Supreme Court E-Library

the presumption that official duty is regularly performed cannot prevail over the constitutional presumption of innocence accorded to an accused (*People v. Taruc*, 157 SCRA 178 [1988]) especially so where there is no sufficient evidence to warrant a conviction. It is a settled rule that an accused is entitled to the constitutional presumption of innocence which may be overcome only with proof beyond reasonable doubt that he is guilty of the offense charged (*People v. Colcol, Jr.*, 219 SCRA 107 [1993]). Absent the *corpus delicti* and its examination as a proof of its being a prohibited merchandise, the conviction of appellant has no leg to stand on.

WHEREFORE, appellant Joseriel Rigodon is hereby *ACQUITTED* on the ground of reasonable doubt and is ordered immediately released from detention unless he is being held for some other legal cause or ground.

SO ORDERED.

Romero, Melo, and *Vitug, JJ.*, concur.

Feliciano, J., on leave.

SECOND DIVISION

[A.M. No. P-94-1069. November 9, 1994]

JUDGE HENEDINO P. EDUARTE, Regional Trial Court, Branch 24, Echague, Isabela, *complainant, vs.* **JOHN C. RAMOS, Deputy Sheriff, Regional Trial Court, Branch 24, Echague, Isabela,** *respondent.*

SYLLABUS

1. POLITICAL LAW; CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER

Supreme Court E-Library

COURT PERSONNEL; DEPUTY SHERIFF; PERSONALLY COMPUTING COSTS OF SUIT AND APPROPRIATING ₱5,000.00 FOR HIS FEES CONSTITUTE SERIOUS INFRACTION; PENALTY; CASE AT BAR. — Respondent committed a serious infraction of Section 8, Rule 142 and Section 9, Rule 141 of the Rules of Court when he assumed the power to determine the costs of suit and, later, appropriated the ₱5,000.00 for his fees. We can not accept his claim of good faith since he is expected to know the limits of his authority, having been in the service for twenty-two years. We have frequently reiterated that the sheriff or his deputies merely perform ministerial, not discretionary, functions in the performance of their duties. Sheriffs are supposed to execute orders of the Court strictly to the letter of the order and the governing law. They are not supposed to decide and interpret for themselves unclear wordings of the judgment or order. In this administrative matter, respondent's only duty was to implement the writ of execution according to its terms. He was not authorized to determine what items are included in the phrase "costs of suit," since Sec. 8, Rule 142 is very clear and explicit thereon thus: Respondent ought to have known the correct procedure to be followed in order to ensure proper administration of justice, especially in its concluding stage. He failed to observe that degree of dedication to the duties and responsibilities required of him as a sheriff. He is bound to discharge his duties with prudence, caution and attention which careful men usually exercise in the management of their affairs. The sheriff, an officer of the court upon whom the execution of a final judgment depends must be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law. WHEREFORE, the Court hereby impose on Deputy Sheriff John C. Ramos a FINE of ₱2,000.00, with a STERN WARNING that the same or similar acts in the future will be dealt with more severely. Let a copy of this resolution be attached to the personal records of respondent.

2. ID.; ADMINISTRATIVE LAW; PUBLIC OFFICE; EVERYONE CONNECTED WITH AN OFFICE CHARGED WITH THE DISPENSATION OF JUSTICE SHOULD BE CIRCUMSCRIBED WITH PROPRIETY AND DECORUM BUT ABOVE ALL ELSE, MUST BE BEYOND SUSPICION. — Time and again, we have repeatedly stressed that the conduct

Supreme Court E-Library

and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff to the lowest clerk, should be circumscribed with propriety and decorum but, above all else, must be beyond suspicion. A public office is a public trust and all public officers and employees must at all times be accountable to the people. The Supreme Court cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the judiciary.

R E S O L U T I O N

REGALADO, *J.*:

This administrative matter arose from an order[1] issued on March 22, 1994 in Civil Case No. Br. 24-0273 by Judge Henedino P. Eduarte of the Regional Trial Court, Branch 24, Echague, Isabela, declaring *inter alia* as follows:

"It is therefore clear that the costs of suit as computed by the Sheriff in the astronomical amount of ₱29,880.00 is clearly not warranted by Rule 142 of the Revised Rules of Court. The Sheriff should not have taken it upon himself to make the computation of the costs. The costs should have been filed with the Court for its approval by way of a motion to approve bill of costs in accordance with Section 8, Rule 143 (sic, should be Rule 142), Rules of Court. It is clear, therefore, that the proceedings taken by the sheriff in levying upon the properties of the plaintiff, selling them at public auction to pay costs, and then executing the sheriff's Certificate of Sale are null and void."

On June 28, 1994, the Office of the Court Administrator also received a sworn complaint for grave misconduct against the respondent, filed by Lorenzo Lazaro, the plaintiff in the above-mentioned civil case.[2]

The records show that on May 8, 1991, the trial court rendered a decision in Civil Case No. Br. 24-0773, penned by Judge

---

[1] *Rollo*, 7-10.

[2] *Ibid.*, 25.

Supreme Court E-Library

Basilio R. Ramiscal, ordering the plaintiff, Lorenzo Lazaro, to reconvey to the defendant, Free Gospel Church, the property subject of the suit after the defendant shall have reimbursed to the plaintiff the sum of ₱2,505.60 representing the value of said property, and further requiring the plaintiff to pay the costs of the suit.[3] After the appeal of the plaintiff was dismissed by the Court of Appeals, the defendant moved for the issuance of the corresponding writ of execution, which was granted on November 26, 1992.[4]

Respondent sheriff computed the costs of the suit which he placed in the amount of ₱29,880.00.[5] Plaintiff Lazaro failed to pay the costs, whereupon respondent levied on his properties consisting of two parcels of land, and subsequently sold them at public auction on January 4, 1993 purportedly to satisfy the costs of suit. The properties were sold to defendant Free Gospel Church, as the highest bidder in the auction sale, for the amount of ₱36,000.00.

On January 13, 1993, a Sheriff's Certificate of Sale was executed in favor of said highest bidder.[6]

The aforesaid order of complainant further states that on the date of the auction sale, Mrs. Rosario G. Julian, Court Interpreter and Officer-in-Charge, received ₱5,000.00 from the plaintiff as payment for costs, but she claimed that respondent sheriff " got from her the ₱5,000.00." Thereafter, on March 10, 1994, plaintiff filed a motion to quash the writ of execution and to annul the sheriff's sale on the ground that "in executing the decision, the Sheriff disregarded the decision of the Court and excessively computed the costs in the amount of ₱29,880.00."[7]

The trial court annulled the writ of execution and set aside the sale made by respondent sheriff, holding that 'the decision

---

[3] *Ibid*., 7.

[4] *Loc. cit.*

[5] *Rollo*, 8, 15-16; see also Annex "C".

[6] *Ibid*., 8.

[7] *Loc. cit.*

Supreme Court E-Library

of the court (in Civil Case No. Br. 24-0273) is clear. There is no money judgment. The plaintiff is only ordered to reconvey the land in question to the defendant upon the latter's reimbursing to the plaintiff ₱2,505.60. The plaintiff is ordered to pay costs of the suit." The order annulling the writ of execution likewise castigated the unauthorized act of respondent, as set forth in the opening paragraph of this resolution. It likewise ordered respondent sheriff to return to the plaintiff the amount of ₱5,000.00, which he received from the Officer-in-Charge as costs, within five days from his receipt of the order.[8]

As directed therein a copy of said order was transmitted to this Court, through the Office of the Court Administrator, "as a complaint against respondent sheriff Ramos for grave misconduct," and was so considered.

In a Second Endorsement dated May 4, 1994,[9] respondent sheriff, asserted that when the writ of execution was issued by the lower court, he received from Pastor Alex C. Vivit, a minister of defendant Free Gospel Church, a list of the costs which it allegedly spent in their defense. Respondent claimed that he even did the plaintiff a favor by reducing the original amount in the list from ₱39,008.00 to ₱29,880.00 and, in implementing the writ of execution, he honestly believed that the costs of suit included other expenses incurred by the prevailing party, such as expense for attorney's fees.

Respondent admitted having received the amount of ₱5,000.00 paid by the plaintiff to Mrs. Julian but he contends that he did so "under the impression that the money shall be used to defray (his) expenses in implementing the writ of execution." To support his claim he submitted a handwritten list of his alleged expenses which, among others, includes transportation fare and police assistance.

There is evident merit in these excerpts from the findings of the Office of the Court Administrative, to wit:

---

[8] *Rollo*, 8-10.

[9] *Ibid*., 15-17.

Supreme Court E-Library

"We hold for the Complainant Judge, Rule 142, Section 8 is relevant. It provides:

x x x x x x x x x

"From the aforequoted provision it is clear that respondent Sheriff overstepped the bounds of his responsibilities when he took it upon himself to compute the costs of the suit.

"Similarly, we are persuaded that respondent Sheriff violated Rule 141, Section 9 which provides for the legal fees which sheriffs and other persons serving processes are legally allowed to receive. When respondent Sheriff received the five thousand pesos (₱5,000.00) from the Court Interpreter Mrs. Rosario Julian under the guise that the same will be used to defray his expenses he should have known that the amount is way beyond that allowed under the Rules. Having been in the service for a long period of time already, good faith and lack of malice is not enough reason to exonerate him, the same being too simplistic and unworthy of credence.

"Equally compelling of respondent Sheriff's guilt was his act of returning the money only after having been ordered by the Court to do so. For his actuations, it is manifest that respondent Sheriff is liable for misconduct."[10]

Respondent committed a serious infraction of Section 8, Rule 142 and Section 9, Rule 141 of the Rules of Court when he assumed the power to determine the costs of suit and, later, appropriated the ₱5,000.00 for his fees. We can not accept his claim of good faith since he is expected to know the limits of his authority, having been in the service for twenty-two years. We have frequently reiterated that the sheriff or his deputies merely perform ministerial, not discretionary, functions in the performance of their duties. Sheriffs are supposed to execute orders of the Court strictly to the letter of the order and the governing law. They are not supposed to decide and interpret for themselves unclear wordings of the judgment or order.[11]

---

[10] *Ibid.,* 3.

[11] *Young vs. Momblan,* A.M. No. P-89-367, January 9, 1992, 205 SCRA 33. See also *Rosario et al. vs. Bascar, Jr., etc.,* A.M. No. P-88-255, March 3, 1992, 206 SCRA 678.

Supreme Court E-Library

In this administrative matter, respondent's only duty was to implement the writ of execution according to the terms. He was not authorized to determine what items are included in the phrase "costs of suit," since Sec. 8, Rule 142 is very clear and explicit thereon, thus:

> Sec. 8. *Costs, how taxed.* — In the inferior courts, the costs shall be taxed by the justice of the peace or municipal judge and included in the judgment. *In superior courts, costs shall be taxed by the clerk of the corresponding court on five days' written notice given by the prevailing party to the adverse party. With this notice shall be served a statement of the items of cost claimed by the prevailing party, verified by his oath or that of his attorney. Objections to the taxation shall be made in writing, specifying the items objected to. Either party may appeal to the court from the clerk's taxation. The cost shall be inserted in the judgment if taxed before its entry, and payment thereof shall be enforced by execution.* (Italics supplied)

Respondent ought to have known the correct procedure to be followed in order to ensure proper administration of justice, especially in its concluding stage. He failed to observe that degree of dedication to the duties and responsibilities required of him as a sheriff. He is bound to discharge his duties with prudence, caution and attention which careful men usually exercise in the management of their affairs. The sheriff, an officer of the court upon whom the execution of a final judgment depends must be circumspect and proper in his behavior. Execution is the fruit and the end of the suit and is the life of the law.[12]

Time and again, we have repeatedly stressed that the conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff to the lowest clerk, should be circumscribed with propriety and decorum but, above all else, must be beyond suspicion. A public office is a public trust and all public officers and employees must at all times be accountable to the people. The Supreme Court

---

[12] *Tan vs. Herras,* A.M. No. P-90-404, March 11, 1991, 195 SCRA 1.

Supreme Court E-Library

cannot countenance any act or omission which diminishes or tends to diminish the faith of the people in the judiciary.[13]

WHEREFORE, the Court hereby imposes on Deputy Sheriff John C. Ramos a FINE of ₱2,000.00, with a *STERN WARNING* that the same or similar acts in the future will be dealt with more severely. Let a copy of this resolution be attached to the personal records of respondent.

SO ORDERED.

Narvasa, C.J. (Chairman), Puno, and *Mendoza, JJ.*, concur.

SECOND DIVISION

[G.R. No. 74965. November 9, 1994]

COMMISSIONER OF INTERNAL REVENUE, *petitioner, vs.* **NATIONAL LABOR RELATIONS COMMISSION, DEPUTY CITY SHERIFF CARMELO V. CACHERO, MARITIME COMPANY OF THE PHILIPPINES, DOMINGO C. NIANGAR, DANIEL C. SABINO, FERNANDO S. TULIAO and TULMAR TRADING CORPORATION,** *respondents.*

SYLLABUS

TAXATION; REMEDIES; CONSTRUCTIVE DISTRAINT OF PERSONAL PROPERTY; VALID IN THE CASE AT BAR.— With respect to the four barges in question, petitioner resorted to constructive distraint pursuant to S 303 (now S 206) of the NIRC. This provisions states: *Constructive distraint of the*

[13] *Sy vs. Academia, et al.*, A.M. No. P-87-72 and *Pardo vs. Academia,* etc., A.M. No. P-90-481, July 3, 1991, 198 SCRA 705. See also *Llanes vs. Borja, etc.*, A.M. No. P-86-32, December 10, 1990, 192 SCRA 288; *De la Cruz, et al. vs. Ricaforte*, A.M. No. P-90-486, July 4, 1991, 198 SCRA 763.