff Duca's duty as court sheriff to know the computation of the amount due in accordance with the writ of execution. He should have ensured that only those ordained or decreed in the judgment would be the subject of execution. To accomplish this, he must himself

Supreme Court E-Library

compute the correct amount due from the judgment obligor or garnishee based strictly on the terms of the executory judgment, and, if necessary, he must verify the amount from the court itself; in other words, he could not rely on the computations submitted by private individuals not duly authorized to do so by the issuing court. He could not delegate the official duty to compute or reckon the amounts to be realize through execution to such individuals. In adopting the computations submitted by the plaintiff without himself determining whether the computations conformed to the terms of the judgment and the writ, he was guilty of simple misconduct, an act that related to any unlawful conduct prejudicial to the rights of the parties or to the right determination of the cause. Sheriff Duca should discharge his duties as a court sheriff with utmost care and diligence, particularly that which pertained to the implementation of orders and processes of the court. In the discharge of his duties, he acted as an agent of the court, such that any lack of care and diligence he displayed would inevitably cause the erosion of the faith of the people in the Judiciary.

APPEARANCES OF COUNSEL

Carrasco & Carrasco Law Offices for complainant.
Augusto P. Neri, Jr. for respondent.

D E C I S I O N

BERSAMIN, *J.*:

Complainant Conchita S. Bahala has charged grave abuse of discretion, gross misconduct and violation of the *Anti-Graft and Corrupt Practices Act* (Republic Act No. 3019) against respondent Cirilo Duca, Sheriff III of the Municipal Trial Court in Cities (MTCC), Branch 1, in Cagayan de Oro City in relation to his implementation of the writ of execution issued in Civil Case No. 98-July-817 entitled *Estate of Casimiro Tamparong and Feliza Neri Tamparong, represented by Special Administratrix, Veronica T. Borja v. Conchita S. Bahala and Mr. Bahala (Husband),* an action for ejectment.

Supreme Court E-Library

Antecedents

On August 6, 1999, the MTCC rendered judgment in Civil Case No. 98-July-817 that was adverse to Bahala.[1] Pending appeal, the Regional Trial Court (RTC) rendered a judgment on the compromise agreement of the parties,[2] pursuant to which Bahala paid the balance of the money judgment, remained in the premises during the agreed extension of two years, and paid her monthly rentals. By the end of the two-year extension, she offered to sell the building standing on the property that she had supposedly built in good faith. Not wanting to pay for the building, the plaintiff opted to execute the judgment. On August 1, 2002, Sheriff Duca served the writ of execution,[3] but demanded ₱2,000.00 from her in order to delay its implementation. She delivered the amount demanded on a Saturday at the Hall of Justice in the company of her friend, Helen Peligro. Bahala averred, too, that Sheriff Duca had served the writ on her more than 10 times, and that she had given him either ₱200.00 or ₱100.00 each time. In 2003, she started to evade Sheriff Duca whenever he served the writ.[4]

Without filing his return on the writ, Sheriff Duca served a notice of auction sale on February 21, 2003,[5] stating the amount of ₱210,000.00 as the rentals-in-arrears due and demandable. The amount was allegedly his erroneous computation of the rentals-in-arrears due because it was not based on the decision of the RTC. Consequently, Bahala opposed the sale. In its order of May 5, 2003,[6] the RTC ruled in her favor, to wit:

Wherefore, defendants opposition is granted, the sheriff is enjoined from proceeding with the auction sale of defendant property and he

---

[1] *Rollo*, pp. 19-23.

[2] *Id*. at 24-26.

[3] *Id*. at 34B-36.

[4] *Id*. at 8.

[5] *Id*. at 39.

[6] *Id*. at 38.

Supreme Court E-Library

is instead hereby directed to execute the parties' agreement regarding ejectment and removal of defendant buildings/structures from the leased property of the plaintiff.

So Ordered.

Despite the clear order of the RTC, Sheriff Duca proceeded with the auction sale on May 13, 2003,[7] and awarded the building to the plaintiff as the sole and highest bidder.[8] On October 6, 2003, he forcibly removed all the personal belongings of the actual occupants of the building, and placed them outside the building and along the street. He padlocked the building, and warned Bahala and her lessees not to re-enter the premises. When she told him that his act was illegal, he retorted: *Akong himuon ang akong gusto, akong ning i-padlock ang imong building, walay makabuot sa ako.* (I will do what I want. I will padlock your building and nobody will stop me from doing this). Later that afternoon, she started to voluntarily demolish the building, but he ordered her to stop the demolition, threatening to file a case against her otherwise.[9]

In his answer,[10] Sheriff Duca denied demanding and receiving any amount from Bahala. He admitted meeting her only on four occasions, one of which was on a working day in the Hall of Justice, as she was pleading that her lessees not be informed of the writ. He also admitted not having filed any return because his implementation was not yet complete at that time, and that he informed the plaintiff about the status of the implementation of the writ. He maintained that the amount of ₱210,000.00 contained in the notice of auction sale was based on the computation of the arrears submitted by the plaintiff. As regards the auction sale, he received a copy of the RTC's order only on May 5, 2003 long after the property had been auctioned off on March 3, 2003. He denied using force in ejecting the occupants

---

[7] *Id.* at 11.

[8] *Id.* at 41.

[9] *Id.* at 11-12.

[10] *Id.* at 61-63.

Supreme Court E-Library

of the building, stating that they had voluntary removed their personal belongings themselves.

The Court resolved to re-docket this case as a regular administrative matter, and referred it to the Executive Judge of the RTC in Cagayan de Oro City for investigation and recommendation.[11]

In his report,[12] then Executive Judge Edgardo T. Lloren found and concluded that Sheriff Duca had committed simple misconduct for not filing his periodic report on the writ pursuant to Section 14, Rule 39 of the Rules of Court, and for adopting the computation of arrears made by the plaintiff. Accordingly, Judge Lloren recommended that Sheriff Duca be suspended for six months and one day without pay; and that the charges for violation of the *Anti-Graft and Corrupt Practices Act* be dismissed for lack of merit.

The OCA agreed with Judge Lloren's finding that Sheriff Duca had committed simple misconduct in basing the amount stated in the notice of auction sale on the computation submitted by the plaintiff.[13] It also found Sheriff Duca liable for simple neglect of duty for not complying with the requirements of Section 14, Rule 39 of the Rules of Court, and recommended his suspension without pay for six months and one day with stern warning against the commission of similar acts or omissions.[14]

Ruling

We agree with the findings of the OCA, but modify the recommended penalty.

As an agent of the law, a sheriff must discharge his duties with due care and utmost diligence. He cannot afford to err while serving the court's writs and processes without affecting the integrity of his office and the efficient administration of

---

[11] *Id*. at 85.

[12] *Id*. at 190-202.

[13] *Id*. at 320.

[14] *Id*. at 321.

Supreme Court E-Library

justice.[15] He is not given any discretion on the implementation of a writ of execution; hence, he must strictly abide by the prescribed procedure to avoid liability.[16]

Section 14, Rule 39 of the Rules of Court requires a sheriff implementing a writ of execution (1) to make and submit a return to the court immediately upon satisfaction in part or in full of the judgment; and (2) if the judgment cannot be satisfied in full, to make a report to the court within 30 days after his receipt of the writ and state why full satisfaction could not be made. He shall continue making the report every 30 days in the proceedings undertaken by him until the judgment is fully satisfied in order to apprise the court on the status of the execution and to take necessary steps to ensure speedy execution of decisions.[17]

Although Sheriff Duca thrice served the writ on Bahala,[18] he filed his return only on October 7, 2003 after her property had been levied and sold on public auction.[19] His excuses for his omission, that his "job was not yet finished," and that he had informed the plaintiff on the status of its implementation, did not exculpate him from administrative liability, because there is no question that the failure to file a return on the writ constituted "simple neglect of duty,"[20] defined as the failure of an employee to give his attention to the task expected of him, signifying a disregard of a duty resulting from carelessness or indifference.[21]

---

[15] *Calo v. Dizon*, A.M. No. P-07-2359, August 11, 2008, 561 SCRA 517, 531-532.

[16] *Vicsal Development Corporation v. Dela Cruz-Buendia*, A.M. No. P-12-3097, November 26, 2012, 686 SCRA 299, 307.

[17] *Office of the Court Administrator v. Tolosa*, A.M. No. P-09-2715, June 13, 2011, 651 SCRA 696, 702; *Zamudio v. Auro*, A.M. No. P-04-1793, December 8, 2008, 573 SCRA 178, 184; *Arevalo v. Loria*, A.M. No. P-02-1600, April 30, 2003, 402 SCRA 40, 48.

[18] TSN dated March 7, 2005, *rollo*, p. 307.

[19] *Rollo*, p. 40.

[20] *Vicsal Development Corporation v. Dela Cruz-Buendia*, *supra* at 310-311.

[21] *Vicsal Development Corporation v. Dela Cruz-Buendia*, *supra* at 311; *Tolentino-Fuentes v. Galindez*, A.M. No. P-07-2410, June 18, 2010,

Supreme Court E-Library

In this regard, the OCA correctly observed:

As deputy sheriff, respondent could not be unaware of Section 14, Rule 39 of the 1997 Revised Rules of Civil Procedure x x x

x x x x x x x x x

Based on the foregoing, it is mandatory for a sheriff to make a return of the writ of execution to the court issuing it. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason or reasons therefore. The court officer is likewise tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full or its effectivity expires. The *raison d' etre* behind this requirement is to update the court on the status of the execution and to take necessary steps to ensure the speedy execution of decision.

A careful perusal of the records show that the writ of execution was issued on August 1, 2002. However, it was only more than a year later or on October 7, 2003 when respondent sheriff was able to file his return of the writ. In his testimony before the investigating judge on March 7, 2005, he was not even sure on when he first served the writ of execution upon complainant but admitted of having served the same at least three (3) times yet he failed to timely make a sheriff's return as required under Section 14, Rule 39 of the Rules of Civil Procedure. Respondent though belatedly submitted his sheriff's return and furnished a copy thereof to the complainant only on October 7, 2003.

Due to respondent's failure to make a timely return and periodic progress report of the writ, the court was obviously unaware of the auction sale of defendant's property conducted by respondent-sheriff on March 3, 2003 that in its Order dated May 5, 2003, it enjoined respondent sheriff from proceeding with the auction sale of defendant's property and directed him to execute the parties' agreement regarding ejectment and removal of defendants' buildings/structures from the leased property of the plaintiff. By then, subject property was already auctioned and awarded to plaintiff, being the highest bidder and defendant's agents already ejected from

---

621 SCRA 189, 194-195; *Office of the Court Administrator v. Garcia-Rañoco*, A.M. No. P-03-1717, March 6, 2008, 547 SCRA 670, 673-674.

Supreme Court E-Library

subject property per his Sheriff's Return of Service dated October 7, 2003.

Clearly, respondent sheriff is derelict in his submission of the returns thereof. His explanation that *"his job was not yet finished and . . . talked to the plaintiff regarding the same"* is utterly wanting. A finding that he was remiss in the performance of his duty is thus proper under the attendant circumstances. For such nonfeasance, respondent is guilty of dereliction or simple neglect of his duty as a sheriff, because he failed to submit his Report of Service within thirty (30) days from receipt thereof and make periodic reports to the court until the judgment was fully satisfied. In fine, the gravamen of respondent's shortcoming is in his failure to observe Sec. 14, Rule 39 of the Rules of Court.[22]

Without doubt, Sheriff Duca played an indispensable part in the administration of justice. His duties as a sheriff included the prompt enforcement of judgments and the efficient implementation of orders and writs issued by the court. Any move or actuation in the discharge of his duties that denoted complacency, or reflected inefficiency, or constituted impropriety would equate to the disregard of the office he held. Thus, his lapses in complying with Section 14, Rule 39 of the Rules of Court constituted sufficient ground to order his dismissal, suspension from office or payment of a fine.[23]

Sheriff Duca's liability was not limited to his failure to file the return on the writ. The OCA recommended that he be found liable also for simple misconduct because he was guilty of the irregularity of relying on the computation of the plaintiff in charging Bahala for the arrears in rentals amounting to ₱210,000.00, thus:

Respondent's reliance on the computation of plaintiff for the rental-in-arrears amounting to ₱210,000.00 contained in the Sheriff's Notice of Auction Sale is likewise irregular. He should not have put undue reliance on the computation made by a private individual not duly

---

[22] *Rollo,* pp. 319-320.

[23] *Pesongco v. Estoya,* A.M. No. P-06-2131, March 10, 2006, 484 SCRA 239, 255.

Supreme Court E-Library

deputized by the court. It must be borne in mind that respondent sheriff has, as an officer of the court, the duty to compute the amount due from the judgment debtor. (*Bagano v. Paninsoro*, 246 SCRA 146) For such actuation, respondent committed simple misconduct.[24]

Compounding this liability was his admission of not inquiring whether Bahala had paid her rentals or not to the plaintiff.[25]

To be sure, the amount of ₱210,000.00 stated in the notice of levy did not conform with the writ of execution that stated the following amounts to be due to the plaintiff from Bahala, *viz*:

WRIT OF EXECUTION

x x x x x x x x x

Whereas, Judgment on compromise agreement issued in this case by the Regional Trial Court Branch 40, dated 10 November 1999, quoted as follows:

COMPROMISE AGREEMENT

COME NOW the parties hereto, assisted by their respective counsels, and unto this Honorable Court hereby submit the following Compromise Agreement, to wit:

x x x x x x x x x

3) That the parties hereto are desirous of settling their dispute by compromise agreement and have voluntarily agreed the following:

a) THAT defendant shall pay the sum of ₱17,900.00 upon signing of this Compromise Agreement, ₱15,500.00 of which shall be taken from the amount deposited with the Clerk of Court of the Municipal Trial Court of Cagayan de Oro City to be applied in the manner as follows:

₱5,900.00	—	for payment of arrears in rentals as of December 30, 1999;
10,000.00	—	as attorney's fees (part) per decision in Civil Case No. 98-Jul-817

[24] *Rollo*, p. 320.

[25] TSN dated March 7, 2009, pp. 306-307.

Supreme Court E-Library

2,000.00 — for reimbursement of expenses of litigation

b) THAT the period of lease is extended to two (2) years commencing on January 1, 2000 and termination January 30, 2002.

c) THAT the monthly rental shall be five thousand pesos (₱5,000.00) payable to the office of the plaintiff within the first (5) days of each and every month without need of any demand.

x x x x x x x x x[26]

It was Sheriff Duca's duty as court sheriff to know the computation of the amount due in accordance with the writ of execution.[27] He should have ensured that only those ordained or decreed in the judgment would be the subject of execution. To accomplish this, he must himself compute the correct amount due from the judgment obligor or garnishee based strictly on the terms of the executory judgment, and, if necessary, he must verify the amount from the court itself; in other words, he could not rely on the computations submitted by private individuals not duly authorized to do so by the issuing court.[28] He could not delegate the official duty to compute or reckon the amounts to be realize through execution to such individuals.[29] In adopting the computations submitted by the plaintiff without himself determining whether the computations conformed to the terms of the judgment and the writ, he was guilty of simple misconduct, an act that related to any unlawful conduct prejudicial to the rights of the parties or to the right determination of the cause.[30]

---

[26] *Rollo*, pp. 34-35.

[27] *Alabastro v. Moncada, Sr.*, A.M. No. P-04-1887, December 16, 2004, 447 SCRA 42, 56.

[28] *PNB Management and Development Corporation v. Cachero*, A.M. No. P-03-1731, November 30, 2006, 509 SCRA 28, 39.

[29] *V.C. Ponce Co., Inc. v. Eduarte*, A.M. No. RTJ-99-1495, October 18, 2000, 343 SCRA 445, 456-457.

[30] *Martillano v. Arimado*, A.M. No. P-06-2134, August 9, 2006, 498 SCRA 240, 244.

Supreme Court E-Library

Sheriff Duca should discharge his duties as a court sheriff with utmost care and diligence, particularly that which pertained to the implementation of orders and processes of the court. In the discharge of his duties, he acted as an agent of the court, such that any lack of care and diligence he displayed would inevitably cause the erosion of the faith of the people in the Judiciary.[31]

Anent the charge of violation of Section 3(e) of the *Anti-Graft and Corrupt Practices Act*, Bahala did not adduce substantial evidence to establish that Sheriff Duca had demanded and received monetary consideration to delay the implementation of the writ of execution. The charge is dismissed for being without merit.

We modify the recommended penalty of suspension from office without pay for six months and one day. Under the Revised Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty and simple misconduct are less grave offenses punishable by suspension from office of one month and one day to six months for the first offense. The offense charged being Sheriff Duca's first violation, he is appropriately punished with suspension from office without pay for three months, with a stern warning that the commission of the same or similar offense will be dealt with more severely.

WHEREFORE, the Court **FINDS** and **DECLARES** respondent **CIRILO DUCA**, Sheriff III of the Municipal Circuit Trial Court in Cities, Branch 1, in Cagayan de Oro City, **GUILTY** of **SIMPLE MISCONDUCT** and **SIMPLE NEGLECT OF DUTY**, and, accordingly, **SUSPENDS** him from office for three months without pay, with a stern warning that any similar infraction in the future will be dealt with more severely.

SO ORDERED.

Sereno, C.J., Leonardo-de Castro, Perez, and *Perlas-Bernabe, JJ.,* concur.

---

[31] *Amor v. Leyva,* A.M. No. P-02-1536, January 27, 2006, 480 SCRA 236, 241-242.