

MELBA C. AMOLADOR, COMPLAINANT, VS. JUAN FELICIDARIO, RESPONDENT.

A.M. No. P-60. July 31, 1978

Ponente: MUÑOZ PALMA, J.

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MUÑOZ PALMA, J.:

This administrative case arose out of a complaint filed with the Secretary of Justice on or about October 18, 1972 by Melba C. Amolador against Deputy Sheriff Juan Felicidadario of Quezon City. The complaint charged respondent Felicidadario with falsification, gross misconduct, and dishonesty in connection with the sale at public auction of a real property belonging to complainant's father, Serafin G. Coruña.

After respondent had answered the complaint denying the charges, the case was referred to then Executive Judge of the City Court of Quezon City, Oscar A. Inocentes, for investigation.

At the hearing held by Judge Inocentes, the following facts appear to be duly established:

Sometime on May 29, 1968, a decision was rendered by Hon. Lourdes P. San Diego who was then presiding Branch IX of the Court of First Instance of Rizal, in Civil Case No. Q-8936 entitled "Tomas G. Flores vs. Serafin G. Coruña", ordering the defendant Coruña to pay plaintiff Flores the amount of P1,000.00 plus interest from the date of the filing of the complaint until fully paid plus P600.00 as attorney's fee.[1] On July 8, 1969, a writ of execution was issued by the Court of First Instance addressed to the Sheriff of Quezon City directing the sale of personal properties of defendant Coruña and, if insufficient, of any real property of the latter, to answer for the judgment.[2] A notice of sheriff's sale dated September 30, 1969 was accordingly prepared by respondent Deputy Sheriff Felicidadario setting the sale at public auction of certain personal properties of defendant Coruña for October 8, 1969 at 10:00 o'clock in the morning in the old City Hall of Quezon City.[3] This sale of October 8, 1969 was known to the complainant herein, Melba C. Amolador and her husband, and they in fact participated in the sale.

A notice of Sheriff's Sale was again prepared on December 10, 1969, announcing the sale at public auction of a piece of land registered under TCT No. 66811 of the Register of Deeds of Quezon City in the name of Serafin G. Coruña, for January 8, 1970 at 10:00 o'clock in the morning. On said date the property was sold at public auction to plaintiff Tomas G. Flores who was the highest bidder for the total sum of P2,071.00,[4] and a final deed of sheriff's sale was issued in his favor on October 13, 1971.[5]

Complainant Amolador now contends in this administrative case that at the auction sale of the personal properties, the judgment in the aforesaid civil case was fully satisfied as shown by the fact that one Motorola TV Set was turned over to the plaintiff, Mrs. Flores, to answer for the sum of P465.20[6] while the rest of the personal items levied upon were paid for by her and her husband to meet the balance of the total amount to be collected from her father; that it was no longer necessary to sell the real property of her father, however, respondent sold said property to Flores for a measly amount of P2,071.00, after making it appear that she received a copy of the notice of sale, when in truth and in fact she did not receive any notice nor did she sign any document relating to said sale.

On the other hand, respondent now claims that there was still a balance of P2,071.00 on the judgment necessitating the sale of the real property of defendant Coruña; that a notice of the sale for January 8, 1970 was given to and received by complainant herein but that the latter refused to sign for it; that he forgot to state that fact on the court's copy of the notice and what he did was to ask his assistant to write complainant's name on the notice for purposes of reference as to the identity of the person who received copy thereof.

The Investigating Judge did not believe the defense of respondent Felicidadario. On this point, the report of Judge Inocentes states:

"x x x Examining the notation made on the face of the notice of sheriff's sale, the Court finds and so holds that the same is no more-no-less, than what it purports to be - an acknowledgment that said notice was received by Melba Coruña and acknowledged by no less than the recipient, the complainant herself. Anyone who may have the chance to gloss over the entries appearing on the said notice, including judicial officers cannot but give faith and reliance on said entries, prepared in the course of an official function and on an official document at that, and read into said entries no other meaning than what it naturally convey - that the signatory actually and personally acknowledged receipt of said notice, in strictissimi juris. x x x" (p. 12, rollo)

We agree that there is no truth to the statement of respondent that the name of complainant was written on the acknowledgment receipt of the notice of sale only to serve as a reminder of the identity of the person to whom the notice was served. His testimony is a mere afterthought for the truth is that he wrote or caused to be written on page two of the notice of sale the words "Rec'd copy, Melba Coruña, 12-27-69" (Exhibit J-1, p. 72, rollo) to make it appear that said Melba Coruña received a copy of said notice.

We also note that respondent made a "Sheriff's return" of the writ of execution issued since July 8, 1969, only on November 27, 1972, (p. 70, rollo) in violation of Sec. 11, Rule 39 of the Rules of Court which requires that the writ is returnable within ten days and not more than sixty days after receipt thereof by the officer serving the writ. By November 27, 1972, the one-year period for redemption of the real property had expired. We note further that it was only in his "Sheriff's return" that respondent Sheriff stated that Melba Coruña refused to sign the acknowledgment of receipt of the notice of sale; by that time, however, this administrative complaint had already been filed with the office of the Secretary of Justice.

The actuations of respondent Felicidadario undoubtedly constitute serious misconduct in office which requires disciplinary action against him.

In view, however, of the fact that the herein respondent is an appointee of the City Mayor of Quezon City, having been appointed to the position of Deputy Sheriff pursuant to Section 31 of R.A. 537 as amended by Sec. 12, R.A. 1575, and that his salary is drawn from the funds of Quezon City appropriated by the City Council, the power to remove, suspend, and otherwise discipline the herein respondent as a city employee is lodged with the City Mayor under Sec. 10(g) of R.A. 537, as amended.

In *Bagatsing vs. Herrera and Pulido*, L-34952, July 25, 1975, the Court, thru its Second Division, in a decision penned by Justice Ramon C. Aquino, held that an executive sheriff appointed by the City Mayor and receiving compensation out of city funds is a city employee subject to the Mayor's disciplinary jurisdiction and although such sheriff is a ministerial officer of the court, the power to investigate, suspend, discipline or remove him is lodged with the appointing power, and that the court may control the conduct of such sheriff only in the sense that if he refused to comply with the court's order, he may be charged in contempt of court and punished accordingly.

Amplifying Our ruling in *Herrera*, We hold that respondent deputy sheriff as an officer of the court whose duties form an integral part of the administration of justice, may be properly punished, short of dismissal or suspension

from office, by this Tribunal which exercises administrative supervision over the judicial branch of government, for any action committed in violation of the Rules of Court and which impedes and detracts from a fair and just administration of justice. Selling real property by virtue of a writ of execution of a judgment without due notice to the owner thereof or judgment debtor, violates Sec. 18, Rule 39, Rules of Court, and betrays a flagrant disregard of the elementary rules on due process.

PREMISES CONSIDERED, We hereby find respondent deputy sheriff guilty of a violation of the Rules of Court and We impose upon him a FINE equivalent to his total basic salary for a period of three (3) months to be paid within fifteen (15) days from finality of this decision, and in addition, We hereby withdraw effective immediately, respondent's authority to exercise the functions attendant to the office of a sheriff, without prejudice to any administrative action which the Mayor of Quezon City may take in the premises upon receipt of a copy of this decision.

The Executive Judge of the Court of First Instance of Quezon City is hereby directed to circularize this action of the Court among the different branches of the Court of First Instance and the City Courts of Quezon City.

SO ORDERED.

Barredo, Makasiar, Antonio, Aquino, Concepcion, Jr., Santos, Fernandez, and Guerrero, JJ., concur.

Castro, C.J., views the respondent deputy sheriff is guilty of moral turpitude, and he therefore votes for his dismissal from office. He regards the penalty imposed by the majority of the Court as unwarranted leniency.

Fernando, J., concurs conformably to his separate opinion in *Bagatsing vs. Herrera*, L-34952, July 25, 1975, 65 SCRA 434 and reiterated his view that it is this Court, not any other government office or agency, whether national or local, that has sole and exclusive control our sheriffs as judicial functionaries.

Teehankee, J., concurs in a separate opinion.

[1] pp. 56-60, rollo

[2] pp. 61-62, *ibid.*

[3] pp. 63-64, *ibid.*

[4] pp. 87-89, *ibid.*

[5] pp. 90-91, *ibid.*

[6] p. 84, rollo

SEPARATE CONCURRING OPINION

TEEHANKEE, J.:

I concur with the main opinion penned by Mme. Justice Muñoz Palma, and write this brief concurrence only to stress the following:

1. The offices of sheriffs and deputy sheriffs in the cities and provinces assist the Courts in the administration of justice and these public officers are called upon to serve their writs, execute all processes and carry into

effect all orders.[1] They fall under the "direct control, direction and supervision" of the Supreme Court, in whom "administrative supervision over all courts and the personnel thereof" has been vested by the Constitution[2] and hence the power to appoint and remove sheriffs has likewise been transferred to the Supreme Court (from the Secretary of Justice[3]).

A special class of so-called "sheriffs", however, cropped up in cities such as Manila and Quezon City, where to assist the Clerk of Court (who is ex officio sheriff) such cities have provided for the position of "executive sheriff and court liaison officer" (formerly designated as "chief deputy sheriff and chief of division of the sheriff's office in Manila") and several positions of "deputy sheriffs" (as in the case of respondent Vicente E. Pulido in *Bagatsing vs. Herrera*[4]) whose salaries are totally drawn from funds appropriated by the city council and whose appointments are vested in the city mayor, as in the case of herein respondent.

Now these so called "sheriffs" are purely local officials and the power of appointment, suspension and removal is vested in the city mayors as may be provided in their charters or their ordinances providing for such positions. The matter of administration of justice is a matter of national, not local concern, as stressed by the Court in *Lacson vs. Villafranca*.^[5] Hence, although they may be appointed as "sheriffs" by the city mayor avowedly to assist the regular sheriffs of the courts duly appointed by the Supreme Court (formerly by the Secretary of Justice), such local "sheriffs" may not exercise any of the functions of the regular sheriffs as provided in the Revised Administrative Code and in the Rules of Court without express written authority granted by this Court, which may be revoked at any time. The moment they are found guilty of wrongdoing, as in this case, or when the Court deems that there is reasonable ground to withdraw its confidence and authority, the authority granted by this Court to such local sheriffs to perform the functions of, and assist, the regular sheriffs under the supervision of the clerk of court as ex officio sheriff may be immediately revoked.

Needless to say, while the power to remove them (i.e. local "sheriffs" such as herein respondent) is vested in the mayor as the appointing authority, it would appear that the mayor would have no other recourse but to order their separation from the service, in consequence of this Court's removal of the authority granted them to discharge the functions of sheriff, since they can no longer discharge the tasks - to assist the regular sheriffs - for which they were appointed.

2. The Court has found herein respondent administratively guilty of falsification, gross misconduct and dishonesty in having illegally sold on execution the real property of complainant's father for a measly sum of P2,071.00 by falsely certifying that he had given them notice of such sale and notwithstanding that the judgment of P1,600.00 had been fully satisfied with the auction of the debtor's TV set and cash paid by complainant. Complainant had expressly made the reservation in filing her complaint that the same was without prejudice to any criminal action she may take against respondent for his wrongful acts. While such reservation did not make mention of respondent's civil liability for the wrongful sale of the real estate, this as well as any civil action for recovery of the real estate thus wrongfully sold should be deemed reserved as a matter of plain justice, in favor of the debtor and his heirs and assigns.

[1] Sec. 183, Revised Administrative Code.

[2] Sec. 6, Art. X, 1973 Constitution.

[3] Secs. 79 (d) and 186, Revised Administrative Code.

[4] 65 SCRA 434 (July 25, 1975).

[5] 4 SCRA 144 (1962); see also *Sangalang vs. Vergara*, 6 SCRA 295 (1962).

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