

ESPERANZA MALANYAON, COMPLAINANT, VS. RUFINO L. GALANG, RESPONDENT.

A.M. No. P-133. July 20, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

Respondent Rufino L. Galang is charged in this administrative case filed by Esperanza Malanyaon with "gross negligence" in the performance of his duties consisting of his failure to effect the service of a "Writ of Execution" issued by the Court of First Instance of Camarines Sur in Civil Case No. 6753 of said court entitled "Esperanza Malanyaon, plaintiff, versus Tan Kim, defendant." The Honorable Secretary of Justice forwarded this complaint of Esperanza Malanyaon to Honorable Judge Serafin Cuevas who was then the Executive Judge of the Court of First Instance of Manila for investigation.

The records of this case establish the following incidents:

In Civil Case 6753 of the Court of First Instance of Camarines Sur, a writ of execution was issued directing the city sheriff of Manila to seize the goods and chattels of defendant Tan Kim to satisfy the court's judgment in the amount of P9,000.00 as payment for support, plus P1,000.00 as attorney's fees, and P10,000.00 as moral damages. The service of the writ of execution was assigned to Deputy Sheriff of Manila, Rufino L. Galang, who returned the writ of execution unsatisfied after a considerable delay. An "alias writ of execution" was issued on November 4, 1971 and this was assigned to Deputy Sheriff Alfredo Distor who likewise returned the writ unsatisfied.

Complainant now claims that she gave two possible addresses of defendant Tan Kim, one at 334-336 Madrid St., San Nicolas, Binondo, and the other at "Frank's Watch & Jewelry Store", 535 Plaza Goiti, Sta. Cruz, Manila, but herein respondent failed to serve said writ at the aforementioned addresses.

In his defense, respondent Galang avers that he did serve the writ of execution of complainant first in Madrid St., San Nicolas, Binondo, but the numbers of the houses had been changed, after which he also went to Frank's Watch & Jewelry Store in Plaza Goiti but he did not find the defendant Tan Kim in that store.

The investigating judge did not give credit to the testimony of respondent Galang. We quote from the Report as follows:

"xxx xxx xxx

"Thereafter, Galang was summoned by the undersigned in order to find out from him why the said writ in question was returned unserved. In the course of the verbal interrogation conducted, Galang stated that upon the writ being assigned to him, he proceeded to the given address of the defendant at 334-336 Madrid St., Binondo, Manila, but could not locate the said place. In view thereof, he notified Pablo Tan, complainant's

representative, of such development and who informed him that he will communicate with the plaintiff in order to determine what steps to take under the premises, but did not hear from said representative notwithstanding the lapse of 60 days. Hence, he had to make a return of the aforesaid writ. Questioned as to why he did not or had not chosen to proceed to 535 Plaza Goiti, Manila, which was indicated to be the defendant's place of business, Galang could not immediately give any explanation but only told undersigned that such may have escaped his attention and that there must be some oversight somewhere. Upon his request, he was allowed to make a verification and check of his papers relative to the writ in question and upon coming back, he later produced his Sheriff's Return on the aforesaid writ. The said return, however, made no mention nor reference to the service of the writ at 535 Plaza Goiti, Manila. This morning, Deputy Sheriff Rufino Galang submitted a written explanation, which is likewise hereto attached, stating among other things, that he had likewise gone to 535 Plaza Goiti, Sta. Cruz, Manila, for purposes of implementing the writ in issue, but was informed by one Lo Yeng, whom he found in there and who claims to be the owner of the place, that there is no such person by the name of Tan Kim alias Jaime Consulta alias Jaime Chua Hee working in the said place.

"As previously observed, however, no mention of this fact appears in his return, which casts much doubt as to his having undertaken the service of the aforesaid writ in the latter address. Undersigned entertains the belief that this explanation is only an after-thought in order to evade liability, which becomes more evident when he could not explain to the undersigned, what steps he had taken to determine what 'Frank's Watch & Jewelry Store' was; meaning whether it was a sole proprietorship, a partnership or a corporation, and what connection, if any, does the defendant Tan Kim has with it, from other sources.

"xxx xxx xxx

"Undersigned finds no direct and concrete evidence of bribery against either or both Deputy Sheriffs Rufino Galang and Alfredo Distor. It is, however, rather puzzling that, whereas Deputy Sheriff Alfredo Distor was able to locate 334-336 Madrid St., Binondo, Manila, Deputy Sheriff Rufino Galang could not, as in fact his report states that there is no such number '334-336 Madrid St., Binondo, Manila'. Although it may be stated in this connection that service was effected by him about four (4) months prior to the service made by Distor, undersigned finds him to be very much wanting in industry otherwise he would not have turned in a return of the sort as that submitted by him. Or it might be that his palm may have been greased or oiled in order that he may refrain from effecting service of the questioned writ upon the defendant, although as above-stated no positive proof of bribery exists." (pp. 86-88, rollo)

With these findings of the Investigating Judge, We hold that respondent deputy sheriff was negligent in the performance of his duties as defined in the Rules of Court.

Respondent, however, is an appointee of the Mayor of the City of Manila (p. 34-A personal record of respondent) and consequently it is the Mayor who has the power to suspend, discipline, or remove him from the service, following this Court's ruling in *Bagatsing vs. Herrera & Pulido*, L-34952, July 25, 1975.

Nevertheless, inasmuch as respondent herein was appointed to an office which carries with it duties and functions related to the administration of justice, he has the status of an officer of the court, and as such can be held accountable, short of being dismissed or suspended from office, to the court he serves as well as to this Tribunal for any negligence or conduct which impedes the efficient and speedy administration of justice. To hold otherwise would be to weaken the role of our courts as effective guardians of the law and dispensers of justice.

PREMISES CONSIDERED, We hereby impose upon respondent Galang a Fine equivalent to his one (1) month's

basic salary to be paid within fifteen (15) days from finality of this judgment. In addition, We hereby withdraw the authority of respondent to perform functions appertaining the office of sheriff, and We direct the respective Executive Judges to circularize this accordingly to all the branches of the Court of First Instance and the City Courts in the City of Manila, without prejudice to any administrative action which the Mayor of the City may take against herein respondent upon receipt of copy of this decision. This withdraw of authority is effective immediately.

So Ordered.

Teehankee, (Chairman), Makasiar, Fernandez, and Guerrero, JJ., concur.

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