

SOFRONIO VENTURA AND FRANCISCO BALTAZAR JR., COMPLAINANTS, VS. RODOLFO CONCEPCION, RESPONDENT.

A.M. No. P-00-1431 (Formerly OCA IPI No. 98-500-P). November 27, 2000

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PER CURIAM:

Before us is an administrative complaint for grave misconduct, abuse of authority and dishonesty filed by Sofronio Ventura and Francisco Baltazar Jr. against Rodolfo Concepcion,[1] Sheriff IV, Regional Trial Court, Cabanatuan City.

The antecedent facts of this case are as follows:

Complainant Sofronio Ventura is one of the defendants in Civil Case No. 2565-AF entitled "MPC Credit Systems, Inc. vs. Spouses Jessie and Divina Ventura, Emily De La Cruz and Sofronio Ventura," pending before the Regional Trial Court of Cabanatuan City, Branch 23. The other complainant, Francisco Baltazar Jr., represents MPC Credit Systems Inc. which is the plaintiff in the said civil case, which is for collection of sum of money with a motion for issuance of writ of preliminary attachment.[2]

On February 21, 1997, Acting Presiding Judge Feliciano Buenaventura ordered the issuance of the writ of attachment sought by the plaintiff. After the clerk of court issued the writ, respondent sheriff levied upon the Isuzu forward dump truck registered under Ventura's name. Thereafter, respondent made his return to the court that the writ was duly served.[3]

After respondent took possession of the vehicle, he parked the same in the garage of Baltazar. Later on, respondent demanded that the vehicle be placed in his custody. Baltazar allowed respondent to take possession of the said truck upon the latter's representation that the lawyer of Ventura was looking for the said vehicle. Not long thereafter, Baltazar saw the truck being used by a certain Lorenzo Go to haul gravel and sand.[4]

Complainants allege that they later learned that respondent sold the truck for P80,000.00 to Go. They presented the deed of sale with right to repurchase dated December 24, 1997 in favor of Go. Under the deed, the seller, respondent herein, was given a period of thirty (30) days or up to January 24, 1998, within which to repurchase the vehicle. Complainants further claim that respondent falsified the registration certificate indicating that he was the owner of the vehicle.[5]

Aggrieved, complainants filed with the Office of the Court Administrator the present administrative action against respondent. In its 1st indorsement dated February 9, 1999, the OCA required respondent to answer the complaint. On March 11, 1999, Executive Judge Federico Fajardo Jr., Regional Trial Court, Cabanatuan City, informed the OCA that the 1st indorsement was not served because respondent had not reported for duty since March 1, 1999. The OCA then directed respondent to submit his answer or the case would be submitted for consideration without his answer.

In his comment dated May 19, 2000, respondent denied that he sold the vehicle to Go. He claimed that said vehicle was in the possession of Ventura who sold it to Ricardo Garcia of Calipahan, Talavera, Nueva Ecija. He

attached to his comment a deed of absolute sale dated March 26, 1999, purportedly executed by and between Ventura and Garcia.[6] He said that the truck was already transferred to Garcia as shown in the request for confirmation dated January 11, 2000 filed with the Land Transportation Office (LTO) and the certificate of registration of the said vehicle purportedly issued on April 12, 2000[7] in the name of Garcia.

On July 26, 2000, OCA submitted to this Court its evaluation, report and recommendation. The OCA observed:

The complaint is supported by evidence. Complainant submitted a xerox copy of the Deed of Sale with Right to Repurchase executed between respondent Rodolfo C. Concepcion, as SELLER, and Lorenzo Go as BUYER. The motor vehicle subject of the Deed of Sale is the same motor vehicle which respondent levied from the complainant pursuant to a Writ of Attachment issued by the Clerk of Court of RTC, Branch 23, Cabanatuan City, as shown in the description of the motor vehicle appearing in the Notice of Levy on Preliminary Attachment issued by the respondent and in the Deed of Sale with the Right to Repurchase.

After the motor vehicle was levied by the respondent it was placed in the garage of MPC Credit Systems, Inc., the plaintiff in Civil Case No. 2565, represented by Francisco Baltazar wherein complainant was one of the defendants. The prayer for the Issuance of a Writ of Attachment was granted by the court that was why the Clerk of Court issued the Writ of Attachment.

The respondent demanded from Francisco Baltazar, Jr. that the motor vehicle be placed in his custody. Not long thereafter, the subject motor vehicle was seen by Mr. Baltazar that it was being used by Lorenzo Go to haul gravel and sand. Upon inquiry, Mr. Go told Mr. Baltazar that the motor vehicle was sold to him by the respondent.

Records show that the respondent sold the motor vehicle to Lorenzo Go on December 24, 199[7] with the use of falsified Certificate of Registration wherein it was made to appear therein that the respondent was the owner thereof when in fact he was not. The fact that the registration certificate of the motor vehicle wherein it appeared that the respondent was its owner was falsified was attested by Pedro C. Gomez of the Land Transportation Office of Urdaneta, Pangasinan.

Respondent denied that he sold the levied motor vehicle to Lorenzo Go. He claimed that said motor vehicle was sold by the complainant to a certain Ricardo Garcia. Respondent submitted the Deed of Absolute Sale of motor vehicle executed by complainant and Ricardo Garcia. It appears, however, that the Deed of Sale with the Right to Repurchase was executed between the respondent and Lorenzo Go on December 24, 1997, while the Deed of Sale of motor vehicle was executed between the complainant and Ricardo Garcia on March 26, 1999. The affidavit complaint was executed by the complainant on March 9, 1998, or about three (3) months after the Sale with the Right to Repurchase was executed.

The sequence of events as shown above proved that the complainant sold the vehicle to Ricardo Garcia after it was repurchased/retrieved by the respondent from Lorenzo Go, and thereafter, the attachment was discharged. Moreover, respondent's denial cannot overcome the documentary evidence submitted by the complainant. Respondent also failed to dispute complainant's allegation that he (respondent) falsified the registration certificate of the subject motor vehicle.[8]

We agree with the findings of OCA that respondent sold to Go the dump truck which under the law he was required to just safely keep in his custody.[9] The deed of sale with right to repurchase and the notice of levy on writ of preliminary attachment undisputedly advert to a dump truck of the same type, model, serial number, motor number and plate number.

The said deed of sale was executed by respondent on December 24, 1997. Respondent had until January 24, 1998 to repurchase the vehicle. Complainants filed the instant complaint on March 25, 1998. It now appears that

another deed of sale, between Ventura and Garcia, was executed on March 26, 1999. Ventura sold the vehicle to Garcia after it was repurchased by respondent from Go, and thereafter, the attachment was discharged. Clearly, respondent sold the vehicle on December 24, 1997, while the same was still under his custody for safekeeping only.

Worse, respondent used a falsified registration certificate to make it appear that respondent was the owner of the dump truck. Pedro Gomez of the Land Transportation Office in Urdaneta, Pangasinan certified that the registration certificate CR No. 44165003 and official receipt MVRR No 81735922 in the name of respondent and purportedly issued by their office were not in the series of receipts issued by them.[10]

Sheriffs play an important role in the administration of justice. They should always hold inviolate and invigorate the tenet that a public office is a public trust. Respondent's misdeeds constitute grave misconduct and dishonesty which must be dealt with most severely.

Moreover, the OCA noted that on May 9,2000, the Third Division of this Court found respondent guilty of dereliction of duty for parking a passenger jeepney under his custody in front of his residence instead of having it stored in a secure place. The said vehicle was carnapped. For being remiss in his duties, the respondent was suspended for two (2) months, without pay, with a warning that the commission of similar acts in the future shall be dealt with most severely.[11]

WHEREFORE, the Court finds respondent Sheriff RODOLFO C. CONCEPCION administratively liable for grave misconduct, abuse of authority and dishonesty, and hereby resolves to DISMISS him from the service with forfeiture of all leave credits and retirement rights, if any, and with prejudice to reinstatement or re-employment in any branch, instrumentality or agency of the government including government owned and controlled corporations. Further, the records of this case are REFERRED to the Department of Justice for investigation and filing, if warranted, of the appropriate criminal case against respondent.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago and De Leon, Jr., JJ., concur.

[1] The same Rodolfo A. Concepcion in A.M. No. P-98-1283 decided May 9, 2000. The correct middle initial is C per verification from the Office of Court Administrator, Legal Office.

[2] Rollo, pp. 13-17

[3] Id. at 4-6.

[4] Id. at 11-12.

[5] Id. at 9-10

[6] Id. at 33.

[7] Id. at 34-35.

[8] Id. at 37-38.

[9] Section 7 (b), Rule 57, Rules of Court.

[10] Rollo, pp. 9-10, 22-23.

[11] Johnny Gomez and Mar Guidote for Sabino S. Ramos vs. Rodolfo Concepcion, A.M. No. P-98-1283, May 9, 2000, p. 5.

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