

NENITA Q. SULAPAS, OMPLAINANT, VS. SAMUEL G. BASCO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCHES 29 & 30, SURIGAO CITY, RESPONDENT.

A.M. NO. P-07-2310 (FORMERLY OCA IPI NO. 04-2003-P). April 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

This is an administrative complaint for grave misconduct filed against respondent Samuel G. Basco, sheriff IV of the Regional Trial Court (RTC), Branches 29 and 30, of Surigao City.

The antecedent facts follow.

On February 23, 1990, the complainant Nenita Sulapas (and her sister-in-law Marilyn Olivan Sulapas) filed in the RTC, Branch 29 of Surigao City, a replevin suit[1] with damages against Virginia Cascuela Monzon, Carlos Solima, Montano Contreras and Wendelin Comon (Monzon et al.). The case was docketed as Civil Case No. 3781.

During the trial of the case, the complainant and her sister-in-law claimed they were the owners of two motor boats that Monzon et al. refused to return. The latter, on the other hand, insisted that they were the lawful owners of the motor boats which they used in their fishing business.

In a decision dated August 31, 1995, the RTC ruled in the complainant's (and her sister-in-law's) favor and ordered Monzon et al. to deliver the motor boats or pay their value. The dispositive part of the decision read:

WHEREFORE, judgment is hereby rendered in favor of [the complainant and Marilyn Olivan Sulapas] and against [Monzon et al.]:

(1) DECLARING [the complainant] Nenita Sulapas and Marilyn Olivan Sulapas[,] the widow of the late Pepito Sulapas as the true and lawful owners of [the] motor boats...

(2) ORDERING defendant Virginia Monzon to deliver the aforesaid motor boats to [the complainant and Marilyn Olivan Sulapas] or to pay [them] the sum of ONE HUNDRED TWENTY THOUSAND [PESOS] (P120,000.00) as the value thereof with interest at the legal rate from the filing of the complaint on February 23, 1990 until fully paid;

(3) ORDERING [Monzon et al.], jointly and severally, to pay [the complainant and Marilyn Olivan Sulapas] the sum of TWENTY THOUSAND [PESOS] (P20,000.00) as damages; the further sum of TWENTY THOUSAND [PESOS] (P20,000.00) as attorney's fees and expenses of litigation[,] and to pay costs.

SO ORDERED.[2]

After the decision became final and executory, the trial court issued a writ of execution on March 26, 1997. Accordingly, Monzon et al.'s properties were levied upon, to be sold at public auction. However, since the scheduled public auction did not push through, the complainant's counsel, Atty. Sisenando Villaluz, filed in the

RTC a motion to continue[3] the sale of the levied properties.

In an order dated July 13, 2001, the court granted the motion and directed respondent sheriff to cause the posting of a new notice of sale. This, however, he failed to do despite repeated requests by the complainant and her lawyer, Atty. Villaluz.[4] Hence, this administrative complaint.

In her complaint, the complainant averred that respondent refused to implement the RTC order of July 13, 2001 and even delayed the posting of a new notice of sale without justifiable cause. She added that due to respondent's lackadaisical attitude, she could not reap the benefits of the RTC judgment in Civil Case No. 3781 which had long been final and executory.

In his comment,[5] respondent countered that the cause of the delay in the continuation of the sale of the levied properties was the complainant's refusal to pay the required legal fees. According to respondent, he advised the complainant to pay the fees to the clerk of court once he was ready with the estimate of the expenses and after he secured the court's approval for the posting of a new notice. Respondent added he even dared the complainant to accompany him in implementing the court order "so she could also pay his transportation and meal expenses."

The complaint and respondent's comment were referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation. Subsequently, the OCA found that respondent's failure to implement the court order in Civil Case No. 3781 (directing continuance of the public sale and posting of a new notice of sale) constituted simple neglect of duty, not grave misconduct as charged by the complainant.[6]

We agree.

Grave misconduct manifests a clear intent to violate the law or a flagrant disregard of established rule.[7] Unfortunately, the complainant failed to substantiate her allegation of bad faith and improper motive on the part of respondent. Nonetheless, respondent should be held accountable for neglecting to perform his duty under Section 9, Rule 141 of the Rules of Court. His non-feasance was the cause of the complainant's failure to pay the legal fees and consequently, the delay in the execution of the July 13, 2001 court order.

In prescribing the legal fees that sheriffs may collect, Section 9, Rule 141 of the Rules of Court provides:

SEC. 9. Sheriff and other persons serving processes.

xxx xxx xxx

In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses serving or executing the process, or safeguarding the property levied upon, attached or seized...in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court... (emphasis supplied)

Based on this provision, respondent should have immediately made an estimate of the legal fees that the complainant had to pay before a new notice of sale could be posted. Respondent himself declared in his comment that this was required prior to paying the fees to the clerk of court.[8]

Clearly, respondent failed to comply with his obligation under the Rules. He failed to make an estimate of the expenses and fees payable by the complainant, submit it to the RTC for approval and advise the complainant to deposit the estimated amount with the clerk of court. Had he followed the proper procedure, the RTC judgment[9] in Civil Case No. 3781 would have been satisfied earlier and not left dormant for years at the complainant's expense.

Furthermore, respondent's admission that he even dared the complainant to accompany him in serving the writ and pay for his meals and transportation expenses degraded the dignity of his office and the courts. His behavior was clearly unwarranted and highly unethical.

The important role played by sheriffs and other court personnel in the administration of justice cannot be over-emphasized. They are primarily responsible for the speedy and efficient service of all court processes and writs. They end suits by implementing court orders and judgments. No doubt, unexecuted decisions or those delayed indefinitely because of their inefficiency or negligence are empty victories to winning litigants.[10] Thus, sheriffs must at all times show the highest degree of professionalism and competence in the performance of their duties.

Respondent cannot attribute the delay in the execution of the July 13, 2001 RTC order solely to the complainant's failure to pay the legal fees, considering that he himself failed to do his duty of submitting an estimate of the expenses to the court for approval. His ineptitude displayed a conduct short of the stringent standards required of all court employees. Respondent is thus guilty of simple neglect of duty, defined as the failure of an employee to give attention to a task expected of him and signifying a disregard of a duty resulting from carelessness or indifference.[11]

Under the Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is classified as a less grave offense punishable by suspension without pay for one month and one day to six months for the first offense. Considering that this neglect persisted for years (delaying the full implementation of a court order), the imposition of the maximum penalty is warranted.

WHEREFORE, respondent Samuel G. Basco, sheriff IV of the Regional Trial Court, Branches 29 and 30 of Surigao City, is hereby found GUILTY of simple neglect of duty. He is SUSPENDED for six (6) months without pay 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] Also described in the records as a civil case for the manual delivery of personal property.

[2] Decided by Judge Evangeline S. Yuipco. Rollo, pp. 12-17.

[3] The records are incomplete (or confusing) on this particular point. Apparently, there was already a previous attempt to sell the levied properties at public auction.

[4] In 2002, Atty. Villaluz also sent a letter to the Office of the Court Administrator (OCA) calling the latter's attention to respondent's inaction in implementing the RTC order of July 13, 2001.

[5] Rollo, pp. 24-26.

[6] OCA Report dated August 18, 2005. Rollo, pp. 36-39.

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

[8] *Supra* note 4.

[9] Dated August 31, 1995. Supra note 2.

[10] *Mendoza v. Doroni*, A.M. No. P-04-1872, 31 January 2006, 481 SCRA 41.

[11] *F.F. I. Dagupan Investors, Inc. v. Hortaleza*, A.M. No. P-05-1952, 8 July 2005, 463 SCRA 18.

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