Supreme Court E-Library

THIRD DIVISION

[A.M. No. P-00-1407. February 15, 2002]

SPS. FELIPE and ROSELYN BIGLETE, *complainants, vs.* **DEPUTY SHERIFF BONIFACIO V. MAPUTI, JR., Regional Trial Court, Branch 37, Dumaguete City,** *respondent.*

SYNOPSIS

Complainant spouses Biglete alleged that respondent sheriff Bonifacio V. Maputi Jr., garnished their deposit of ₱5,107.85 with the Chinabank. However, instead of turning over the amount to the Clerk of Court as mandated by the Rules, respondent misappropriated the same for his own benefit. Worse, he failed to make a return of the writ within the required 30-day period as shown by a Certification issued by Atty. Ma. Antonia D. Lacsican, Clerk of Court of the same court. Respondent sent a notice to the complainants that their parcel of land, registered in their names under TCT No. 6687 of the Registry of Deeds of Dumaguete City, is being levied upon. Complainants pleaded to respondent not to proceed with the levy as the property involved is their family home exempt from execution. However, respondent was obstinate. He then conducted a public auction sale which was stopped only when the Court of Appeals issued a temporary restraining order in CA G.R. SP No. 47921, entitled "*Felipe Biglete, et al. v. Hon. Temistocles B. Diez, et al.*" for *certiorari*. Hence, the present administrative case for serious misconduct in office, gross neglect of duty and oppression.

The Supreme Court found appellant guilty of dereliction of duty or refusal to perform official duty and was suspended for six (6) months without pay. According to the Court, respondent sheriff's actuations showed a brazen disregard of the duty imposed upon him by law. It is bad enough that he failed to make a periodic report to the court on the proceedings taken on the execution of the judgment. Worse, he did not make a return of the writ as shown by the Certification issued by Clerk of Court Ma. Antonia D. Lacsican. Moreover, respondent failed to turn over to the Clerk of Court the amount garnished pursuant to Sec. 9, Rule 39 of the 1997 Rules of Civil Procedure, as

Supreme Court E-Library

amended. The Court stressed that sheriffs must at all times show a high degree of professionalism in the performance of their duties because they are primarily responsible for the execution of a final judgment which is the fruit and end of the suit and is the life of the law.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERRIFS; MANDATED NOT ONLY TO MAKE A RETURN OF THE WRIT TO THE COURT IMMEDIATELY UPON SATISFACTION OF THE JUDGMENT BUT ALSO TO REPORT WITHIN 30 DAYS AFTER HIS RECEIPT OF THE WRIT, THE REASON WHY THE JUDGMENT CANNOT BE SATISFIED IN FULL AND SHALL CONTINUE MAKING A REPORT EVERY 30 DAYS ON THE EXECUTION PROCEEDINGS UNTIL THE JUDGMENT IS FULLY SATISFIED.**— Section 14, Rule 39 of the 1997 Rules of Civil Procedure, as amended, provides: xxx *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 therefor.* Such writ shall continue in effect during the period within which the judgment may be enforced by motion. *The officer shall 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 returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties." Thus, the sheriff is mandated, not only to make a return of the writ to the court immediately upon satisfaction of the judgment, but also to report, within thirty (30) days after his receipt of the writ, the reason why the judgment cannot be satisfied in full. The sheriff shall continue making a report every thirty (30) days on the execution proceedings until the judgment is fully satisfied. 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 decisions.

2. **ID.; ID.; ID.; ID.; ID.; DERELICTION OF DUTY; RESPONDENT SHERIFF'S ACTUATIONS SHOW A BRAZEN DISREGARD OF THE DUTY IMPOSED UPON HIM BY LAW.**— Respondent sheriff admitted that he failed

Supreme Court E-Library

to make a return of the writ and to submit a periodic report to the court every thirty (30) days. The nature of a sheriff's duty in the execution of a writ issued by a court is purely ministerial. As such, a sheriff has the duty to perform faithfully and accurately what is incumbent upon him. Conversely, he exercises no discretion as to the manner of executing a final judgment. Any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced. Definitely, respondent sheriff's actuations show a brazen disregard of the duty imposed upon him by law. It is bad enough that he failed to make a periodic report to the court on the proceedings taken on the execution of the judgment. Worse, he did not make a return of the writ as shown by the Certification issued by Clerk of Court Ma. Antonia D. Lacsican. That he wanted to hasten the execution process deserves scant consideration. Moreover, respondent failed to turn over to the Clerk of Court the amount garnished pursuant to Sec. 9, Rule 39 of the 1997 Rules of Civil Procedure, as amended. Respondent sheriff admitted in his answer to the instant complaint that he received the check representing the proceeds of complainants' garnished account with China Bank. However, instead of turning it over to the Clerk of Court, he kept it upon instructions of Atty. Erames (counsel for private complainant in Criminal Case No. 12583). Forthwith, he encashed the check and turned over the money to Atty. Erames to be spent by his client in connection with the appeal of complainants from the decision in the said criminal case. This is confirmed by Atty. Erames' Certification dated March 12, 1999. The significance of the role played by sheriffs and deputy sheriffs in the administration of justice cannot be over-emphasized. They are primarily responsible for the execution of a final judgment which is the fruit and end of the suit and is the life of the law. Hence, sheriffs must at all times show a high decree of professionalism in the performance of their duties. In *Lirio v. Ramos,* this Court found that respondent sheriff therein disregarded the rules on attachment which is tantamount to neglect or dereliction of duty or outright refusal to perform official duty. In the same vein, here we find respondent sheriff guilty of dereliction of duty or refusal to perform official duty.

Supreme Court E-Library

DECISION

SANDOVAL-GUTIERREZ, *J.*:

The present administrative case stemmed from a sworn letter-complaint filed by spouses Felipe and Roselyn Biglete against Deputy Sheriff Bonifacio V. Maputi, Jr., charging him with serious misconduct in office, gross neglect of duty and oppression.

In their complaint,[1] spouses Biglete alleged that on March 31, 1998, the Regional Trial Court, Branch 37, Dumaguete City issued a "Subsidiary Writ of Execution"[2] in Criminal Case No. 12583, "*People of the Philippines v. Joseph Cabrera y Biazon*," for reckless imprudence resulting in homicide.

On April 13, 1998, respondent sheriff garnished complainants' deposit of ₱5,107.85 with the Chinabank. However, instead of turning over the amount to the Clerk of Court as mandated by the Rules, respondent misappropriated the same for his own benefit. Worse, he failed to make a return of the writ within the required 30-day period as shown by the Certification[3] dated June 16, 1998 issued by Atty. Ma. Antonia D. Lacsican, Clerk of Court of the same court.

Since the money judgment was not satisfied in full, respondent, on May 27, 1998, sent a notice to the complainants that their parcel of land, registered in their names under TCT No. 6687 of the Registry of Deeds of Dumaguete City, is being levied upon. Complainants pleaded to respondent not to proceed with the levy as the property involved is their family home exempt from execution. However, respondent was obstinate. He then conducted a public auction sale which was stopped only when the Court of Appeals issued a temporary restraining order in CA G.R. SP No. 47921, "*Felipe Biglete, et al. v. Hon. Temistocles B. Diez, et al.*" for *certiorari*.

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[1] *Rollo*, p. 1.

[2] Annex "A", letter-complaint, *Rollo*, p. 4.

[3] *Rollo*, p. 6.

Supreme Court E-Library

In his answer,[4] respondent sheriff contends that while it is true that he did not turn over the money to the Clerk of Court, however, he did not misappropriate the same. Instead, he gave it to Atty. Saleto Erames, counsel for the private complainant in Criminal Case No. 12583, who received the same. As to his failure to make a return of the writ, respondent explains that he is not required to do so as he would still levy upon complainants' personal and real properties to satisfy in full the money judgment. He believes that a continuous proceeding will expedite the execution process. On the charge that he committed serious misconduct when he levied upon complainants' family home, he asserts that it is not exempt from execution since its assessed value is over ₱300,000.00. He maintains that he has observed all the legal requirements in carrying out the levy.

The Court Administrator (Justice Alfredo Benipayo), to whom this case was referred for evaluation, report and recommendation, made the following findings:

"**EVALUATION**: Respondent is liable for the consequences of his acts. Apparent are violations of the procedure on execution provided for in the Rules of Court. First, respondent failed to turn over the money garnished for deposit with the Clerk of Court who issued the writ. Second, he did not make a return of service of the writ to the Court. These are basic procedures which herein respondent failed to follow in the execution of the judgment. He cannot feign ignorance of the basic procedures to be followed in the matter, the very essence of his duties as sheriff. As such respondent is bound to discharge his duties with prudence, caution and attention."[5]

The Court Administrator recommended that respondent sheriff be dismissed from the service "for his failure to turn over the money he had garnished for deposit with the Clerk of Court who issued the writ and to render a return of service thereof to the Court."[6]

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[4] *Rollo*, p. 20.

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

[6] *Ibid.*, p. 35.

Supreme Court E-Library

In a Resolution dated July 24, 2000, this Court required the parties to manifest, within twenty (20) days from notice, whether they are submitting the case for decision on the basis of the pleadings/records already filed and submitted. Only complainants submitted such manifestation. Eventually, this Court resolved to consider this case deemed submitted for decision.

We agree with the findings of the Court Administrator.

Section 14, Rule 39 of the 1997 Rules of Civil Procedure, as amended, provides:

"Sec. 14. *Return of the writ of execution.*— The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. *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 therefor.* Such writ shall continue in effect during the period within which the judgment may be enforced by motion. *The officer shall 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 returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties." (Italics ours)

Thus, the sheriff is mandated, not only to make a return of the writ to the court immediately upon satisfaction of the judgment, but also to report, within thirty (30) days after his receipt of the writ, the reason why the judgment cannot be satisfied in full. The sheriff shall continue making a report every thirty (30) days on the execution proceedings until the judgment is fully satisfied. The *raison d' etre* behind this requirement is to update the court on the status of the execution[7] and to take necessary steps to ensure the speedy execution of decisions.[8]

Here, respondent sheriff admitted that he failed to make a return of the writ and to submit a periodic report to the court every thirty (30) days, explaining thus:

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[7] *Benitez v. Acosta*, A.M. P-01-1473, March 27, 2001.

[8] *Ibid.*

Supreme Court E-Library

"On the complaint that the subject writ was not returned after the lapse of 30 days, the undersigned does not have to return it because he has verified the existence of personal and real property that can satisfy the execution of the said writ. The proceedings that have to be taken to satisfy the execution cannot be made in *installment.* The undersigned humbly believes that once you have started to effect the satisfaction of the writ, *continuous proceedings* must be undertaken rather than by piece-meal which will utterly delay the service of execution."[9] (Italics supplied)

The nature of a sheriff's duty in the execution of a writ issued by a court is purely ministerial.[10] As such, a sheriff has the duty to perform faithfully and accurately what is incumbent upon him.[11] Conversely, he exercises no discretion as to the manner of executing a final judgment. Any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.

Definitely, respondent sheriff's actuations show a brazen disregard of the duty imposed upon him by law. It is bad enough that he failed to make a periodic report to the court on the proceedings taken on the execution of the judgment. Worse, he did not make a return of the writ as shown by the Certification[12] issued by Clerk of Court Ma. Antonia D. Lacsican. That he wanted to hasten the execution process deserves scant consideration.

Moreover, respondent failed to turn over to the Clerk of Court the amount garnished pursuant to Sec. 9, Rule 39 of the 1997 Rules of Civil Procedure, as amended, which provides:

"Sec. 9. *Execution of judgments for money, how enforced.* — a) x x x

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall

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[9] *Rollo*, p. 20.

[10] *Ibid.*; *Portes v. Tepace*, A.M. P-97-1237, January 30, 1997.

[11] *Remollo v. Garcia*, A.M. P-98-1276, September 25, 1998.

[12] Complaint, Annex "C", *Rollo*, p. 6.

Supreme Court E-Library

turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. *In no case shall the executing sheriff demand that any payment by check be payable to him."* (Italics ours)

Respondent sheriff admitted in his answer to the instant complaint that he received the check representing the proceeds of complainants' garnished account with China Bank. However, instead of turning it over to the Clerk of Court, he kept it upon instructions of Atty. Erames (counsel for private complainant in Criminal Case No. 12583). Forthwith, he encashed the check and turned over the money to Atty. Erames to be spent by his client in connection with the appeal of complainants from the decision in the said criminal case. This is confirmed by Atty. Erames' Certification[13] dated March 12, 1999.

The significance of the role played by sheriffs and deputy sheriffs in the administration of justice cannot be over-emphasized.[14] They are primarily responsible for the execution of a final judgment which is the fruit and end of the suit and is the life of the law.[15] Hence, sheriffs must at all times show a high degree of professionalism in the performance of their duties.[16]

In *Lirio v. Ramos*,[17] this Court found that respondent sheriff therein disregarded the rules on attachment which is tantamount

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[13] *Rollo*, p. 22.

[14] *Portes, supra.*

[15] *Ibid.*

[16] *Ibid.*

[17] A.M. P-96-1227, October 11, 1996.

Supreme Court E-Library

to neglect or dereliction of duty or outright refusal to perform official duty. In the same vein, here we find respondent sheriff guilty of dereliction of duty or refusal to perform official duty.

We find the penalty of dismissal recommended by the Court Administrator to be too harsh. Under Sec. 52 (a), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, this offense is punishable with suspension from six (6) months and one (1) day to one (1) year.

WHEREFORE, for his dereliction of duty or refusal to perform official duty, respondent Bonifacio V. Maputi, Jr. is hereby *SUSPENDED* from office for *SIX (6) MONTHS WITHOUT PAY* effective upon receipt of this Decision.

SO ORDERED.

Melo (Chairman), Vitug, Panganiban, and *Carpio, JJ.,* concur.

FIRST DIVISION

[A.M. No. P-00-1441. February 15, 2002]

RODOLFO S. CRUZ, *complainant, vs.* **VIRGILIO F. VILLAR, Sheriff IV, OCC-RTC, Pasay City, REYNALDO Q. MULAT, Sheriff IV, RTC, Branch 117, Pasay City and SEVERINO E. BALUBAR, JR., Sheriff IV, RTC, Branch 118, Pasay City,** *respondents.*

SYNOPSIS

Complainant Rodolfo S. Cruz charged respondents Sheriff Virgilio F. Villar, Sheriff Reynaldo Q. Mulat and Sheriff Severino F. Balubar, Jr. with Grave Abuse of Authority and Grave Misconduct for having implemented a writ of replevin despite