

**PEDRO SALAZAR, EUSTAQUIA SALAZAR AND TERESITA SALAZAR,
COMPLAINANTS, VS. EDMUNDO B. BARRIGA, SHERIFF III,
MUNICIPAL TRIAL COURT IN CITIES, BRANCH 5, CEBU CITY,
RESPONDENT.**

A.M. NO. P-05-2016 (FORMERLY OCA I.P.I. NO. 04-1969-P). April 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

This administrative case for grave misconduct was an offshoot of two civil cases filed in the Municipal Trial Court in Cities (MTCC), Branch 5, and the Regional Trial Court (RTC), Branch 12, both of Cebu City.

The first was Civil Case No. 35651 for unlawful detainer filed by Florentina Kintanar against her lessees, the complainants Pedro, Eustaquia and Teresita, all surnamed Salazar, for their failure to pay rentals and refusal to vacate her property.

The second was Civil Case No. CEB-29951 filed by the complainants against Kintanar for quieting of title on the ground that they actually owned the land being claimed by her (Kintanar).

After the trial in Civil Case No. 35651, the MTCC (of which respondent Edmundo Barriga was the sheriff) ordered the complainants to vacate the property for nonpayment of rentals to Kintanar. The complainants appealed the MTCC decision all the way to this Court, to no avail.

The case was returned to the MTCC for execution. The MTCC later on issued a writ of demolition.[1]

On the complainants' motion, the RTC (in Civil Case No. CEB-29951) issued a writ of preliminary injunction enjoining respondent from implementing the writ.[2] Subsequently, however, the RTC dismissed the complainants' case and recalled the writ of preliminary injunction.

Immediately thereafter even before receiving the official copy of the RTC order respondent showed up at complainants' residence. He informed them of his intention to demolish their property on the prodding of Kintanar who, he claimed, had promised to pay P30,000 for the job and had, in fact, already given him P5,000 as advance payment.

The complainants pleaded with respondent not to proceed with the demolition because the RTC's order of dismissal was not yet final and they intended to file a motion for reconsideration. According to the complainants, respondent told them he could delay the demolition in exchange for P50,000. Respondent then left his cellular phone number with the complainants so they could call him up as soon as they were ready for the pay-off.

In the meantime, the complainants filed with the RTC an "urgent motion to stay the grant of the writ of preliminary injunction" previously issued in their favor (but recalled after the dismissal of Civil Case No. CEB-29951). The RTC granted the motion and issued an omnibus order restraining respondent from demolishing the complainants' property.

One of the complainants informed respondent that a copy of the RTC omnibus order was forthcoming but he nonetheless proceeded with the demolition. Hence, the complainants filed this complaint for grave misconduct against him.

In his comment,[3] respondent denied demanding money from the complainants. He claimed that he would not risk his 33 years of government service for the measly amount of P50,000. Since the execution of the writ was ministerial, he had no choice but to carry it out.

The administrative complaint against respondent and his comment were referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. The OCA, however, suggested that only a full-blown investigation could determine whether or not respondent was guilty of the charges against him. The case was thus referred to Executive Judge Simeon P. Dumdum, Jr., of the RTC of Cebu City, for investigation, report and recommendation.[4]

After hearing the parties, Judge Dumdum submitted the following report:

Respondent conducted the demolition with unusual alacrity, proceeding with the work even after he learned that the complainants were securing a temporary restraining order from the court'[C]ourt records show that the order was issued at 9:30 a.m., such that, when [complainant] Teresita Salazar called him up at 9:30 a.m., as [respondent himself] admitted, she must have informed him that the order had been issued. He should have stopped the demolition at that stage, and not wait until he was shown a copy of the order. Besides, he could easily have checked with the court, through telephone, if the order had really been issued.

The prudent and humane thing [that respondent should have done] would have been to give time to the complainants to produce the temporary restraining order before proceeding with the demolition. As it turned out, the order came in [after] about two hours. This only [confirmed] the suspicion that, as claimed by the complainants, the respondent indeed received [money] from [Kintanar], and was motivated to pursue the demolition with vigor by this and the fact that the complainants failed to raise the amount he asked for.

The circumstances reinforce [complainants' claim] that [respondent] tried to extract money from them.[5]

Judge Dumdum found respondent guilty of grave misconduct and recommended his dismissal from the service with forfeiture of all benefits and disqualification from reemployment in the government service.

The report was forwarded to the OCA which, however, recommended the dismissal of the complaint for lack of merit.[6]

After a careful study of the records of this case, we find that respondent was indeed liable for grave misconduct.

Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior.[7] To constitute an administrative offense, misconduct should relate to or be connected with the performance of official functions and duties of a public officer.[8]

In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule must be manifest.[9] Corruption as an element of grave misconduct consists in the act of an official who unlawfully or wrongfully uses his station or character to procure some benefit for himself, contrary to the rights of others.[10]

Clearly, respondent's actuations constituted grave misconduct.

First, by insinuating to the complainants that a pay-off of P50,000 could defer the execution of the writ of demolition, respondent maliciously utilized his position as sheriff for personal gain. By his conduct, he also portrayed court personnel as extortionists/fixers who could dictate or control court processes for a fee.

Second, his behavior of precipitately demolishing complainants' property (despite being informed of the RTC's omnibus order enjoining the demolition) manifested utter lack of circumspection or good sense.

Given the attendant circumstances, respondent should have acted with extreme caution and prudence to avoid inflicting unnecessary damage to the complainants. As Judge Dumdum aptly surmised, "he could easily have checked with the court, through telephone, if the order had really been issued." [11]

We also agree with Judge Dumdum that "the prudent and humane thing" which respondent could have done "would have been to give time to the complainants to produce the temporary restraining order before proceeding with the demolition." [12]

Sheriffs, like respondent, are bound to use reasonable skill and diligence in performing their duties particularly where the rights and properties of individuals may be jeopardized by their neglect. [13]

Respondent's conduct likewise bolstered complainants' allegation that he received money from Kintanar (who, he previously claimed, was pressuring him to immediately execute the writ of demolition). His over zealousness to carry out the writ was unusual and could only be interpreted as a complete capitulation to Kintanar's wishes, not a faithful adherence to the MTCC's order.

This Court has consistently underscored the heavy burden and responsibility that court personnel are saddled with in view of their exalted positions as keepers of the public faith. [14] In performing their duties and responsibilities, court personnel should serve as sentinels of justice. [15] Any act of impropriety on their part immeasurably affects the honor and dignity of the judiciary. The Court condemns any conduct, act or omission on the part of all those who are involved in the administration of justice which violates the norm of accountability and diminishes or even just tends to diminish the faith of the people in the judiciary. [16]

Despite the foregoing, however, we are not inclined to impose the extreme penalty of dismissal from the service in view of respondent's 33 years of government service. Under the Uniform Rules on Administrative Cases in the Civil Service, mitigating and/or extenuating circumstances may be considered in the determination of the proper penalty to be imposed. [17]

WHEREFORE, respondent is hereby found GUILTY of grave misconduct. He is SUSPENDED for a period of one year without pay and FINED Twenty Thousand Pesos (P20,000) with a STERN WARNING that a repetition of the same or similar act in the future will be dealt with more severely.

Let a copy of this resolution be attached to the personal records of respondent in the Office of the Administrative Services, Office of the Court Administrator.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] Rollo, p. 165.

[2] Order dated 29 March 2004 issued by Judge Aproniano B. Taypin. Id., pp. 142-143.

[3] Id., pp. 154-162.

[4] Resolution dated June 20, 2005. Id., p. 182.

[5] Report dated January 13, 2006. Id., pp. 184-187.

[6] Per OCA Report dated May 24, 2006, complainants were not able to adduce satisfactory evidence supporting their allegations against respondent.

[7] 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; Estarija v. Ranada, G.R. No. 159314, 26 June 2006, 492 SCRA 652.

[8] Civil Service Commission v. Belagan, supra; Lacson v. Roque, 92 Phil. 456 (1953).

[9] Civil Service Commission v. Belagan, supra; Civil Service v. Lucas, 361 Phil. 486 (1999).

[10] Id., Black's Law Dictionary, p. 345.

[11] Supra note 5.

[12] Id.

[13] Torres v. Sicat, A.M. No. P-00-1379, 19 September 2002, 389 SCRA 382.

[14] Gutierrez v. Quitalig, A.M. No. P-02-1545, 2 April 2003, 400 SCRA 391.

[15] A.M. No. 03-06-13-SC (Code of Conduct for Court Personnel).

[16] Dy v. Pascua, A.M. No. P-04-1798, 27 May 2004, 429 SCRA 250; Lepanto Consolidated Mining Company v. Melgar, A.M. No. P-92-725, 30 April 1996, 256 SCRA 600, citing Mendoza v. Mabutas, 223 SCRA 411; Villarico v. Javier, A.M. No. P-04-1828, 14 February 2005, 451 SCRA 218.

[17] See also Vedaña v. Judge Valencia, 356 Phil. 317 (1998).

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