

FELIPE TANTINGCO, COMPLAINANT, VS. HENRIETTO Z. AGUILAR, RESPONDENT.

A.M. No. P-128. February 28, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a letter under oath dated March 27, 1971 to the Secretary of Justice, Felipe Tantingco, an employee of the A. Tan Sawmill, at Pala-o, Iligan City, charged Henrietto Z. Aguilar, Provincial Deputy Sheriff of Lanao del Norte, with the following offenses and violations:

"1. Refusing to make an inventory of all the properties which as Sheriff, he attached, belonging to Agapito Tan;

2. Appointing persons as guards in the compound of the A. Tan Sawmill, without the consent of the Court and leaving the keys of the offices attached, to a private person who in connivance with him took properties from the sawmill for their own use and to the prejudice of the owners;

3. Allowing persons to steal properties from the sawmill in the amount of or with an estimated value of not less than P100,000.00;

4. Releasing properties from the compound of the A. Tan sawmill to third persons, even during the effectivity of the attachment, and without court authority;

5. Refusing to release the properties from the sawmill despite the court decision dissolving the writs of attachment;

6. Threatening the employees of the A. Tan Sawmill even after the court's decision discharging the attachment;

7. Claiming fictitious sheriff's fees;

8. Insulting the owner of the A. Tan Sawmill, and preventing the owner from enjoying the properties, despite

his knowledge of the Court's order discharging the attachment.

9. Other violations of law which I am going to prove during the investigation."[1]

The Undersecretary of Justice in a first indorsement dated July 19, 1971, referred the letter of Felipe Tantingco to Deputy Sheriff Henrietto Z. Aguilar and required him to answer the charges within five (5) days from receipt thereof.

The respondent filed his answer dated August 7, 1971, wherein he alleged:

"1. - That Respondent Henrietto Z. Aguilar denies all the facts alleged in paragraph 1 of complainant's complaint. The truth of the matter is that as Deputy Sheriff respondent is not the party called upon by law to prepare and submit an inventory of the properties of defendant Agapito Tan attached in Civil Case No. 78824 of the Court of First Instance of Manila, entitled: 'The Golangco Corporation versus Agapito Tan et al.'. The writ of attachment issued in Civil Case No. 78824 was directed to Special Sheriff Joel Estabillo of the City Sheriff of Manila who came to Iligan City to personally attach all the properties of Agapito Tan. The office of the Provincial Sheriff of Lanao del Norte, with office in the City of Iligan merely extended the necessary help and aid asked by said Special Sheriff Joel Estabillo.

2. - Respondent Deputy Sheriff Henrietto Z. Aguilar denies the facts alleged in paragraph 2 of complainant's complaint. The truth of the matter is that Special Sheriff Joel Estabillo, upon direction of Juan Golangco, president of the Golangco Corporation, who together with Special Sheriff Joel Estabillo was in the City of Iligan and had given authority to this Deputy Sheriff to guard and watch the attached properties and an additional authority to hire watchers to guard said attached properties and made commitments to pay the agreed daily wage of the hired watchers. The safekeeping of the attached properties is the exclusive responsibility of the attaching sheriff and the expenses for the safekeeping is provided for in paragraph (b), Section 7 of Rule 141 of the Rules of Court. Further, it must be stated, in this connection, that complainant is the hired man of Mr. Agapito Tan who with several companions had, on several occasions, been discovered as the author and authors of several stealings and disappearances of several attached properties all at the instance and instigation of Mr. Agapito Tan; that on several occasions this complainant and his companions broke open the doors of the compound and the doors of offices where the attached properties were kept and by the use of force, threats and intimidations succeeded in carrying the attached properties and as a result thereof said complainant is facing a criminal complaint for grave coercion before the City Fiscal of the City of Iligan.

3. - That respondent Deputy Sheriff denies the facts contained and alleged in paragraphs 3, 4, 5, 6, 7, 8 and 9 of the complainant's complaint. The truth being that the charges are patently false, unequivocally fabricated and without basis in fact. This administrative charge was filed in retaliation to the criminal charge that this respondent had filed against the complainant and presently pending with the office of the City Fiscal."[2]

On August 23, 1971, the Undersecretary of Justice referred the administrative matter to the Clerk of Court, and Ex-Officio Provincial Sheriff Dumarpa M. Mamangcao of Iligan City for investigation, report and recommendation in accordance with Section 32 of Republic Act No. 2260 and Sections 24-27 of Civil Service Rule XVIII.[3]

After an investigation at which the complainant and the respondent adduced oral and documentary evidence, the investigator, Clerk of Court and Ex-Officio Provincial Sheriff Dumarpa M. Mamangcao, submitted a report with

the following recommendation:

"In view of all the foregoing, it is therefore, respectfully recommended that the within charges filed by complainant against the respondent be dismissed. Respondent shall not be held responsible in the enforcement of the writ of attachment as he was merely acting as sub-agent to the attaching special sheriff, Joel Estabello of the City Sheriff of Manila and who acted within the scope of his authority granted unto him by his immediate chief, then Provincial Sheriff, Atty. Demetrio P. Sira, Sr., who in turn, received order from the attaching special sheriff, Joel Estabello who was appointed special Sheriff by the Court of First Instance of Manila, to serve and enforce the writ of attachment in Civil Case No. 78824, entitled: Golangco Corp. vs. Agapito Tan, et al.

Iligan City, Philippines, April 3, 1973.

DUMARPA M. MAMANGCAO
Clerk of Court &
Ex-Officio Provincial Sheriff"[4]

In a fifth indorsement dated May 9, 1973, the Undersecretary of Justice forwarded to this Court this administrative case against Henrietto Z. Aguilar.

The record discloses that in Civil Case No. 78824 of the Court of First Instance of Manila entitled "Golangco Corporation vs. Agapito Tan, et al.", a writ of attachment was issued; that Joel Estabello was appointed as special sheriff by the court to serve the writ of attachment; that special Sheriff Joel Estabello went to Iligan City and sought the help of the Office of the Provincial Sheriff of Lanao del Norte; that the Provincial Sheriff of Lanao del Norte, Atty. Demetrio P. Sira, Sr., directed the respondent, Henrietto Z. Aguilar, one of the deputy sheriffs, to take care of the properties under attachment in the logpond at Linamon, Lanao del Norte; that sometime in August 1970, Atty. Sira also assigned the respondent to take care of the properties attached under the same writ in the sawmill of Agapito Tan; that the respondent refused to make inventories of the attached properties at the first attachment and only submitted the inventory signed by Deputy Sheriff Elias Anacleto and the then Deputy Sheriff Ricardo L. Bliss when Agapito Tan wrote the Provincial Sheriff on January 14, 1971, who, in turn, issued a memorandum to the respondent to make the inventories; that some of the properties attached were missing and sixteen (16) trucks and one truck fully loaded with spare parts were brought by the respondent to the PC Headquarters at Tipanoy, Iligan City; that one (1) electric switch motor was taken by Quirino Zalsos, a guard watching the attached properties hired by the respondent; that the guard Quirino Zalsos sold said electric switch motor to Te Ban Uy for P1,500.00 because he allegedly was not paid his salary; that three (3) units of GMC trucks in running condition and one (1) unit without tire and spare part were delivered by the respondent to Oming Lluch; that the truck owned by Asiong Cabus was not accepted by said owner because there were spare parts missing; that PC Sergeant Balenti got lumber from the sawmill and made them into six (6) tables, one (1) dozen chairs and five (5) pieces of chess board at the house of Maximo Jaralba; that said PC Sergeant Balenti also brought one (1) truck fully loaded with lumber outside; that the PU car of one Vicente Catubay was hired by respondent to go to Palao, Iligan City, and got something, said to be an iron, from the sawmill contained in a sack which was brought to the house of the respondent at Iligan City; that the respondent also went to the PC Headquarters and got a spare part called "eje" and brought the same to his house; that a decision was rendered by the Court of First Instance of Manila on February 14, 1971 in Civil Case No. 78824 entitled "Golangco

Corporation vs. Agapito Tan et al.", directing, among others, the release of the attached properties; that the respondent refused to release the attached properties to the owner thereof and instead filed a motion with the court for the payment of his sheriff's fees and expenses; that said motion was denied by the court in an order dated February 14, 1972; and that in view of the order of denial, the respondent released the attached properties but there were properties missing which were not released by the respondent to the owner.[5]

The investigation report shows the dishonesty, negligence and incompetence of the respondent in the performance of his duties as deputy sheriff. Having taken possession of the property under the writ of attachment, it was the respondent's duty to protect the property from damage or loss. The respondent was bound to exercise ordinary and reasonable care for the preservation of the properties. Through his negligence, he made possible the pilferage of some of the properties under attachment.

The petitioner has allowed unauthorized persons to take away certain properties under attachment.

There is also a showing that the respondent appropriated for his own use some of the properties under attachment in his custody as deputy sheriff. It is thus seen that the respondent is not only guilty of negligence but of dishonesty. He is not fit to hold any public office.

Under the established facts, the respondent deputy sheriff should be imposed the penalty of dismissal.

WHEREFORE, the respondent, Deputy Sheriff Henrietto Z. Aguilar, is hereby found guilty of dishonesty and negligence and inefficiency in the performance of his duties and is dismissed from the service with forfeiture of all retirement privileges and with prejudice to reinstatement in the national and local government and government instrumentalities or agencies including government owned or controlled corporations. Let copy of this decision be entered in his personal record.

SO ORDERED.

Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Antonio, Muñoz Palma, Aquino, Concepcion, Jr., Santos, and Guerrero, JJ., concur.

[1] Rollo, p. 1.

[2] Rollo, pp. 5-6.

[3] Rollo, p. 7.

[4] Rollo, p. 474.

[5] Rollo, pp. 465-466.

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