Supreme Court E-Library

WHEREFORE, for gross ignorance of the law, respondent Judge is FINED in the amount of FIVE THOUSAND (₱5,000.00) PESOS. He is further warned that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J. (Chairman), Pardo, and *Ynares-Santiago, JJ.,* concur.

Puno, J., on official leave.

SECOND DIVISION

[A.M. No. P-01-1447. December 13, 2001]

MARIANO Z. DY, *complainant, vs.* **SOTERO S. PACLIBAR, Sheriff IV, REGIONAL TRIAL COURT, BRANCH 7, LEGASPI CITY,** *respondent.*

SYNOPSIS

Respondent sheriff implemented the writ of execution in favor of complainant in Civil Case No. 8867, filed by complainant against Lilia S. Agu. He issued a Certificate of Redemption after Agu offered to redeem the subject five (5) parcels of land, but the redemption did not materialize. He failed to cancel the Certificate of Redemption which allowed Agu to sell 3 out of 5 parcels of land to third persons to the prejudice of complainant. Hence, this administrative complaint against respondent. Respondent for his defense claimed that he informed complainant of the offer of redemption, but it took his months to reply. He, however, admitted that he failed to cancel the certificate of redemption. Meanwhile, complainant passed away and was substituted by his heirs who, during the hearing, manifested that they do not intend to present additional evidence

Supreme Court E-Library

other than the attachment in the complaint and those admitted by respondent in his answer.

It was held that failure to cancel a certificate of redemption constitutes negligence. However, without the presentation of additional evidence to show bad faith, respondent is found guilty of simple negligence.

SYLLABUS

CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; SHERIFF; FAILURE TO CANCEL CERTIFICATE OF REDEMPTION AFTER OFFER TO REDEEM WHICH DID NOT MATERIALIZE CONSTITUTES NEGLIGENCE. — After a careful perusal of the records of the case, it appeared that respondent was negligent. In fact, he admitted that he failed to cancel the Certificate of Redemption after the offer of redemption by the judgment debtor did not materialize. Even his subsequent issuance of a Definite Deed of Sale in favor of the complainant did not erase the fact that he failed to cancel the Certificate of Redemption. During the period between the issuance of the Certificate of Redemption and the Definite Deed of Sale, Lilia S. Agu was able to sell three (3) out of the subject five (5) parcels of land to third persons. Respondent sheriff could have avoided this problematic situation had he been zealous in the performance of his duties. Since no additional evidence was presented by the complainant to show bad faith on the part of respondent sheriff, the Executive Judge of RTC, Legaspi City, Judge Antonio C. Alfane, recommends imposing a fine on the respondent. Moreover, the complainant is already deceased and his heirs have manifested that they are no longer interested in presenting additional evidence, thus indirectly showing their lack of interest to pursue this administrative case. *WHEREFORE*, respondent Sheriff Sotero S. Paclibar is hereby found guilty of simple negligence and a FINE is hereby imposed on the respondent in the amount of Two Thousand Pesos (₱2,000.00) with a WARNING that a repetition of the same in the future shall be dealt with accordingly.

APPEARANCES OF COUNSEL

J. Roberto J. Bernabe for complainant.

Supreme Court E-Library

RESOLUTION

DE LEON, JR., *J.*:

This complaint was filed by Mariano Z. Dy with the Office of the Court Administrator (OCA) against respondent Sotero S. Paclibar, Sheriff IV, Regional Trial Court (RTC), Branch VII of Legaspi City. In a memorandum dated October 19, 2000, the OCA recommended that this case be re-docketed as an administrative matter and to refer this case for further investigation. Hence, this Court referred the case to the Executive Judge of RTC, Legaspi City for investigation, report and recommendation.

Briefly, the facts of the case are as follows: Complainant Mariano Dy was the plaintiff in Civil Case No. 8867 entitled "*Mariano Z. Dy vs. Lilia S. Agu*" before the Regional Trial Court (RTC) of Legaspi City. A decision was rendered by the RTC in favor of the plaintiff and a writ of execution was subsequently issued. Respondent Paclibar, being the Branch Sheriff, implemented the writ and levied five (5) parcels of real properties of defendant Lilia S. Agu, and thereafter, sold them at public auction on December 15, 1995. Complainant was the highest bidder in said auction sale and a Certificate of Sale was issued to him. After the period of redemption expired, respondent issued in favor of complainant a "Definite Deed of Sale" (*sic*) dated August 5, 1998. However, when complainant went to the Office of the Register of Deeds in order to register that document, he discovered that a Certificate of Redemption dated January 16, 1997 has been executed by respondent in favor of Lilia S. Agu and recorded with the said Office. Complainant alleges that the execution of the Certificate of Redemption in favor of Lilia S. Agu, as well as the Receipt of Full Payment of the Redemption Price executed by respondent in favor of Lilia S. Agu, were falsified since it was made to appear that Lilia S. Agu redeemed the properties, subject of the auction sale, within the redemption period when in fact no redemption was made. Complainant also alleges that due to these acts of the respondent, Lilia S. Agu was able to sell

Supreme Court E-Library

three (3) out of the five (5) parcels of land to third persons to the prejudice of the complainant.

In his Answer, respondent Paclibar denied the allegations in the complaint. He claims that on January 16, 1997, the judgment debtor, Lilia S. Agu, offered to redeem the property and gave him the amount of One Hundred Three Thousand Six Hundred Pesos (P103,600.00) representing the payment of the bid price, plus twelve percent (12%) interest per annum and the expenses of execution. Consequently, respondent issued a Certificate of Redemption and had the same recorded with the Registry of Deeds. The next day, he informed complainant about the redemption. However, it was only on March 1997 that the latter responded to him. When respondent delivered to complainant the amount of One Hundred Three Thousand Six Hundred Pesos (₱103,600.00) the latter refused to accept it but instead demanded Two Hundred Thousand Pesos (₱200,000.00) as redemption price. On May 15, 1997, considering that complainant still refused to accept the offer, respondent returned the money to the judgment debtor. However, respondent admits that he inadvertently failed to cancel the Certificate of Redemption he had earlier issued to the judgment debtor, Lilia S. Agu.

This Court, in its Resolution dated February 19, 2001, stated the following:

> "It must be noted that complainant prays for the maximum penalty of dismissal to be meted out to respondent sheriff for falsification of documents. On the other hand, respondent sheriff claims that his only fault was of a 'simple omission of duty.' The records at hand, however, are insufficient to support the divergent allegations of either the complainant or respondent."

Hence, this case was referred to the Executive Judge of RTC, Legaspi City for further investigation, report and recommendation.

On April 3, 2001, the counsel for complainant filed a notice dated March 30, 2001 informing the Court of the death of the complainant, and naming the following heirs as representatives

Supreme Court E-Library

and substitutes of the deceased complainant:

1. Rosita Dy (surviving spouse)
2. Mariano Dy, Jr.
3. Jose Dy
4. Vivian Dy
5. Judy Dy

During the hearing of this case on May 7, 2001, the surviving heirs of the complainant, through counsel, manifested that they do not intend to present any additional evidence other than the attachment in the complaint and those admitted by Paclibar in his answer. Respondent Paclibar, through his counsel, also submitted this case for resolution on the basis of his Answer dated April 26, 1999 which he submitted to the OCA. No additional evidence was offered by both parties.

After a careful perusal of the records of the case, it appeared that respondent was negligent. In fact, he admitted that he failed to cancel the Certificate of Redemption after the offer of redemption by the judgment debtor did not materialize. Even his subsequent issuance of a Definite Deed of Sale in favor of the complainant did not erase the fact that he failed to cancel the Certificate of Redemption. During the period between the issuance of the Certificate of Redemption and the Definite Deed of Sale, Lilia S. Agu was able to sell three (3) out of the subject five (5) parcels of land to third persons. Respondent sheriff could have avoided this problematic situation had he been zealous in the performance of his duties.

Since no additional evidence was presented by the complainant to show bad faith on the part of respondent sheriff, the Executive Judge of RTC, Legaspi City, Judge Antonio C. Alfane, recommends imposing a fine on the respondent. Moreover, the complainant is already deceased and his heirs have manifested that they are no longer interested in presenting additional evidence, thus indirectly showing their lack of interest to pursue this administrative case.

Supreme Court E-Library

WHEREFORE, respondent Sheriff Sotero S. Paclibar is hereby found guilty of simple negligence and a *FINE* is hereby imposed on the respondent in the amount of Two Thousand Pesos (₱2,000.00) with a *WARNING* that a repetition of the same in the future shall be dealt with accordingly.

SO ORDERED.

Bellosillo (Chairman), Mendoza, and *Quisumbing, JJ.,* concur.

Buena, J., on official leave.

SECOND DIVISION

[A.M. No. P-01-1530. December 13, 2001]

ERIC P. BENAVIDEZ, *complainant, vs.* **ESTRELLA A. VEGA, Court Stenographer II, Metropolitan Trial Court, Branch 37, Quezon City,** *respondent.*

SYNOPSIS

Complainant hired respondent, Court Stenographer to secure the necessary license and permits and to remit payments to the SSS, Medicare and BIR with a monthly salary of ₱500. Respondent, however, failed to remit complainant's SSS and Medicare premium contributions as well as the necessary fees for the issuance of the City Mayor's permit. Thus, the present administrative complaint.

Officials and employees of the judiciary are prohibited from engaging directly in any private business, vocation or profession even outside office hours to ensure that there be no undue delay in the administration of justice and in the disposition of cases.