

CITY MAYOR MIGUEL P. PADERANGA, VICE-MAYOR FELINO GUNDAYA, PLACIDO MIRA, SANTIAGO CO, RUBEN NAMBATAC, JUANITO ARATAN, BENJAMIN CUETO, VICENTE KIUNISALA, POTENCIANO DE LOS REYES,...

Adm. Matter No. R-400-P. October 27, 1986

Ponente: CRUZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/218a5cc33bbc/>

CRUZ, J.:

In a sworn complaint filed on July 5, 1985,[1] the respondent Deputy Sheriff of Branch XXVI, Regional Trial Court, Medina, Misamis Oriental, was charged with abuse of authority, misconduct in office and ignorance of the law, in connection with the execution of judgment in Civil Cases Nos. 622-M and 688-M entitled, "Rafael Rodriguez v. The City of Gingoog, et al." and "Silvino Lu Barro v. Gingoog City represented by Mayor Miguel P. Paderanga, et al.," respectively.

The charges and specifications are as follows:[2]

Count 1 -

Employing armed PC soldiers without authority from the court.

Count 2 -

Illegally levying on properties of third parties not included in the judgment.

Count 3 -

Levying on properties far beyond and in excess of the amount of the judgment.

Count 4 -

Garnishing the funds of the city and levying on and selling its properties by public auction.

Specifically, it is alleged that: (1) the respondent, without authority from the court, employed two armed PC soldiers as escorts to intimidate and threaten the persons from whom a jeep and four Yamaha motorcycles were taken by him in enforcing a writ of execution;[3] (2) on May 20, 1985, the respondent levied on and advertised for sale at public auction on July 3, 1985, properties of the complainants who were not party-defendants in Civil Case No. 688-M;[4] (3) the amount to be satisfied was only for the total sum of P125,000.00 whereas the properties of the complainants levied upon was worth no less than P75,000.00;[5] and (4) knowing they were funds and properties of the City Government of Gingoog, he garnished the sum of P130,598.03 turned over to him by the Philippine National Bank, Gingoog City, and also levied on one jeep and four Yamaha motorcycles of this city.[6]

In his comment/explanation dated 16 August 1985, the respondent declared:

On the first charge, he formally requested the military escorts to maintain peace and order to protect him from bad

elements since it was of public knowledge that Gingoog City was in a critically troubled situation.[7]

On the second charge, he issued a notice of garnishment to the Philippine National Bank, Gingoog City, only after the decision in Civil Case No. 688-M became final and executory and in accordance with Appropriation Ordinance No. 23 under Resolution No. 233, Series of 1984, of the Sangguniang Panglungsod, Gingoog City.[8]

On the third charge, he levied on the private properties of complainants pursuant to the decision in the said case which clearly ruled that the defendants were liable jointly and severally for having acted in gross and evident bad faith in refusing to satisfy the plaintiff's valid and just claim. Moreover, the tax declaration of the said private properties indicated they had a total value of only P48,684.00 whereas the balance of the garnishable amount was P72,955.60.[9]

On the fourth charge, he acted under the authority of the court which issued the decisions, orders and writs.[10]

The administrative matter was referred to Hon. Pedro R. Luspo, Sr., Executive Judge of the Regional Trial Court, Gingoog City, for investigation, report and recommendation.

At the pre-investigation conference, the respondent admitted all the facts alleged in Counts 2, 3, and 4 of the complaint but denied the factual allegations in Count No. 1.[11]

In view of the fact that the decision of the lower court in Civil Case No. 622-M was affirmed by the Intermediate Appellate Court in two decisions dated June 12, 1985 and August 5, 1985,[12] the validity of the levy on the properties of the city government is now indisputable. Likewise rendered moot and academic is the question of the validity of the garnishment of the funds deposited with the Philippine National Bank and the levy of the individual properties of the complainants Miguel Paderanga and Potenciano de los Reyes, as these issues have been put to rest by the affirmance of the lower court's judgment by default and the consequent order of execution in Civil case No. 688-M by the Intermediate Appellate Court and later the Supreme Court.[13]

The only issue to be resolved is whether the respondent abused his authority in securing the assistance of the two PC escorts in the implementation of the writ of execution.

On this matter, the investigating judge found that the respondent in the morning of June 1, 1985, without authority from the court, requested the assistance of two PC soldiers in serving the writ of execution. The soldiers were in civilian clothes but carried sidearms. The presence of the soldiers caused fear and apprehension among the employees of the complainants.[14]

The ruling in the case of *Wearever Textile Mills, Inc. v. Deputy Sheriff Bagaybayan*[15] is squarely in point. As held in that case:

"From the facts found by the investigating judge, it is clear that the respondent deputy sheriff abused his authority when he employed armed men to assist him and forced the gate open without a court order. The actuation of the deputy sheriff was aggravated by the fact that the armed men, although presumably members of the Philippine Constabulary, were not in uniform and were obviously employed to intimidate the security guards." (Underscoring supplied.)

The investigating judge found that the respondent was motivated by a malicious desire to embarrass and ridicule the complainants. The respondent argued against himself when he said he requested the soldiers to be in civilian clothes and not to bring firearms[16] while also stating that his request was prompted by the critical peace and order condition prevailing in the area.[17] Moreover according to the investigating judge, the writ was served "in the heart of the City of Gingoog which is generally peaceful." [18]

WHEREFORE, the respondent Deputy Sheriff Rodriguez Orimaco is hereby declared guilty of abuse of authority

and suspended from the service for a period of two (2) months without pay, with the warning that a repetition of the same or similar acts will be dealt with more severely. It is so ordered.

Yap, (Chairman), Narvasa, Melencio-Herrera, and Feliciano, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Ibid.

[3] Id., p. 2.

[4] Id. p. 3.

[5] Id., pp. 3-4.

[6] Id., pp. 4-5.

[7] Id., pp. 20-21.

[8] Id., pp. 21-22.

[9] Id., pp. 22-23.

[10] Id. p. 23.

[11] TSN, April 29 and 30, 1986, pp. 35, 119, 120, 121.

[12] Annexes "1" and "2", respectively, Respondent's Memorandum; Id., pp. 154-169.

[13] Annexes "3" and "4", respectively, Respondent's Memorandum; Id., pp. 170-180.

[14] Report and Recommendation, pp. 11, 13; Rollo, pp. 192, 194.

[15] 109 SCRA 412.

[16] TSN, April 30, 1986, p. 125.

[17] Rollo, p. 200.

[18] Ibid., p. 194.

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.