

**CORAZON TENORIO, REPRESENTED BY IMELDA TENORIO-ORTIZ,
COMPLAINANT, VS. ALYN C. PERLAS, SHERIFF III, RESPONDENT.***A.M. No. P-10-2817 [Formerly OCA I.P.I. No.09-3089-P]. January 26, 2011*

Ponente: VELASCO JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3fe1a0386247/>**VELASCO JR., J.:**

This administrative complaint against Sheriff Alyn C. Perlas (Sheriff Perlas), Office of the Clerk of Court, Metropolitan Trial Court (MeTC) of Pasig City stems from a complaint filed by Corazon Tenorio (Tenorio), represented by her attorney-in-fact Imelda Tenorio-Ortiz, charging Sheriff Perlas with Oppression, Dishonesty and Grave Misconduct under Republic Act No. (RA) 6713 and with violations of RA 3019 relative to the implementation of the Writ of Preliminary Attachment in Civil Case No. 15251, entitled 747 Lumber and Construction Supply v. Spouses Edgardo Pile and Marissa Pile for Sum of Money.

The facts of the case, as gathered from the records, are as follows:

According to the letter-complaint of Tenorio, on December 22, 2008, Sheriff Perlas, accompanied by other persons, arrived at her store, Ten Rey Gravel and Sand and Construction Materials, located at No. 377 McArthur Highway, Corazon, Calumpit, Bulacan.[1] Upon their arrival, Sheriff Perlas served upon her a Notice of Levy on Attachment clearly addressed to spouses Edgardo Pile and Marissa Pile (spouses Pile) of Apalit, Pampanga.[2] Tenorio emphasized that Sheriff Perlas served the notice in a discourteous and arrogant manner.[3]

After this, Tenorio showed Sheriff Perlas the Certificate of Car Registration of their two (2) units of dump trucks and pleaded to her not to take the trucks away because they were the registered owners of the trucks. However, despite this, Sheriff Perlas forcibly took the two (2) units of trucks without even verifying with the Land Transportation Office (LTO) as to who were the true registered owners of the trucks.[4]

Aggrieved, Tenorio filed a Complaint-Affidavit dated January 12, 2009 before the Office of the Court Administrator, charging Sheriff Perlas with Oppression, Dishonesty and Grave Misconduct under RA 6713 and with Violation of RA 3019. According to Tenorio, Sheriff Perlas used her public office as Sheriff to oppress and harass her. Further, Tenorio said that the humiliating manner by which Sheriff Perlas rudely and insolently served the Notice of Levy on her caused her serious mental anxieties, moral shock, and sleepless nights.[5]

Finally, Tenorio added in her Complaint-Affidavit that Sheriff Perlas received PhP 50,000 from 747 Lumber & Construction Supply, Inc. as evidenced by the affidavit of Edgardo Pile.[6] In his affidavit, Edgardo Pile stated that he saw the trucks parked in the vicinity of 747 Lumber & Construction Supply; and that despite explaining to the owner of the store who the true owners of the subject vehicles were, he refused to surrender them, saying that he paid Sheriff Perlas money for them.

On March 24, 2009, Sheriff Perlas filed her comment stating that Tenorio already earlier instituted a complaint for Damages against her before the Municipal Trial Court of Calumpit, Bulacan for the same incident subject of the instant case. She filed an answer in the said civil case which she is adopting in the instant administrative case.

In her answer, Sheriff Perlas denied all the allegations and recounted that on December 17, 2008, Judge Marina Gaerlan-Mejorada issued a Writ of Preliminary Attachment against Spouses Pile in relation to Civil Case No. 15251.[7] Consequently, on December 22, 2008, she, together with the plaintiff's representative in the civil case, George Clemente (Clemente), proceeded to implement the writ.[8] However, upon arriving at Ten Rey General Merchandise, the defendants spouses Pile were not present.

Clemente insisted that they proceed to spouses Pile's other address, which turns out to be the address of Tenorio, mother of Marissa Pile. When they reached the place, Sheriff Perlas noticed two (2) trucks with the body markings "TEN REY" and with plate numbers TJE 757 and TBU 705. She believed in good faith that these trucks belong to Spouses Pile and tried to obtain the certificates of registration from the drivers. When the drivers and Tenorio failed to produce certificates of registration, she assumed the vehicles were owned by spouses Pile.[9]

Further, Sheriff Perlas claimed that she acted within the scope of her authority and maintained that she was not arrogant, discourteous or callous.[10]

On March 16, 2009, the MeTC issued an Order resolving in its ratio decidendi that:

x x x A considerable period of time had lapsed and yet, no such indemnity bond was filed by the plaintiff, hence, based on the provision of Section 14, Rule 57 of the Rules of Court 'the sheriff shall not be bound to keep the property under attachment' emphasizing the point that the properties levied upon in this case may now be released to third-party claimant Corazon R. Tenorio, whose proofs of title or right of possession over the properties 'in litis' have proven to be persuasive.[11]

On June 17, 2009, Tenorio submitted a Manifestation to the Office of the Court Administrator seeking the dismissal of the instant administrative case against Sheriff Perlas due to the fact that the trucks had already been released and that Sheriff Perlas already personally apologized to her for whatever damage and inconvenience that the Writ of Preliminary Attachment may have caused her. In addition, Tenorio pointed out that both parties had already settled amicably and jointly moved for the dismissal of the civil case for damages filed against Sheriff Perlas.

On May 14, 2010, Court Administrator Jose Midas P. Marquez (Court Administrator) issued his evaluation and recommendation on the case. In his evaluation, the Court Administrator found that respondent Sheriff Perlas was grossly inefficient and guilty of misconduct in implementing the Writ on December 22, 2008. As a result, the Court Administrator recommended the following:

(1)

The complaint against Alyn C. Perlas, Sheriff III, OCC - MeTC, Pasig City, be RE-DOCKETED as a regular administrative matter;

(2)

Sheriff Perlas be found GUILTY of Simple Misconduct and be FINED in the amount of Eleven Thousand Pesos (P11,000.00) with a STERN WARNING that a repetition of the a similar offense in the future will be dealt with more severely in the future; and

(3)

Respondent Perlas be directed to EXPLAIN within ten (10) days from notice the receipt of P 50,000 from the plaintiff for the service of the Writ of Preliminary Attachment and Notice of Levy on Attachment.

We find the evaluation and recommendations of the Court Administrator well-taken.

Well-settled is the rule that "[t]he duty of a sheriff in enforcing writs of execution is ministerial and not discretionary." [12] However, "errors in the levy of properties do not necessarily give rise to liability if circumstances exist showing that the erroneous levy was done in good faith." [13]

In the instant case, the conduct of Sheriff Perlas in implementing the Writ is inexcusable. The facts clearly show that the two (2) trucks seized by her did not belong to the spouses Pile but to herein complainant, Tenorio. What is more, she could have acted in good faith and checked from the LTO the identity of the registered owners of the said vehicles before proceeding with their seizure.

In *Malmis v. Bungabong*, the Court explained the proper conduct that sheriffs must exercise when performing their functions, viz:

While it is true that sheriffs must comply with their mandated ministerial duty to serve court writs, execute all processes and carry into effect all court orders promptly and expeditiously, it needs to be pointed out that this ministerial duty is not without limitation. In the performance of their duties, they are deemed to know what is inherently right and inherently wrong and are bound to discharge such duties with prudence, caution and attention which careful men usually exercise in the management of their affairs. As agents of the law, sheriffs are called upon to discharge their functions with due care and utmost diligence because, in serving the court's processes and implementing its order, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. [14] (Emphasis supplied.)

Thus, Sheriff Perlas' explanations deserve scant consideration. She failed to discharge her functions with due care and utmost diligence. Mere failure on the part of Tenorio and the drivers to present the certificates of registration of the vehicles at the time of taking should have prompted her to exhaust all means to discover the true identity of the owners.

Moreover, as to the alleged turn-over of the trucks made by Sheriff Perlas in favor of the attaching party after receiving money from the latter, there is lack of substantial evidence to prove it. Administrative proceedings are governed by the substantial evidence rule, i.e., such amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion. [15] The standard of substantial evidence is justified when there is reasonable ground to believe that respondent is responsible for the misconduct complained of, even if such evidence is not overwhelming or even preponderant. [16] In the instant case, aside from the affidavit of Edgardo Pile, no other evidence was presented by the complainant to support the allegation that Sheriff Perlas received the money. Such cannot be considered substantial enough to support a finding of a serious charge.

Accordingly, Sheriff Perlas is only guilty of misconduct in the discharge of her functions. Misconduct is a transgression of an established rule of action. More particularly, misconduct is the unlawful behavior of a public officer. It means the "intentional wrongdoing or deliberate violation of a rule of law or standard of behavior, especially by a government official." [17] In order for misconduct to constitute an administrative offense, it should be related to or connected with the performance of the official functions and duties of a public officer. [18]

Under Rule 140 of the Rules of Court, as amended by A.M. No. 01-8-10-SC, simple misconduct is considered a less serious offense, sanctioned with suspension without pay for not less than one (1) month but not more than three (3) months, or a fine of not less than ten thousand pesos (PhP 10,000) but not exceeding twenty thousand pesos (PhP 20,000).

WHEREFORE, respondent Sheriff Alyn C. Perlas is found GUILTY of simple misconduct. She is meted the penalty of a FINE of eleven thousand pesos (PhP 11,000). She is STERNLY WARNED that a repetition of similar or analogous infractions in the future shall be dealt with more severely.

SO ORDERED.

Corona, C.J., Chairperson, Leonardo De Castro, Del Castillo, and Perez, JJ., concur.

- [1] Complaint-Affidavit, Corazon Tenorio, p. 2.
- [2] Id., Annex "B".
- [3] Id. at 2.
- [4] Id.
- [5] Id. at 2-3.
- [6] Id. at 4.
- [7] Answer, Sheriff Alyn. C. Perlas, p. 1.
- [8] Id. at 2.
- [9] Id.
- [10] Id.
- [11] Order dated March 16, 2009, Civil Case No. 15251, p. 3.
- [12] Bautista v. Orque, Jr., A.M. No. P-05-2099, October 31, 2006, 506 SCRA 309, 314.
- [13] Camarote v. Glorioso, A.M. No. P-02-1611, July 31, 2002, 385 SCRA 533, 537.
- [14] Malmis v. Bungabong, A.M. No. P-03-1721, September 30, 2004, 439 SCRA 538, 541-542.
- [15] Menor v. Guillermo, A.M. No. P-08-2587, December 18, 2008, 574 SCRA 395, 400.
- [16] Ligid v. Camano, Jr., A.M. No. RTJ-99-1509, August 8, 2002, 387 SCRA 1, 11.
- [17] Senarlo v. Paderanga, A.M. No. RTJ-06-2025, April 5, 2010, 617 SCRA 247, 256.
- [18] Civil Service Commission v. Belagan, G.R. No. 132164, October 19, 2004, 440 SCRA 578, 599.

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