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THIRD DIVISION

[A.M. No. P-05-2031. December 9, 2005]

D.R. CATV SERVICES, INC., *complainant, vs.* **JESUS R. RAMOS, Sheriff III, Metropolitan Trial Court, Branch 41, Quezon City,** *respondent.*

SYLLABUS

1. POLITICAL LAW; ADMINISTRATIVE LAW; COURT PERSONNEL; SHERIFF; PROMPT AND EFFICIENT SERVICE SHOULD NOT BE REASONS TO COMPROMISE THE INTEGRITY OF COURT PROCESSES AND THE PROPER ADMINISTRATION OF JUSTICE. — Sheriffs are responsible for the speedy and efficient implementation of writs of execution. As agents of the law, they are called upon to discharge their duties with due care and diligence. However, prompt and efficient service should not be reasons to compromise the integrity of court processes and the proper administration of justice. In the execution of money judgment, the sheriff is required to first make a demand on the obligor for the immediate payment of the full amount stated in the writ of execution before a levy can be made.

2. ID.; ID.; ID.; GRAVE ABUSE OF AUTHORITY; RESPONDENT SHERIFF DISREGARDED HIS OWN DEADLINE AND OVERSTEPPED HIS AUTHORITY WHEN HE ATTACHED THE PROPERTY OF A CORPORATION WHICH HAD NOT BEEN ADJUDGED AS A DEBTOR. — Sure, respondent in this case, as the executing sheriff, gave Danilo Red a grace period of five (5) days from receipt of the sheriff's notification within which to comply with his monetary obligation. However, what appeared to be a proper accommodating gesture at the start, turned out to be a farce. For, without so much of an explanation, respondent disregarded his own deadline and, before the fifth day, sprang a surprise on Danilo Red by levying on the equipment of D.R. CATV, which, needless to stress, has a personality distinct and separate from its stockholders, and is not affected by the personal obligations and transactions of the latter. There can be no quibbling that respondent overstepped his authority when he attached the property of a corporation which had not been adjudged as a

Supreme Court E-Library

debtor. That Danilo Red is a stockholder and even the President of D.R. CATV Services, Inc., is really of little moment. For, corporate assets belong to the corporation and stockholders have no claim on them as owners, but have merely an inchoate right to the same should any remain upon the dissolution of the corporation after all corporate creditors have been paid. We stress the hornbook law that corporate personality is a shield against the personal liability of its officers or the personal indebtedness of its stockholders.

3. ID.; ID.; ID.; LACK OF FACILITY IS NOT A JUSTIFICATION IN NOT KEEPING THE ATTACHED PROPERTIES IN HIS CUSTODY. — Likewise, respondent exhibited imprudence in his duty of safekeeping the properties he levied. After he levied on the corporation's equipment, he brought them to the house of Bong Carreon, in violation of the rule requiring him to safely keep them in his custody. The alleged lack of facility, if that be the case, to store the attached properties is no justification. Respondent should have deposited the same in a bonded warehouse or, if this is not feasible, should have sought prior authorization from the writ-issuing court before depositing it in the house of Bong Carreon, who appears to be related to the judgment creditor.

4. ID.; ID.; CODE OF CONDUCT FOR COURT PERSONNEL; CONDUCT OF EVERY PERSON CONNECTED WITH AN OFFICE CHARGED WITH DISPENSATION OF JUSTICE MUST NOT ONLY BE CHARACTERIZED BY PROPRIETY AND DECORUM BUT MUST BE BEYOND SUSPICION. — [R]espondent doubtless failed to live up to the exacting standards required of his office. In enforcing the writ with undue haste, he has betrayed his lack of impartiality. We have consistently held that the conduct of every person connected with an office charged with dispensation of justice must not only be characterized by propriety and decorum but, above all else, be beyond suspicion.

RESOLUTION

GARCIA, *J.*:

Before us is a complaint-affidavit of Louel Malvin M. Arevalo for and in behalf of complainant D.R. CATV Services, Inc.,

Supreme Court E-Library

charging respondent Jesus R. Ramos, Sheriff III, Metropolitan Trial Court (MeTC) of Quezon City, Branch 41, with grave abuse of authority arising from the implementation of a writ of execution issued in a criminal case.

The facts:

Following the trial of Criminal Case No. 096318-19, a prosecution for violation of Batas Pambansa Blg. 22 filed at the instance of one Armi dela Cruz-Carreon against Danilo Red, President of D.R. CATV Services, Inc., the MeTC of Quezon City found Danilo Red guilty as charged. On appeal, however, the Regional Trial Court (RTC) at Quezon City set aside the judgment of conviction, but nonetheless found Danilo Red civilly liable and, accordingly, ordered him to pay the offended party the amount of ₱1,100,000.00, representing the face value of the dishonored check, plus interest and attorney's fees.

Commanded to implement the corresponding writ of execution[1] issued by the RTC for the civil aspect of the case was respondent Jesus R. Ramos, Sheriff III, MeTC, Quezon City, Branch 41.

Pursuant to the writ, respondent Ramos repaired to the Province of Marinduque and, *via* a Notification[2] dated August 4, 2004, advised Danilo Red to pay the money judgment aforestated within five (5) days from receipt thereof. As related in the herein complaint, respondent, even before the expiration of the five-day period, proceeded to levy on the equipment owned by D.R. CATV and cut the cable wire connected to lampposts, thus effectively paralyzing the operation of D.R. CATV's cable TV services in the town of Buenavista, Marinduque.

According to complainant, he informed the respondent as to who really owned the equipment thus seized, only to be told in an arrogant tone to file a third-party claim. Continuing, complainant

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[1] Annex "B" of the Complaint-Affidavit, *Rollo*, pp. 6-7.

[2] Annex "A" of the Complaint-Affidavit, *Rollo*, p. 5.

Supreme Court E-Library

alleged that despite D.R. CATV's filing of a third-party claim, respondent still refused to release the equipment. And to compound matters, the levied equipment valued at ₱2.6 million were placed by respondent in the possession of one Jose Antonio "Bong" Carreon in violation of Section 7, Rule 57 of the Rules of Court.[3]

In compliance with a directive from the Office of the Court Administrator (OCA), respondent submitted his Comment[4] dated October 11, 2004. In it, respondent professed good faith in executing the writ in question, which he claimed to have served upon Danilo Red through his mother, Luciana Red. Upon being apprised of the levy, Danilo Red, so respondent alleged, called and pleaded for more time to settle his obligation. Respondent adds that upon being informed that Danilo Red owns and operates D.R. CATV, as the letters "D.R." in fact refer to the initials of Danilo Red, he initially levied upon the equipment found outside the office of the cable company since the office was still closed. Levy on the other properties of the company followed.

Respondent admits, however, about being told by herein complainant, who is no less the company's secretary, that the levied properties pertained in ownership to the corporation, not to Danilo Red, and about the matter of the filing of a third-party claim. He also acknowledged bringing the levied equipment to the house of Mr. Bong Carreon, albeit explaining that he did so only for safekeeping because there was no available bonded warehouse within the area.

Upon OCA's recommendation embodied in its report of April 26, 2005, the Court, in its Resolution[5] of June 11, 2005, ordered

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[3] Section 7. Attachment of Real and Personal Property - Real and personal property shall be attached by the sheriff executing the writ in the following manner: xxx

(b) Personal property capable of manual delivery, by taking and safely keeping it in his custody, after issuing the corresponding receipt therefor;

[4] *Rollo*, pp. 17-21.

[5] *Rollo*, p. 39.

Supreme Court E-Library

the re-docketing of this case as a regular administrative matter and required the parties to manifest whether or not they are willing to submit the case for resolution on its merits on the basis of the pleadings already filed. In his manifestation,[6] respondent responded in the affirmative.

In its aforementioned report, the OCA finds respondent guilty of abuse of authority and recommends that he be fined ₱5,000.00 with warning. We quote the pertinent portion of the report:

EVALUATION: In issue herein is the propriety of respondent's actions in the enforcement of the judgment on the civil liability of Mr. Danilo Red. Extant in the records are a number of instances that respondent strayed from the regular course observed in execution of judgments pursuant to the Rules of Court. Specifically, the 5-day period prescribed in the Notice was not observed; the notice and the writ itself were served not on the judgment debtor himself but on his mother who refused to acknowledge receipt thereof; the properties seized belong to a named corporation; and, the levied properties were not duly deposited in accordance with the Rules of Court but in the house of the judgment creditor.

Respondent did not deny the foregoing, but instead proffered explanations for his actions. Sadly, said explanations, to our mind, do not warrant a deviation from the rules, nor justify the apparent haste in the implementation of the writ. Particularly reprehensible was the levying on the properties of the corporation, D.R. CATV, to satisfy a personal judgment against a stockholder thereof on the very presumptuous excuse that he pierced the veil of corporate fiction, a function which is purely judicial in nature and beyond the scope of the ministerial duties of a Sheriff.

Time and again, the court has stressed the heavy burden of responsibility which court personnel are saddled with in view of their exalted positions as keepers of public faith. They must be constantly reminded that any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided.[7]

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[6] *Rollo*, p. 41.

[7] *Rollo*, pp. 37-38.

Supreme Court E-Library

The Court agrees with the OCA's recommendation and the premises holding it together.

Sheriffs are responsible for the speedy and efficient implementation of writs of execution. As agents of the law, they are called upon to discharge their duties with due care and diligence. However, prompt and efficient service should not be reasons to compromise the integrity of court processes and the proper administration of justice.[8] In the execution of money judgment, the sheriff is required to first make a demand on the obligor for the immediate payment of the full amount stated in the writ of execution before a levy can be made. Section 9, Rule 39 of the Rules of Court is clear and explicit on this:

> Sec. 9 Execution of judgments for money, how enforced. – (a) Immediate payment on demand. – The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. xxx
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> b) Satisfaction by levy. – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.
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> xxx xxx xxx
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> (c) Garnishment of debts and credits. – The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal

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[8] *Espina vs. Gato*, 401 SCRA 40 [2003].

Supreme Court E-Library

property not capable of manual delivery in the possession or control of third parties. xxx.

xxx xxx xxx.

Sure, respondent in this case, as the executing sheriff, gave Danilo Red a grace period of five (5) days from receipt of the sheriff's notification[9] within which to comply with his monetary obligation. However, what appeared to be a proper accommodating gesture at the start, turned out to be a farce. For, without so much of an explanation, respondent disregarded his own deadline and, before the fifth day, sprang a surprise on Danilo Red by levying on the equipment of D.R. CATV, which, needless to stress, has a personality distinct and separate from its stockholders, and is not affected by the personal obligations and transactions of the latter. There can be no quibbling that respondent overstepped his authority when he attached the property of a corporation which had not been adjudged as a debtor. That Danilo Red is a stockholder and even the President of D.R. CATV Services, Inc., is really of little moment. For, corporate assets belong to the corporation and stockholders have no claim on them as owners,.but have merely an inchoate right to the same should any remain upon the dissolution of the corporation after all corporate creditors have been paid.[10] We stress the hornbook law that corporate personality is a shield against the personal liability of its officers[11] or the personal indebtedness of its stockholders.[12]

Likewise, respondent exhibited imprudence in his duty of safekeeping the properties he levied. After he levied on the corporation's equipment, he brought them to the house of Bong Carreon, in violation of the rule requiring him to safely keep

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[9] Annex "A" of Arevalo's Complaint-Affidavit, *Rollo*, p. 5.

[10] Campos, *THE CORPORATION CODE*, Vo. I, 1990 ed., p. 137.

[11] *Consolidated Bank and Trust Corp. vs. CA*, 356 SCRA 671 [2001], citing other cases.

[12] *Matugrina Integrated Wood Products, Inc. vs. Court of Appeals*, 263 SCRA 490 [1996].

Supreme Court E-Library

them in his custody. The alleged lack of facility, if that be the case, to store the attached properties is no justification. Respondent should have deposited the same in a bonded warehouse or, if this is not feasible, should have sought prior authorization from the writ-issuing court[13] before depositing it in the house of Bong Carreon, who appears to be related to the judgment creditor.

Given the above perspective, respondent doubtless failed to live up to the exacting standards required of his office. In enforcing the writ with undue haste, he has betrayed his lack of impartiality. We have consistently held that the conduct of every person connected with an office charged with dispensation of justice must not only be characterized by propriety and decorum but, above all else, be beyond suspicion.

WHEREFORE, respondent Jesus R. Ramos, Sheriff III, MeTC, Quezon City, Branch 41, is adjudged *GUILTY* of grave abuse of authority and ordered to pay a fine of Five Thousand Pesos (₱5,000.00), with a stern warning that a repetition of the same or similar act shall be dealt with more severely. Let copy of this Resolution be attached to the personal records of respondent.

SO ORDERED.

Panganiban (Chairman), Sandoval-Gutierrez, Corona, and *Carpio Morales, JJ.,* concur.

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[13] *Caja vs. Nanquil*, 438 SCRA 174 [2004], citing *Pecson vs. Sicat, Jr.*, 298 SCRA 122 [1996].