

LORENZA M. DE LABACO, COMPLAINANT, VS. PROVINCIAL DEPUTY SHERIFF NORBERTO O. PARALE, COURT OF FIRST INSTANCE, BRANCH IV, CALAUAG, QUEZON, RESPONDENT.

Adm. Matter No. P-2266-A. December 14, 1981

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

In her verified letter complaint dated July 7, 1979, Lorenza M. de Labaco charges Provincial Deputy Sheriff Norberto O. Parale of the Court of First Instance of Quezon, Branch IV at Calauag, with misconduct and dishonesty in the performance of his official duty in connection with his actuations in Civil Case No. C-107 of the Municipal Court of Tagkawayan, Quezon.

Executive Judge Efren P. Garcia of the Court of First Instance of Quezon, Branch IV, Calauag, to whom this case was referred for investigation, report and recommendation, submitted the following findings dated July 14, 1980:

"As it appears on record these administrative complaints originated from a Writ of Execution issued by the Municipal Court of Tagkawayan Quezon in Civil Case No. C-107 entitled "Ildefonso Labaco versus Lourdes Eleazar, et al." Originally, this is a Forcible Entry case filed in the Municipal Court of Tagkawayan, Quezon and docketed therein as Civil Case No. 68. The decision by the lower Court in said case was appealed to this Court which sub-sequently rendered its decision dated December 19, 1977, the dispositive portion of which is hereunder quoted, to wit:

'Wherefore, all premises con-sidered, judgment is hereby rendered in favor of the plaintiff Ildefonso Labaco and against the defendants Eleazars x x x hereby ordering the defendants to pay to plaintiff the amount of TEN THOUSAND PESOS (P10,000.00) representing the yearly rentals for the unlawful use and occupation of the property in question from the time of appeal until possession is delivered back to the plaintiff.'

"It is alleged in both the letter-complaints of Lorenza M. de Labaco who is the wife of Ildefonso Labaco, the plaintiff in the above cited case and Atty. Pedro G. Uy who stands as counsel for the same plaintiff in the said case, that pur-suant to the writ of execution issued therein Deputy Sheriff Norberto O. Parale received the sum of P8,500 from Atty. Vicente M. Salumbides, Sr., counsel for the defendants Eleazars in said case and Atty. Vicente G. Salumbides Jr., son-in law of said defendants, duly evidenced by receipts signed by him; that said amount, however, was not turned over to the plaintiff to whom the amount was due; that when the plaintiff demanded the delivery of said amount said Deputy Sheriff made several promises to do so which were never made good; that upon the failure of said Sheriff to keep good his promise, the Municipal Court of Tagkawayan, Quezon upon motion of plaintiff's counsel ordered him to deposit said amount with the Municipal Treasurer of Tagkawayan, Quezon but that inspite the issuance of such order said Deputy Sheriff has not delivered the amount to plaintiff nor has he deposited it with the treasurer of Tagkawayan, Quezon.

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"From the evidence presented the Court finds the receipts marked Exhibits "A" and "A-1" as genuine evidence of the delivery of the sum of P8,500 by Atty. Vicente G. Salumbides, Jr., son-in-law of the defendants Eleazars

to Norberto O. Parale, the respondent herein, in his capacity as Deputy Sheriff and in pursuance of the Writ of Execution issued by the Mun. Court of Tagkawayan, Quezon. Said receipts dated September 2, 1978 and November 3, 1978 both at Tagkawayan, Quezon were for an aggregate sum of P8,500 only such that on March 26, 1979 the respondent Deputy Sheriff sent a notice to the parties to the case requiring the Eleazars to satisfy the balance of P10,000, which this Court awarded in favor of the plaintiff Ildefonso Labaco, Said balance, however, has not been paid for the defendants Eleazars, in another letter by respondent Parale to Ildefonso Labaco, are adamant to pay it for the reason that the defendants have filed an action for quieting of title against Ildefonso Labaco. In the same letter, the respondent Deputy Sheriff expressed his fear that in the event he delivers the amount entrusted to him for deposit by Atty. Vicente G. Salumbides, Jr., who is not a party to the case, and the Eleazars win, he may be held liable for said amount. This is an admission by respondent Parale which he never successfully rebutted. xx xx xx To cap all these, the mere denial of the respondent Deputy Sheriff of his receipt of the amounts mentioned without any evidence to support it cannot go against the oral declaration of Atty. Vicente G. Salumbides, Jr., under his lawyer's oath and as the Municipal Mayor of Tagkawayan, Quezon given before the Municipal Court of said municipality to the effect that he personally and actually handed over to said Deputy Sheriff the sums of P2,500.00 and P5,000.00. Neither could the respondent deny having received from Atty. Vicente M. Salumbides, Sr. the other sum of P1,000.00 as he could not have signed Exhibit "A" which indicate the amounts deposited with him on three (3) different occasions. There was neither a denial of the signatures on the evidence of payment which the court in comparison with the signatures of the same respondent appearing in other exhibits finds to be similar and one and the same.

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"Such act of the respondent Deputy Sheriff is not only negligence but also plain dishonesty in the performance of his official duties. It is a misconduct which erodes the public's faith and confidence in courts and its decisions which should not be allowed to pass unchecked and its authors should be punished accordingly."

The Investigating Judge recommended that respondent Parale a) be ordered to restore the amount of P8,500.00, the same to be deposited with the Municipal treasurer of Tagkawayan Quezon; b) be severely reprimanded for his dishonesty and negligence in the performance of his duties; and c) be suspended for at least twelve (12) months without pay, with a warning that a repetition of this misconduct will be dealt with more drastically.

This administrative matter was then referred to Deputy Court Administrator Romeo D. Mendoza for study, report and recommendation. In a memorandum submitted to Chief Justice Enrique M. Fernando dated October 15, 1981, he recommended approval of the findings of Investigating Judge but is of the opinion that "respondent Provincial Deputy Sheriff Parale deserves that more severe penalty of separation from the service with forfeiture of all government benefits, plus restitution of the amount of P8,500 withheld by him, considering the gravity and seriousness of the offense committed." This recommendation was concurred in by Court Administrator Lorenzo Relova. We accept the recommendation.

In the light of the recorded evidence, We find as established that respondent deputy sheriff, in failing to turn over to the prevailing party in the subject Civil Case the amount of P8,500 despite repeated demands from the latter nor to deposit the same with the Municipal treasurer of Tagkawayan, Quezon despite an order from the Municipal Court of the same municipality is guilty of grave misconduct and gross dishonesty in the performance of his official duty. Indeed, respondent deputy sheriff, as an officer of the court, is under obligation to perform the duties of his office honestly and faithfully and his conduct, at all times, must not only be characterized with propriety but most of all, must be above suspicion.

In the following cases, the Court dismissed from the service respondent sheriffs and deputy sheriffs for gross dishonesty and grave misconduct in the performance of their official duties:

- 1) *Ganaden vs. Bolasco*, 64 SCRA 50, where respondent deputy provincial sheriff of CFI of Zambales, Branch I, received certain amounts in connection with the performances of his duties as deputy sheriff without issuing the corresponding official receipts therefor and gave only his private receipt.
- 2) *Abdulwahid vs. Reyes*, 81 SCRA 213, where respondent deputy sheriff of Zambales City, misappropriated certain amounts he received in his official capacity for which he issued only his private receipts, and which amounts he returned only after the filing of the administrative case.
- 3) *Abejaron vs. Panes*, 84 SCRA 494, where respondent Jose V. Panes, as ex-officio provincial sheriff of the Court of First Instance of South Cotabato, Branch I, misappropriated for his own use the sum of P15,000 which he received from judgment debtor and which he was under obligation to deliver to judgment creditor, which this Court considered as a criminal offense under Article 315, par. 1 (b) of the Revised Penal Code.
- 4) *Custodio vs. Fulinara*, 94 SCRA 808, where respondent deputy provincial sheriff of Zambales failed to enforce a writ of execution and make a return thereof and collected from complainant P500.00 allegedly for expenses of publication of auction sale which did not materialize and his failure to return the said amount.
- 5) *Agcaoili vs. Reyes*, 100 SCRA 188, where respondent deputy sheriff of Manila demanded an amount of P20,000 in return for information regarding the location of levied properties.

Thus, it may be well to state again that sheriffs and deputy sheriffs are public officers and as such must serve with the highest sense of responsibility and the highest degree of integrity, loyalty and efficiency, and at all times remain accountable to the people and their conscience[1] They are under obligation to discharge the duties of their office with diligence and integrity and with an overriding concern to promote public interest,[2] and, to emphasize, with honesty of the highest degree.

IN VIEW OF THE FOREGOING, respondent is hereby found guilty of GROSS DISHONESTY AND GRAVE MISCONDUCT prejudicial to the best interest of the service and his immediate dis-missal is hereby ordered, with forfeiture of retirement privileges and with prejudice to reemployment in any national, local office or agency, including government--owned-or-controlled corporation or instrumentality. He is also ordered to deposit with the Municipal treasurer of Tagkawayan, Quezon, the amount of P8,500 within a period of forty-eight (48) hours from the notice hereof.

SO ORDERED.

Fernando, C.J., Barredo, Makasiar, Aquino, Concepcion, Jr., Fernandez, Guerrero, Abad Santos, and Melencio-Herrera, JJ., concur.

Teehankee, J., files a brief concurrence.

[1] *Phil Trial Lawyers Association, Inc. vs. Basco*, 100 SCRA 416; *Ganaden vs. Bolasco*, 64 SCRA 50; *Tago-an vs. Roa*, 72 SCRA 466.

[2] *Genio vs. Abonales*, 66 SCRA 612.

CONCURRING OPINION

TEEHANKEE, J.:

I concur and note that there appears to be a clear case of dishonesty and misappropriation of the sum of P8,500.00 re-ceived officially by respondent sheriff in partial satisfaction of a writ of execution of a judgment, and worse, respondent sheriff has with impunity disregarded the municipal court's order to res-titute and deliver the sum to the judgment creditor. The case should be referred to the provincial fiscal through the Minister of Justice for the prosecution of respondent as the facts may warrant.

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