SAULA DE LEON-DELA CRUZ, COMPLAINANT, VS. FERNANDO P. RECACHO, CASH CLERK AND RODERICK D. ABAIGAR, DEPUTY SHERIFF, METROPOLITAN TRIAL COURT, BRANCH 79, LAS PIÑAS CITY, RESPONDENTS.

A.M. NO. P-06-2122 (FORMERLY OCA IPI NO. 05-2202-P). July 17, 2007

Ponente: AUSTRIA-MARTINEZ, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/170b6a5fa203/

AUSTRIA-MARTINEZ, J.

Before the Court is a verified letter-complaint[1] dated April 27, 2005 of Saula de Leon-dela Cruz (complainant) charging Fernando P. Recacho (Recacho), Cash Clerk and Roderick D. Abaigar (Abaigar), Deputy Sheriff, Metropolitan Trial Court (MeTC), Branch 79, Las Piñas City, with Conduct Prejudicial to the Best Interest of the Service, Grave Misconduct and Dereliction of Duty relative to Civil Case No. 6340, entitled Saula de Leon-dela Cruz v. Lolita Salazar.

Complainant alleges: She is the plaintiff in Civil Case No. 6340. On March 17, 2003, the trial court rendered a decision in her favor. On October 23, 2003, the trial court issued a writ of execution. Nearly ten months from the issuance of the writ of execution, she filed a motion for the issuance of a writ of demolition and the same was granted by the trial court on November 24, 2004. Despite inquiry and due request, Recacho hid, withheld, and refused to show and furnish her copies of three court orders, to wit: (a) Order dated September 23, 2003 granting her motion for execution; (b) Writ of Execution dated October 23, 2003; and, (c) Demolition Order dated December 1, 2004. Abaigar, on the other hand, inimically and unjustifiably delayed the execution of the Demolition Order; with undue, unwarranted and unreceipted solicitation of money which amounted to P50,000.00, as a condition sine qua non, for implementing the Demolition Order in connivance with Deputy Chief of Police Alberto Romero of the Las Piñas City Police Department. The Demolition Order has not been fully implemented.

In her supplemental complaint dated May 16, 2005,[2] complainant further alleges: She gave Abaigar the amount of P14,000.00 on April 21, 2005 for the food and services of the demolition crew as well as for the barangay officers, but Abaigar did not issue a receipt. She went to the demolition site and when Abaigar saw her, he asked for money with a threat that they would leave the premises absent any police back-up. When the policemen arrived, the demolition work pushed through, but only eight shanties were demolished. She paid P10,000.00 to Abaigar and P5,000.00 to Col. Romero but still no receipts were issued. Due to the unethical attitude of Abaigar, the demolition of the houses failed to materialize. Abaigar even instructed her to hire her own demolition crew as he would be attending a seminar from April 25-30, 2005. Abaigar said that the demolition would be done in two to three days' work, but only 12 shanties were demolished in two half-days' work.

In his Comment[3] dated July 4, 2005, Abaigar avers: He did not receive the sums of money from the complainant. He went to the subject premises on February 15, 2005 and told the squatters to voluntarily vacate the place. The squatters pleaded for an extension of up to March 15, 2005 within which to vacate the premises. He

granted the same with the consent of the complainant. The demolition scheduled on March 15, 2005 did not push through due to complainant's failure to coordinate with the police authorities to assist in the demolition. On April 18, 2005, he sent a letter to complainant informing her that the demolition would be done on April 21, 2005, demolishing eight houses in the process. The demolition continued the following day with the demolition group, composed of 30 persons, waiting for the arrival of the police officers to assist in the demolition job. He tried to contact Col. Romero but the latter was in a rescue operation. The complainant agreed to pay P15,000.00 for the demolition crew, but only P10,000.00 was given for the 30 persons. He did not say that he could not continue with the demolition on April 25-30, 2005 due to the seminar because the seminar was held on April 27-30, 2005. He was doing his duties as sheriff in the best way he could, but it was the fault of complainant in not coordinating properly with the police authorities. He did not assure complainant that the demolition would be done in two to three days considering the more or less 200 houses erected on the premises.

In his Sinumpaang Salaysay[4] dated June 17, 2005, Recacho contends: He did not hide the writ of execution and writ of demolition as, in fact, several houses were already demolished. The delay in the service of the above-mentioned writs was due to his heavy workload. He is serving three judges and in addition to his clerical work, he prepares the calendar of cases, mails court processes and does such other errands assigned to him.

Upon recommendation of the Office of the Court Administrator (OCA), the Court, in its Resolution dated June 14, 2006, referred the case to the Executive Judge of the Regional Trial Court, Las Piñas City, for investigation, report and recommendation.[5]

On January 2, 2007, Investigating Judge Joselito DJ. Vibandor submitted his Report and Recommendation[6] dated November 29, 2006 finding respondents Abaigar and Recacho guilty of grave misconduct for violating the rules.

In its Resolution of January 24, 2007, the Court referred the Report and Recommendation of Judge Vibandor to the OCA for evaluation, report and recommendation.

In its Memorandum[7] dated March 21, 2007, the OCA adopted the recommendation of the Investigating Judge insofar as finding Abaigar guilty of grave misconduct and violation of Section 6,[8] Canon IV, Code of Conduct for Court Personnel; but as to Recacho, the OCA found him guilty of neglect of duty for failure to act promptly on letters and requests within 15 days from receipt. The OCA recommends that: (a) Abaigar be dismissed from the service with forfeiture of all benefits, except accrued leave credits, with prejudice to reinstatement and re-employment in any branch or service of the government, including government-owned or controlled corporations; and, (b) Recacho be fined in the amount of P2,000.00, for simple neglect of duty.

We concur with the findings and recommendations of the OCA, except as to the recommended penalty with respect to respondent Abaigar.

Time and again, we have reminded court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice. With respect to sheriffs, they are to implement writs of execution and similar processes mindful that litigations do not end merely with the promulgation of judgments.[9] Being the final stage in the litigation process, execution of judgments ought to be carried out speedily and efficiently since judgments left unexecuted or indefinitely delayed are rendered inutile and the parties prejudiced thereby, condemnatory of the entire judicial system.[10]

As court employees, sheriffs are obliged to conduct themselves with propriety and decorum and to ensure that their actions are above suspicion at all times. The Court cannot countenance – it in fact condemns – any conduct, act or omission that violates the norm of public accountability and diminishes, or even just tends to diminish, the

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

faith of the people in the judiciary.[11]

Records reveal that the writ of execution was issued by the trial court on October 23, 2003, while the writ of demolition was issued on December 1, 2004. However, Abaigar failed to promptly act on the writ after the same was given to him for execution. He made a partial return only on April 25, 2005, or almost four months after the issuance of the writ of demolition, in utter violation of the Rules.[12]

During the investigation, complainant clarified that the amount given to respondent Abaigar was not P50,000.00, as initially alleged in the complaint, but only P11,000.00.[13] It matters not, however, how much money was received by Abaigar. Primordial is the act of Abaigar in demanding money from complainant for the execution of the writ of demolition.

Section 10, Rule 141 provides:

> Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes. –
>
> x x x x
>
> With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safe-guarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such 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, x x x.

Clearly, Abaigar deviated from the Rules governing the execution of court processes, warranting administrative sanction from this Court.

In Apuyan, Jr. v. Sta. Isabel,[14] the Court held, thus:

> Furthermore, respondent's act of demanding money and receiving P1,500.00 from the complainant for the lunch and merienda of the policemen who will accompany him in executing the decision of the Court is a clear violation of section 9, Rule 141. The Rules require the sheriff to estimate his expenses in the execution of the decision. The prevailing party will then deposit the said amount to the Clerk of Court who will disburse the amount to the sheriff, subject to liquidation. Any unspent amount will have to be returned to the prevailing party. In this case, no estimate of sheriff's expenses was submitted to the court by respondent. In fact, the money which respondent deputy sheriff had demanded and received from complainant was not among those prescribed and authorized by the Rules of Court. This Court has ruled that any amount received by the sheriff in excess of the lawful fees allowed by the Rules of Court is an unlawful exaction and renders him liable for grave misconduct and gross dishonesty.[15]

While this Court is duty-bound to sternly wield a corrective hand to discipline its errant employees and to weed out those who are undesirable, this Court also has the discretion to temper the harshness of its judgment with mercy.[16]Section 53 of the Revised Uniform Rules on Administrative Cases in the Civil Service, provides that in the determination of the penalties to be imposed, the exonerating, mitigating, aggravating or alternative circumstances may be considered.[17] Considering that respondent Abaigar is a first-time offender, a lighter penalty than dismissal from the service would suffice in this case. Thus, instead of imposing the penalty of dismissal, the penalty of suspension from office for one year without pay is proper.[18]

Anent the charge that respondent Recacho hid and withheld the case records from complainant, the Court finds no

reason to deviate from the findings of the Investigating Justice and Court Administrator.

During the investigation, Recacho admitted that he was in charge of the handling of court records, both civil and criminal. He testified that the complainant's case record was among other records which were misplaced due to a renovation from the period of June to December 2003; that the regular court hearings of the court were not affected by the renovation and that there was no instance wherein the trial was affected due to lack of court records; and that he found the misplaced case record only on July 2004.[19]

The contention of Recacho that the case record of complainant was misplaced fails to exonerate him from liability, as it runs counter to his own testimony that there was no instance that court hearings were affected due to lack of court records. It was Recacho's lame attempt to exculpate himself from administrative liability. Not even his heavy workload can exonerate him. Being in charge of court records, it behooves upon Recacho to devise ways and means to properly safeguard the same, considering that their office was then undergoing renovation. The delay of almost ten months in the release of a copy of the writ of execution bespeaks of Recacho's indifference, which conduct certainly erodes the people's faith in the judiciary. For his failure to do so, he must be held accountable for simple neglect of duty.

Simple neglect of duty signifies a disregard of a duty resulting from carelessness or indifference. It is considered a less grave offense[20] for which a penalty of suspension for one month and one day to six months shall be imposed for the first offense and dismissal for the second offense.

Pursuant to Section 19, Rule XIV of the Omnibus Civil Service Rules and Regulations, a fine of P2,000.00 is just and reasonable.

The conduct of every person connected with the administration of justice, from the presiding judge to the lowliest clerk, is circumscribed with a heavy burden of responsibility.[21] A public office is a public trust. Public officers, who are accountable at all times to the people – most especially to court litigants – must perform their duties and responsibilities with utmost efficiency and competence.[22]

The Court reiterates its policy not to tolerate or condone any conduct, act or omission that falls short of the exacting norms of public office, especially on the part of those expected to preserve the image of the judiciary.[23] Thus, it will not shirk from its responsibility of imposing discipline upon its employees in order not to diminish the people's faith in our justice system.[24]

WHEREFORE, premises considered, the Court finds:

(a) Roderick Abaigar, Sheriff, GUILTY of GRAVE MISCONDUCT and is SUSPENDED for one year without pay; and

(b) Fernando P. Recacho, Clerk III, GUILTY of SIMPLE NEGLECT OF DUTY and is FINED in the amount of Two Thousand Pesos (P2,000.00).

Moreover, respondents are WARNED that a repetition of the same or similar offenses in the future shall be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Chico-Nazario, and Nachura, JJ., concur.

---

[1] Rollo, pp. 1-2.

Turn this case into an audio lecture - facts, issues, ruling and doctrine - at batas.org

[2] Id. at 20-22.

[3] Id. at 32-34.

[4] Id. at 53-54.

[5] Id. at 74.

[6] Id. at 197-201.

[7] Id. at 237-244.

[8] Canon IV, Sec. 6. Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

[9]Añonuevo v. Rubio, A.M. No. P-04-1782, July 30, 2004, 435 SCRA 430, 433.

[10] Id. at 433.

[11] Tagaloguin v. Hingco, Jr., A.M. No. P-05-2008, June 21, 2005, 460 SCRA 360, 361.

[12]Rule 39, 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 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. x x x

[13] Rollo, p. 141.

[14]A.M. No. P-01-1497, May 28, 2004, 430 SCRA 1, citing Alvarez, Jr. v. Martin, 458 Phil. 85 (2003).

[15]Apuyan, Jr. v. Sta. Isabel, supra note 14, at16.

[16] Aquino v. Fernandez, 460 Phil. 1, 13 (2003).

[17]Apuyan case, supra note 14, at 18.

[18] De Guzman, Jr. v. Mendoza, A.M. No. P-03-1693, March 17, 2005, 453 SCRA 565, 574.

[19] TSN September 14, 2006, pp. 4-5, rollo, pp. 169-170.

[20] Sec. 23, Omnibus Civil Service Rules and Regulations Implementing Book V of Executive Order No. 292.

[21] Alcover, Sr. v. Bacatan, A.M. No. P-05-2043, December 7, 2005, 476 SCRA 607, 611.

[22] Alcover, Sr. v. Bacatan, Id. at 611-612.

[23] Maderada v. Mediodea, 459 Phil. 701, 719 (2003).

[24]Maderada v. Mediodea, Id. at 719.

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at https://batas.org

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.