

ROGELIO V. URBANOZO, COMPLAINANT, VS. CRISANTO T. FLORA, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, BAGUIO CITY, RESPONDENT.

A.M. No. P-06-2169 (Formerly OCA IPI No. 05-2251-P). March 28, 2008

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PER CURIAM:

In a complaint-affidavit[1] dated July 18, 2005, complainant Rogelio V. Urbanozo charged respondent Sheriff IV Crisanto T. Flora of the Regional Trial Court (RTC) of Baguio City with gross neglect of duty and grave misconduct (for falsification of official documents) relative to Civil Case No. 2841-R[2] entitled Spouses Rogelio V. Urbanozo and Adelaida C. Urbanozo v. Spouses Virginia A. Vallejo and Arnold Vallejo.

Complainant alleged that respondent asked for P5,000 to cover "fees and expenses" for enforcing the writ of execution dated February 20, 2001 issued by the RTC of Baguio City, Branch 4.[3] Respondent did not issue a receipt.

Several follow-ups by complainant yielded nothing positive about the enforcement of the writ until May 26, 2005 when respondent gave complainant's daughter a copy of the sheriff's return[4] dated June 15, 2001. Complainant, however, learned that no copy thereof was ever submitted to the court. In fact, OIC clerk of court James D. Balagtey issued a certification,[5] dated June 2, 2005, that, per sheriff's return dated June 15, 2001, the writ of execution had been returned unsatisfied and that the return was submitted to the court of origin only on May 27, 2005.

Acting on the complaint, the Office of the Court Administrator (OCA) directed respondent to comment.[6]

In his comment[7] dated September 10, 2005, respondent admitted that the writ of execution issued by the RTC had indeed been assigned to him for implementation. He likewise acknowledged that he received the P5,000 to defray his expenses in going to Cordon, Isabela from Baguio City to enforce the writ. He further declared that he did issue the sheriff's return dated June 15, 2001 but submitted it to the court only on May 27, 2005.

Respondent averred that he promptly went to Cordon, Isabela to enforce the writ. Finding that there was no Registry of Deeds, he went to the Office of the Municipal Assessor to look for any property registered in the name of the spouses Virginia and Arnold Vallejo. However, he was not able to locate any because the Municipal Assessor happened to be Virginia Vallejo herself and the latter refused respondent's request to be furnished such information. Respondent claimed he exerted diligent efforts to find any property belonging to the spouses Vallejo; he was able to find a vehicle belonging to them but this was already the subject of another writ of replevin.

After his first trip to Cordon, respondent was no longer able to implement the writ because he was suspended from August 1, 2001 to July 31, 2002. Consequently, all the writs and processes assigned to him for implementation were turned over to the Office of the Clerk of Court.

Sometime in March 2005, the branch clerk of court inquired from respondent about the sheriff's return. It was only on May 27, 2005 that he submitted to the issuing court the sheriff's return dated June 15, 2001. Respondent

stated that he had no intention of delaying or denying the satisfaction of complainant's claim. He claimed that he was not able to perform his duty due to his suspension from office.

In its memorandum,[8] the OCA found respondent liable for gross neglect of duty and recommended his dismissal from the service without forfeiture of leave credits and retirement benefits.

We agree with the findings of the OCA and adopt its recommendation with modification.

The administration of justice is a sacred task and it demands the highest degree of efficiency, dedication and professionalism.[9] Sheriffs ought to know that they have a sworn responsibility to serve writs of execution with utmost dispatch[10] so as not to unduly delay the administration of justice;[11] otherwise, the judgment, if not executed, would be futile,[12] an empty victory on the part of the prevailing party.[13]

Further, being ranking officers of the court and agents of the law, they must discharge their duties with great care and diligence.[14] As the frontline representatives[15] of the judiciary, their conduct reflects its image. When writs are placed in their hands, sheriffs have the ministerial duty to proceed with reasonable celerity and promptness to execute them in accordance with their mandate.[16] Unless restrained by a court order, they should see to it that the execution of a judgment is not delayed.[17] Accordingly, they must comply with their mandated ministerial duty as promptly as possible.[18] Good faith is of no moment. They are presumed to know that they ought to comply fully with what is expected of them.[19]

Rule 39 of the Rules of Court states the duties of sheriffs in the execution of judgments. Section 14 thereof provides:

Sec. 14. Return of 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 reasons 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.

Accordingly, the sheriff is mandated to make periodic reports on partially satisfied or unsatisfied writs every 30 days, until the judgment is satisfied or its effectivity expires.[20] The reason for this requirement is to update the court on the status of the execution and to explain to it why the judgment has not been satisfied. It also enables the court to determine how efficiently court processes are carried out after the promulgation of judgment. The over-all purpose of the requirement is to ensure the speedy execution of decisions. [21]

In this case, respondent's gross negligence was evident. The records show that the writ of execution was issued and assigned to respondent on February 20, 2001, way before his suspension took effect on August 1, 2001. Thus, respondent had the writ at his disposal for more than five months before his suspension.

That entire time, respondent went only once to Cordon, Isabela to serve the writ on the defendants Virginia and Arnold Vallejo. He was unsuccessful in satisfying the judgment. However, he did not report this to the court as required by the Rules of Court within 30 days from his receipt of the writ of execution. Respondent simply stopped enforcing the writ. It was only on May 26, 2005 when he furnished complainant's daughter a copy of his sheriff's return. Moreover, as certified by OIC clerk of court Balagtey, respondent sheriff's return was submitted to the court of origin only on May 27, 2005.[22]

Respondent's use of his one-year suspension as an excuse for his bad performance cannot be countenanced.

Respondent should have been more diligent in performing his duties. He had more than enough time to implement the writ. At the very least, he should have informed the court immediately that the judgment was unsatisfied. Instead, he waited for more than four years before submitting his return. Not only did he fail to make the required periodic reports; it also took him a long time to submit his only report to the court. As the OCA put it:

Respondent's delay to perform his function for a span of more than four (4) years, compared to the prescribed period of 30 days, is abominable to the great prejudice and irreparable damage of the complainant, otherwise, remedial measures could have been undertaken.[23]

The failure or neglect to perform his duty for an unreasonably long period constituted inefficiency and gross neglect of duty.

But more than this neglect of duty, respondent also committed misconduct. Section 10, Rule 141 of the Rules of Court provides:

Sec. 10. Sheriffs, Process Servers and other persons serving processes.--

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With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party should pay said expenses in an amount estimated by the sheriff, subject to the approval of the court,. Upon approval of said estimated expenses, thee interested party shall deposit each amount with the Clerk of Court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

It is clear from the Rule that before an interested party pays the expenses of a sheriff, the latter should first estimate the amount which will then be approved by the court. Upon approval, the interested party deposits the amount with the clerk of court and ex-officio sheriff. The latter then disburses the amount to the sheriff assigned to execute the writ. The amount so disbursed is subject to liquidation. Any unspent amount should be refunded to the party making the deposit. Thereafter, the sheriff must render a full report.[24]

Here, respondent never submitted an estimate to the court for approval but, on his own, simply demanded and received P5,000 from the complainant. After receiving the amount, he did not issue any receipt. Neither did he advise the complainant that the sheriff's expenses approved by the court should be deposited with the clerk of court and ex-officio sheriff. Furthermore, no liquidation was ever submitted to the court.

As if all this was not enough, respondent gave the complainant and submitted to the court a dubious sheriff's return. The return was supposedly dated June 15, 2001 yet it never occurred to him to submit it immediately thereafter. His duties called for the proper and timely turn-over of this return to the Office of the Clerk of Court before his suspension became effective on August 1, 2001. By his own admission, the submission came only after the branch clerk of court inquired about it in March 2005. Had the branch clerk of court not inquired about it, the complainant would have still been in the dark about what happened to the decision in his favor.

It appears now that the return was ante-dated and the submission a mere afterthought.

The presumption of regularity of official acts does not apply. The circumstances in this case are highly irregular. Furthermore, the presumption does not hold where there is clear and convincing evidence to the contrary. The certification of OIC clerk of court Balagtey was clear evidence that as of May 27, 2005, no return had been submitted to the court. Consequently, the date indicated in respondent's return was questionable.

Considering the evidence, respondent's acts were nothing short of grave misconduct. Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior.[25] In order for such misconduct to be considered grave, there must be substantial evidence showing that the acts complained of are corrupt or inspired by an intention to violate the law, or constitute flagrant disregard of well-known legal rules.[26] The actuations of respondent constituted flagrant disregard of the law.

We note that this is not the first offense of respondent. In *Bilag-Rivera v. Flora*,[27] respondent was imposed a fine of P5,000 for his failure to exercise reasonable diligence in the performance of his duties as an officer of the court. He released a motor vehicle subject of a writ of attachment to a representative of the plaintiff in a civil case, without authority from the court. His action enabled the plaintiff to sell the motor vehicle to a third person, to the damage and prejudice of complainant Bilag-Rivera who claimed ownership over the motor vehicle. He was sternly warned in that case that any repetition of the same or similar act would be dealt with more severely.

In 2001, respondent was again involved in another administrative complaint. *Caguioa v. Flora*[28] involved a complaint for gross discourtesy when respondent uttered derogatory remarks against a judge. Respondent was found guilty and meted the penalty of one-year suspension from office. The Court again sternly warned respondent about his bad behavior.

By his acts and offenses, respondent miserably failed to live up to the exacting standards of public office in general and employment in the judiciary in particular. There is, therefore, reason to impose on him this time the severe penalty of dismissal for his gross neglect of duty and grave misconduct.[29] Moreover, Section 9 of the Omnibus Rules Implementing Book V of Executive Order No. 292 provides:

Sec. 9. The penalty of dismissal shall carry with it cancellation of eligibility, forfeiture of leave credits and retirement benefits and the disqualification for re-employment in the government service. Further, it may be imposed without prejudiced to criminal liability. (emphasis supplied)

Employees like respondent who sully the good name and tarnish the integrity of the judiciary do not deserve to serve in the courts. Taking into account the attendant circumstances of this case as well as his two previous offenses, respondent deserves the extreme penalty of dismissal.

WHEREFORE, respondent Crisanto T. Flora, Sheriff IV, Regional Trial Court of Baguio City, is hereby found GUILTY of gross neglect of duty and grave misconduct. He is ordered DISMISSED from the service, with forfeiture of all retirement benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

Respondent is further ordered to return the amount of P5,000 to complainant Rogelio V. Urbano within ten (10) days from receipt of notice of this resolution.

Let copies of this resolution be furnished the Civil Service Commission and attached to his personnel file in the judiciary.

SO ORDERED.

Puno, CJ., (Chairperson), Quisumbing, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

Ynares-Santiago, J., on official leave.

Velasco, Jr., J., no part due to prior action in oca.

- [1] Rollo, p. 1.
- [2] A complaint for breach of contract/collection of sum of money and damages.
- [3] All further references to the RTC of Baguio City, Branch 4 will hereinafter be simply "RTC."
- [4] Id., p. 17.
- [5] Id., p. 18.
- [6] First indorsement dated August 9, 2005. Id., p. 19.
- [7] Id., pp. 23-25.
- [8] Dated March 6, 2006, id., pp. 26-29.
- [9] Bernabe v. Eguia, 458 Phil. 97, 104 (2003), citing Contreras v. Mirando, 345 Phil. 401 (1997).
- [10] Aquino v. Lavadia, 417 Phil. 770, 776 (2001), citing Portes v. Tepace, 334 Phil. 839 (1997).
- [11] San Jose v. Centeno, 315 Phil. 296, 303 (1995), citing Jumio v. Egay-Eviota, 231 Phil. 551 (1994) and Moya v. Bassig, A.M. No. 2796-P, 7 August 1985, 138 SCRA 49.
- [12] Padilla v. Arabia, A. M. No. 93-774, 8 March 1995, 242 SCRA 227.
- [13] Santos v. Gonzales-Muñoz, 436 Phil. 22, 33 (2002), citing Moya v. Bassig, supra at 52-53.
- [14] Bernabe v. Eguia, supra note 9, at 104, citing Magat v. Pimentel, A.M. No. RTJ-00-1531, 28 November 2000, 346 SCRA 153; Bornasal, Jr. v. Montes, 345 Phil. 401 (1997); National Bureau of Investigation v. Tuliao, 337 Phil. 80 (1997) and Vda. de Abellera v. Dalisay, 335 Phil. 527 (1997).
- [15] Santos v. Gonzales-Muñoz, supra note 13, at 33, citing Lapeña v. Pamarang, 382 Phil. 325 (2000).
- [16] Aquino v. Lavadia, supra note 10, at 776, citing Mamanteo v. Magumun, 370 Phil. 278 (1999).
- [17] Id., citing Marisga-Magbanua v. Villamar V, 364 Phil. 606 (1999).
- [18] Id. citing Vda. de Tisado v. Tablizo, A.M. No. P-94-1025, 20 February 1996, 253 SCRA 646.
- [19] Bernabe v. Eguia, supra note 9, at 104, citing Villaluz Vda. de Enriquez v. Bautista, 387 Phil. 544 (2000).
- [20] Meneses v. Zaragoza, 467 Phil. 30, 46 (2004).
- [21] Bernabe v. Eguia, supra note 9, at 107, citing Benitez v. Acosta, A.M. No. P-01-1473, 27 March 2001, 355 SCRA 380, 386.
- [22] Certification dated June 2, 2005, rollo, p. 17.
- [23] Id., p. 28.
- [24] Guevarra v. Sicat, Jr., A.M. No. P-02-1540, 6 March 2003, 398 SCRA 667, 670, citing Danao v. Franco, Jr., A.M. No. P-02-1569, 13 November 2002, 391 SCRA 515; Ong v. Meregildo, A.M. P-93-935, 5 July 1994, 233 SCRA 632 and Rizal Commercial Banking Corp. v. Quilantang, 413 Phil. 13 (2001).
- [25] Salazar v. Barriga, A.M. No. P-05-2016, 19 April 2007, 521 SCRA 449, 45332, citing Civil Service Commission v. Belagan, G.R. No. 132164, 19 October 2004, 440 SCRA 578; Maguad v. De Guzman, A.M. No. P-941015, 29 March 1999, 305 SCRA 469 and Estarija v. Ranada, G.R. No. 159314, 26 June 2006, 492 SCRA 652.

[26] Id. citing *Civil Service Commission v. Belagan*, G.R. No. 132164, 19 October 2004, 440 SCRA 578 and *Civil Service v. Lucas*, 361 Phil. 486 (1999).

[27] A.M. No. P-94-1008, 6 July 1995, 245 SCRA 603.

[28] A.M. No. P-01-1480, 28 June 2001, 360 SCRA 12.

[29] Omnibus Rules Implementing Book V of Executive Order No. 292 and other pertinent Civil Service Laws, Rule XIV, Section 22.

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