

RAFAEL D. LACUATA, COMPLAINANT, VS. ANTONIO J. M. BAUTISTA, DEPUTY SHERIFF, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT OF MAKATI, METRO MANILA, RESPONDENT.

A.M. No. P-94-1005. August 12, 1994

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PER CURIAM:

In an affidavit-complaint dated October 13, 1993 filed with the Office of the Court Administrator, complainant Rafael D. Lacuata charged respondent Antonio J. M. Bautista, Deputy Sheriff in the Office of the Clerk of Court, Regional Trial Court of Makati, with grave misconduct and gross negligence arising from the latter's failure to implement an alias writ of execution issued by the Regional Trial Court of Pangasinan.[1]

It appears from the record that on March 20, 1989, Branch 49 of the Regional Trial Court of Urdaneta, Pangasinan rendered judgment in favor of the defendants in Civil Case No. U-4584, entitled "Rafael B. Lacuata vs. Honor Marketing Corporation and Pedro Repolda." However, in its decision of July 31, 1991, the Court of Appeals reversed and set aside on appeal the aforesaid judgment of the trial court. When further elevated to this Court, said reversal by the appellate court was affirmed in a resolution dated May 13, 1992. Accordingly, after judgment was entered, the case was remanded to the court a quo for execution.[2]

On May 10, 1993, the trial court issued an order directing its Clerk of Court to issue an alias writ of execution, the original writ having been returned without the judgment account being satisfied. In accordance with said order of the court below, that alias writ was to be implemented by the Clerk of Court of the Regional Trial Court of Makati. Subsequently, the task of enforcing said alias writ was assigned to herein respondent.[3]

Complainant Rafael D. Lacuata asserts that respondent failed to execute the alias writ in spite of sufficient opportunity to do so on several occasions and that, as a consequence thereof, he was deprived of the monetary judgment adjudged in his favor in the aforementioned civil case. Moreover, complainant alleged that respondent demanded from him the amount of P2,000.00 purportedly for the purpose of defraying the expenses to be incurred in the enforcement of the writ, but that he was able to give respondent the amount of P1,000.00 only.[4]

Respondent deputy sheriff insists that he had in fact exerted diligent efforts to implement the alias writ. However, he could not locate the office of Honor Marketing Corporation or the whereabouts of its manager, one Pedro Repolda. While he admits having received P1,050.00 from complainant, he justified the same as collectible legal fees permitted under Rule 141 of the Rules of Court.[5]

Pursuant to the recommendation of Deputy Court Administrator Juanito A. Bernad, the Court resolved on March 2, 1994 to have the administrative complaint against respondent referred to Executive Judge Salvador S. Abad Santos of the Regional Trial Court of Makati for investigation, report, and recommendation.[6] At the investigation, complainant affirmed before Judge Abad Santos his allegations in the affidavit-complaint. Respondent, on the other hand, manifested that he was adopting the Comment which he submitted to the Office of the Court Administrator as his Answer to the complaint.[7]

On April 20, 1994, Judge Abad Santos submitted his report of the investigation he conducted, recommending the dismissal of respondent on the grounds of grave misconduct and gross negligence prejudicial to the best interest of the service. The Court agrees.

Indeed, as found by the investigating judge, the office of Honor Marketing Corporation is only four blocks away from the regional trial courts in Makati where respondent holds office. Thus, respondent's explanation that he had exerted all the efforts that he could muster to enforce the alias writ is simply unbelievable. What is worthy of note is that respondent himself admitted having theretofore gone five times to the office of the said corporation in Trabajo Street in Makati, as pinpointed by complainant, but that another company, La Campana de Tabacos, was allegedly holding office there.[8] However, according to the affidavit of Rafael Lacuata, respondent had in fact been accompanied by said complainant himself to the office of Honor Marketing Corporation on July 6, 1993. This renders extremely doubtful respondent's claim that another company was occupying the premises and that he could not find the office of defendant corporation when he went there.[9]

Respondent also committed a serious infraction of Section 9, Rule 141 of the Rules of Court by demanding directly from complainant, without the requisite authority of the court, monetary consideration supposedly to expedite the enforcement of the writ. Surely, respondent ought to have known the proper procedure to be followed in requesting for expenses from a judgment creditor. On top of that, considering the short distance between the offices of the trial courts in Makati and that of Honor Marketing Corporation, respondent exhibited an atrophied conscience by demanding from complainant the clearly unreasonable and exorbitant amount of P1,000.00 which he allegedly spent for the hiring of a jeep in the five trips he reportedly made to enforce the alias writ, and another P50.00 for food.[10]

By the very nature of the office which a sheriff holds, as an officer of the court he should exert every effort and, indeed, consider it his bounden duty to see to it that the final stage in the litigation process, that of execution of judgment, is carried out in order to ensure a speedy and efficient administration of justice.[11] In respondent's case, not only has he been grossly remiss in his duty to enforce a writ of execution but he has likewise shown a grave disregard of the pertinent provisions of the Rules of Court with respect to the collection of legal fees or expenses to which a sheriff is entitled.

We quote with approval the following observations of the investigating judge regarding the improper conduct of respondent:

"Respondent's explanation is untenable. In the first place, the alleged office of Honor Marketing Corporation is located barely four blocks away from the Regional Trial Court of Makati, where the respondent reports for work. The proximity of the location of the office of the defendant company hardly justifies the hiring of an owner jeep for P200.00 per day for purposes of implementing the writ, and is absurd, to say the least. Furthermore, respondent, in demanding and directly receiving the amount of P1,000.00 from the complainant, had violated Sec. (9) of Rule 141 of the Rules of Court. Under said provision, a sheriff must first submit the estimated cost of expenses for kilometrage and per diems to be incurred by him to the presiding judge. Upon the latter's approval, the amount shall be deposited by the party requiring the process with the Office of the Clerk of Court, which shall then, upon orders of the presiding judge, disburse the approved amount to the sheriff for use in the implementation of the writ. Any excess must be refunded by the Sheriff to the Office of the Clerk of Court, and any amount advanced by him, should the disbursed amount be inadequate, must be reimbursed to him after he submits a proper and itemized accounting of the expenses incurred in the course of implementing the writ. Under no circumstances can the sheriff demand and receive any amount of valuable consideration directly from the party requiring the service. An officer of the court is charged with the knowledge of the court processes pertaining to his duties and obligations. He cannot plead good faith as a defense against charges of grave abuse arising from his violation of the pertinent Rules of Court." [12]

It need only be observed that public service requires the utmost integrity and the strictest discipline in the conduct of government employees. As we have repeatedly stated, in the case of public servants who are in the judiciary, their conduct and behavior, from the presiding judge to the lowliest clerk, must not only be characterized by propriety and decorum but, above all else, must be above suspicion.[13] In *Tan vs. Herras*,[14] we held that 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. The attention of this Court has been called to the despicable practice of some officers charged with the execution of judgments of unjustly enriching themselves at the expense of the winning litigants who are eager to have the judgment satisfied and the losing parties who seek to delay execution by all means. This is not only unjust enrichment but a grave disservice to the administration of justice.

ACCORDINGLY, respondent Deputy Sheriff Antonio J. M. Bautista is hereby DISMISSED for grave misconduct and gross negligence prejudicial to the best interest of the service, with forfeiture of all retirement benefits and with prejudice to reemployment in any branch of the Government, including government-owned or controlled corporations.

Respondent is further ordered to REIMBURSE to complainant Rafael D. Lacuata the amount of P1,050.00 upon receipt of this resolution.

SO ORDERED.

Narvasa, C.J., (Chairman), Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.
Bellosillo, J., on leave.

[1] Rollo, 15-17.

[2] *Ibid.*, 4-5; Annex "A".

[3] *Ibid.*, *id.*; Counsel of Respondent, 1.

[4] Affidavit-Complaint of Complainant, 1-3; Rollo, 15-17.

[5] Comment of Respondent, 1-2; Rollo, 2-3.

[6] Rollo, 32.

[7] Report of Executive Judge Salvador S. Abad Santos, 1.

[8] Rollo, 6-7; Annex "B".

[9] *Ibid.*, 16.

[10] *Ibid.*, 2, 10-13; Annexes "D" to "H".

[11] *Chua vs. Nuestro*, A.M. No. P-88-256, October 11, 1990, 190 SCRA 424.

[12] Report of Executive Judge Salvador s. Abad Santos, 1-2.

[13] *Mirano vs. Saavedra*, A.M. No. P-89-383, August 4, 1993, 225 SCRA 77.

[14] A.M. No. P-90-404, March 11, 1991, 193 SCRA 1.

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