

EMMA A. ALBELLO, COMPLAINANT, VS. JOSE O. GALVEZ, SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, LEGAZPI CITY, RESPONDENT.

A.M. No. P-01-1476 (Formerly OCA IPI No. 99-746-P). January 16, 2003

Ponente: VITUG, J.

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VITUG, J.:

Before the Court is a verified complaint filed by Emma Albello against Sheriff Jose Galvez of the Municipal Trial Court in Cities, Branch 2, of Legazpi City charging him with misrepresentation and dishonesty.

The complaint originated from Civil Case No. 3941, entitled “Bienvenida Atun-Banzuela, et al. vs. Rommel Albello,” for forcible entry. The case involved a parcel of land situated in the municipality of Albay, Legazpi, covered by Transfer Certificate of Title No. 47499. On 23 October 1992, the trial court, Judge Raymund Jacob presiding, rendered its decision in favor of the plaintiffs Bienvenida Atun-Banzuela, et al.; the court adjudged:

“IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiffs:

“1. ordering the defendant Rommel Albello to discontinue constructing his house in the land in question and to vacate said premises;

“2. ordering the defendant to pay plaintiffs reasonable rentals at the rate of P50.00 a month from November 12, 1991 until he actually vacates the premises;

“3. ordering the defendant to pay plaintiffs P1,500.00 for attorney’s fees and to pay the costs.”[1]

Upon finality of the decision, a writ of execution was issued by the trial court for implementation by respondent sheriff. Respondent, in his sheriff’s return, reported to the court that defendant Albello had already vacated the premises. A motion for demolition was later filed by the plaintiffs reiterating their plea that the defendant be directed to vacate the premises. This motion was subsequently withdrawn when the parties agreed to instead await the outcome of Civil Case No. 8804, entitled “Wilfredo A. Albello, et al. vs. Bienvenida Atun-Banzuela,” for quieting of title concerning the same property. The trial court, in its order of 13 July 1994, confirmed thusly:

“In today’s hearing of the Motion for Demolition filed by plaintiffs, through counsel, the parties and counsels agreed that there should be two sets of padlocks and two sets of keys which would be used in padlocking the main door of the residential house in question. One padlock, together with its key, should be in the possession of the Sheriff, while the other padlock, with its key, (would be) in possession of the plaintiffs.

“The defendant is advised by the court not to enter the premises until otherwise ordered. For humanitarian consideration and in the interest of justice, the plaintiffs are hereby withdrawing their motion for demolition pending the outcome of the quieting of title case involving the same parties before the Regional Trial Court.

“Mr. Jose Galvez, Deputy Sheriff, is hereby directed to repair to the premises in question and cause the padlocking of said main door and turn-over one padlock and its key to the plaintiffs while the other padlock and its key should be retained by said sheriff.”[2]

On 15 October 1999, herein complainant, Emma Albello, wife of defendant Rommel Albello, filed a complaint before the Office of the Deputy Ombudsman, asseverating that respondent sheriff demanded and received from complainant's mother-in-law the amount of three thousand pesos (P3,000.00). The money was supposedly paid to respondent sheriff with the latter's assurance that he would take care of everything and open the padlocked property. The Office of the Deputy Ombudsman dismissed the letter-complaint and indorsed the records of the case to the Office of the Court Administrator for appropriate action.

Upon its receipt of the records, the Office of the Court Administrator required respondent to file his comment on the complaint. In his comment, respondent admitted having received the amount of three thousand pesos (P3,000.00) from complainant's mother-in-law but claimed that it was for attorney's fees intended for Atty. Caesar Daep who could help complainant facilitate access to the subject property. Later, however, he returned the money after Atty. Daep had refused to accept the case.

The Office of the Court Administrator, in its memorandum of 25 January 2001, recommended that an investigation be conducted in order to thresh out the factual issues of the case. The Court, in its resolution of 05 March 2001, adopted the recommendation and referred the case to Executive Judge Raymund Jacob of the Municipal Trial Court in Cities, Branch 2, of Legazpi City for investigation, report and recommendation.

The Investigating Judge, in his report of 24 August 2001, submitted his findings; he stated:

"After a careful perusal and evaluation of the evidence adduced and the demeanors of the witnesses, the undersigned Executive Judge finds the complainant's version more credible and deserves full consideration. The deportment and manner of testimonies, during the investigation, of the private complainant Emma Albello and witness Salve Albello, a 57-year old public elementary school teacher, were natural, frank, and sincere in answering questions. There is no showing that they had ill reasons for testifying against respondent Jose O. Galvez, who admitted in his letter-complaint (Exh. G, Rollo, p. 14) that he does not know personally complainant Emma Albello. It has repeatedly been held that the testimonies of witnesses not actuated by improper motive is entitled to full faith and credit (People vs. Patag, 144 SCRA 429; People vs. Cruz, 191 SCRA 127; People vs. Rabang, 187 SCRA 682; People vs. Mendoza, G.R. No. 96397, Nov. 21, 1991).

"As shown by evidence, a total amount of four thousand (P4,000.00) pesos was given to the respondent, broken as follows: P1,000.00 on July 1, 1999 supposedly as respondent's sheriff's fee, handed personally to him by complainant's mother-in-law, Salve Albello; P1,000.00 given to respondent by Salve Albello on July 2, 1999 intended as partial payment for attorney's fees; P1,000.00 given to respondent by Salve Albello on July 11, 1999 also as partial payment for attorney's fees; and P1,000.00 given to respondent by complainant Emma Albello on August 1, 1999 as last and full payment for attorney's fees. While complainant Emma Albello's claim that respondent had demanded and received personally from her P1,000.00 on August 1, 1999 was not mentioned in her letter-complaint (Exh. A, Rollo, p. 1), it came out in the course of the investigation and should be, as it is hereby, acted upon.

"The admission by respondent having received the sum of the three thousand (P3,000.00) pesos from complainant's mother-in-law, Salve Albello, has bolstered the complainant's version. Moreover, Atty. Caesar Daep's letter (Exh. E, Rollo, p. 10), addressed to respondent, refusing acceptance of said amount as retainer's fee, shows that respondent, indeed, had with him the said amount. Respondent's assertion that he had already returned said amount to Salve Albello on September 6, 1999 is, however, belied by the latter's vigorous denial of receipt thereof. Besides, respondent has not shown any receipt or memorandum of some sort to support his claim. Between the words of respondent and those of Salve Albello, a 57-year old public elementary school teacher, the undersigned investigator gives full faith and credit to the latter.

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"The act of respondent in soliciting money from complainant and her mother-in-law is incompatible with the

position and function of the respondent as deputy sheriff of the court. His demand for and receipt of moneys which he was not authorized to require from complainant and her mother-in-law, supposedly to expedite the opening of the padlocked house, constituted dishonesty and gross misconduct, prejudicial to the best interest of the service and acts unbecoming of a court employee.

“Public service requires the utmost integrity and the strictest discipline in the conduct of government employees. This is especially true of sheriffs, like herein respondent. As repeatedly held by the Supreme Court, 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 (Lacuata vs. Bautista, 235 SCRA 290, citing Mirano vs. Saavedra, 225 SCRA 77.)”[3]

Judge Jacob, in his report, took into consideration the fact that respondent sheriff had been in the judiciary for thirty (30) years; accordingly, he recommended that he be suspended for one (1) year, without pay, with a warning that a repetition of the same or similar acts in the future would be dealt with severely.

The Office of the Court Administrator, in its memorandum of 08 March 2002, adopted the findings and recommendation of Executive Judge Jacob.

Indeed, the assailed conduct of respondent sheriff cannot be countenanced. He has admitted having received the amount of three thousand pesos (P3,000.00) from complainant. The Court is inclined to give more credence to the claim of complainant that the sum was demanded by respondent sheriff to expedite the opening of the padlocked house than his claim that the amount was intended to help complainant obtain the legal services of Atty. Caesar Daep. Even if respondent's claim were true, it would have been an inexcusable act of imprudence on his part to intercede in such manner for a party-litigant. Respondent sheriff is an officer of the court, and he has an essential part in the administration of justice. He is required to live up to the stringent standards of his office, and his conduct must at all times be above reproach and suspicion. He must steer clear of any act that can tend to undermine his integrity or to erode somehow the people's faith and trust in the courts.

Ordinarily, the charges against respondent, once established, would warrant the penalty of dismissal from the service. The Court, however, has resolved to adopt the penalty recommended by the Investigating Judge and the Office of the Court Administrator in consideration of his having been in the service for thirty (30) long years and because the infraction is his first offense.

WHEREFORE, respondent Jose G. Galvez, Sheriff III, Municipal Trial Court in Cities, Branch 2, Legazpi City, is **SUSPENDED** for one (1) year, without pay, with the stern warning that a repetition of the same or any other act of infraction on his part in the future shall be dealt with most severely. Respondent is likewise ordered to immediately retribute, if not yet done, the amount of three thousand pesos (P3,000.00) to complainant.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, p. 59.

[2] Rollo, p. 17.

[3] Rollo, pp. 124-126.

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