

CIRILO TINAHA, COMPLAINANT, VS. BENJAMIN MARAVILLA, RESPONDENT.*A.M. No. P-1. July 25, 1975*

Ponente: CASTRO, J.

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Cirilo Tinaha (hereinafter referred to as the complainant) filed this administrative complaint on August 17, 1972 charging Benjamin Maravilla (hereinafter referred to as the respondent), a deputy sheriff of Davao, with arbitrarily taking away on July 15, 1972 two goats owned by the former and valued at P80. The respondent excuses himself with the averment that the seizure was made pursuant to an alias writ of execution issued against the complainant.

It appears that on May 22, 1972 the Court of First Instance of Davao, Branch III, in civil case 5054 entitled "Magno Porticos, et al. vs. Cirilo Tinaha," issued an alias writ of execution commanding "THE SHERIFF or his Deputy, Davao City" to order the herein complainant to vacate the parcel of land involved in the dispute and located in New Bataan, Davao del Norte, to pay the rental value thereof at the rate of P50 a month from March 8, 1965 until the plaintiff is restored to the premises, and to pay the sum of P800 as attorney's fees and costs.

On May 31, 1972 the court a quo issued an order deputizing the Chief of Police in New Bataan, Davao del Norte, to serve, enforce and execute the aforementioned writ. Under date of June 14, 1972 Carlito P. Magallanes, the Chief of Police of New Bataan, sent a first indorsement to the "Clerk of Court, Court of First Instance, 16th Judicial District, Branch III, Davao City, with the information that Cirilo Tinaha refused to vacate the said place; however duplicate copy of alias Writ of Execution was received and signed by Mrs. Simplicia Tinaha."

On July 8, 1972 the respondent himself went to the premises in question and ejected the complainant and his family therefrom. On July 15, 1972 the respondent returned thereto, with Magno Porticos and the latter's counsel, Atty. Laurie de Vera, and, seeing the two aforementioned goats, caught and carted them away in the jeep of Atty. de Vera. All this was admittedly done without the consent of the complainant and his wife who were away from the place at the time. The taking of the goats was, however, witnessed by the complainant's 13-year-old son who, in a sworn statement not traversed by the respondent, stated that as the goats were being loaded in the jeep, a companion of the respondent (one Rudy Porticos) remarked: "This will be papait!"

On the same day, that is, July 15, 1972, Magno Porticos, the plaintiff in civil case 5054, signed a receipt of possession of the premises made at the back of the aforementioned alias writ of execution, which receipt reads as follows:

"RECEIPT OF POSSESSION

"RECEIVED from the Provincial Sheriff of Davao City thru Deputy Sheriff Benjamin Maravilla the possession of a portion illegally occupied by the defendant in a parcel of land and which is the subject of Court litigation in Civil Case No. 5054, Court of First Instance, Davao City, entitled, 'Magno Porticos, plaintiff vs. Cirilo Tinaha, defendant'.

"All personal belongings of the defendant together with Cresencio Digal, son-in-law and Ignacia Tinaha, daughter of the defendant and who were present during the ejectment proceedings and co-occupants of defendant's house were removed from the premises by said Sheriff on July 8, 1972.

"Doors and windows of defendant's house were closed and nailed on the same date.

"New Bataan, Tagum, Davao Del Norte this 15[th] day of July, 1972."

At the hearing conducted by Executive Judge Antonio M. Martinez of the Court of First Instance of Davao the respondent, who presented no other witness besides himself to sustain his defense, related that he levied on the goats and issued the corresponding receipt therefor, a copy of which he left with a neighbor of the complainant and the original thereof with a policeman of New Bataan. The alleged receipt reads as follows:

"R E C E I P T:

"RECEIVED from Cirilo Tinaha the following animals:

"One (1) Female goat

"One (1) Male Baby goat

_____X_____

_____X_____

_____X_____

_____X_____

"The above-described animals were levied by the undersigned Deputy Sheriff to satisfy partially the amount of judgment in connection with the above-entitled case.

"New Bataan, Davao del Norte this 15th day of July, 1972. x x x ."

On July 24, 1972 the respondent allegedly prepared an original and seven copies of the notice of sale of the goats. On the same day, he sent by ordinary mail a letter addressed to the Chief of Police of New Bataan, requesting that the three enclosed copies of the notice of sale be posted in the municipality. He also mailed a copy to the complainant. Three other copies were allegedly posted at Davao City and one filed in the record of civil case 5054. The notice of sale reads as follows:

"NOTICE OF SALE

"WHEREAS, by virtue of the alias Writ of Execution duly issued by the Court of First Instance, Branch III Davao City in the above-entitled case, commanding the Provincial Sheriff of Davao City to levy upon the goods and chattels of the herein defendant whereof to satisfy the amount of judgment of x x x the undersigned Deputy Sheriff on July 15, 1972 levied the following:

"One (1) female goat, brown color

"One (1) baby goat, brown, red and white color.

"WHEREFORE, in compliance with the said alias Writ of execution and in accordance with law, the undersigned Deputy Sheriff of Davao City hereby announces that on August 1, 1972 at 10:30 o'clock in the morning in front of the residence of the undersigned officer, he will sell at public auction to the highest bidder for cash and in Philippine Currency the above-described animals to satisfy the judgment mentioned above.

"This Notice of sale will be posted in three (3) public and conspicuous places in the City of Davao . . . and will remain so posted Nine (9) days prior to the date of the sale.

"Prospective bidders or buyers must investigate for themselves the condition of the above-described animals. . . ."

It is interesting to note at this point that a certification dated January 5, 1973 issued by the Acting Chief of Police (Francisco B. Gulle) of New Bataan, states that the "Sheriff's Notice of Sale in Civil Case No. 5054 has been posted in the Municipal Building for the information of any person interested therein, sometime on July 24, 1972." Four copies of the alleged notice of sale were also found by the Investigating Judge in the record of civil case 5054.

The respondent further testified that on August 1, 1972 the complainant's goats were offered by him for public sale in front of his house, and that Magno Porticos won the bid. An alleged memorandum of the sale which the respondent had supposedly made reads as follows:

"M E M O R A N D U M

"The result of the Public Auction Sale of One (1) female goat, brown color and One (1) male baby goat, red, brown and white color which was conducted by the undersigned officer on August 1, 1972, at 10:50 o'clock in the morning in front of the resident of the undersigned, corner Aurora and Rojas Sts., Davao City in connection with the above-mentioned case.

"The following bidders who participated during the sale are as follows:vee

1. Feleciano Celerinos -----

P18.00

2. Rogelio Asuncion -----

20.00

3. Maximo Rosales -----

25.00

4. Pedro Gustelo -----

27.00

5. Magno Porticos -----

30.00

"Davao City, Philippines this 1st day of August, 1972 . . ."

The certificate of sale of the goats which the respondent claimed he executed in favor of Magno Porticos on the same day recites:

"CERTIFICATE OF SALE

"That in Pursuant to the alias Writ of Execution duly issued by the Court of First Instance of Davao City, Branch III in the above-entitled-case; the undersigned Deputy Provincial Sheriff of Davao City, levied the goats of the herein defendant and described as follows:

"One (1) female goat, brown color.

"One (1) male baby goat, brown, red, and white color.

"That after the required Notice and Posting as required by the Rules of Court, on August 1, 1972, at 10:30 o'clock in the morning in front of the residence of the undersigned officer, corner Aurora and Rojas Avenue Streets, Davao City, the above-described animals were sold at public auction.

"That at the aforesaid sale at public auction conducted by the undersigned officer, the above described animals (goats) were sold in favor of the herein plaintiff for the amount of Thirty Pesos (P30.00) Philippine Currency, cash payment was dispensed with, the buyer and successful bidder being the plaintiff and to whom said amount was credited in his favor.

"WHEREFORE, for and in consideration of the amount of Thirty Pesos (P30.00) Philippine Currency offered by the herein plaintiff, I hereby declared by these presents that I have sold and adjudicated in favor of the herein plaintiff buyer in absolute sale, all the rights, interest, claim, and participation which the herein defendant, Cirilo Tinaha, has or might have on the animals described above.

"IN WITNESS HEREOF, I have hereunto signed this Certificate of Sale on the 1st day of August, 1972, in the City of Davao, Philippines. . . ."

On August 5, 1972 at about eleven o'clock in the morning, the respondent, acting pursuant to an order[*] of the court a quo, issued the previous day, that he submit a return relative to the aforementioned alias writ of execution, filed a sheriffs return which, inter alia, states:

"Respectfully returned to the Clerk of Court, x x x

"The money judgment in this case was not satisfied, the defendant has no personal and real property that could be attached in accordance with law.

"The possession of the portion of land illegally occupied by the herein defendant was turned over to the herein plaintiff x x x"

Before the investigating Judge, the respondent declared that he forgot to state in his return the matter of the two goats of the complainant due to pressure of work, and he remembered it only late in the afternoon of the same day, whereupon he allegedly prepared another return which states, inter alia, the following:

"Respectfully returned to the Clerk of Court, x x x

"The undersigned on July 15, 1972, accompanied by plaintiff and his counsel, Atty. Laurie de Vera, acting on a report that defendant returned to the premises, went back to verify the same. He was not there and has definitely left the premises. However, we found a female goat and its kid left behind by the defendant and let loose in the

premises. The same was attached upon insistence of the plaintiff in-as-much as defendant owned Two (2) female carabaos, one of which should have been attached on July 8, 1972, but defendant was able to hide the same when the undersigned was busy putting out their things outside the premises in question.

"The money judgment of more than P5,000.00 in this case is partially satisfied in the amount of P30.00 as proceeds of the sale of the goats which was sold at public auction on August 1, 1972. The plaintiff being the highest bidder, the same was sold and adjudicated in his favor. No cash payment was involved but the amount is credited in his favor and against the judgment. Copies of the Notice of Sale, Memorandum of cost of sale and Certificate of Sale are hereto attached as part of this return.

"The possession of the portion of land illegally occupied by the herein defendant was turned over to the herein plaintiff on July 15, 1972 as shown by the signed receipt at the back of the Original Writ. x x x"

The respondent allegedly placed his second return inside his portfolio, but he forgot all about it until September 4, 1972 when he discovered it among his papers and forthwith filed it with the record of civil case 5054.

The Judge below considered as total fiction and as defying any explanation the respondent's narrative concerning his alleged acts of levying upon the goats of the complainant, posting notices of sale, holding an auction sale of the goats, and filing the second sheriff's return. This Court is persuaded, after a thoroughgoing examination of the record, that the Judge below correctly refused to accord credence to the respondent's story. The various documents which the respondent offered in connection with his lone testimony to excuse himself from the indictment bear, in our opinion, distinct earmarks of legerdemain.

The respondent's defense may be summarized thus: pressure of work made him forget to state in his morning return that he attached certain personal properties of the complainant and sold them at public auction to partially satisfy the judgment in civil case 5054; so, he made an afternoon return to replace the first, but he again forgot to file it in due time.

If it were true, however, that he levied upon the goats on July 15, 1972, issued a receipt to attest to this fact, issued and posted notices of sale, requested the Chief of Police of New Bataan to post copies of the notices on July 24, 1972, conducted a public sale of the goats on August 1, 1972 right in front of his residence, made a memorandum of the sale, and executed a certificate of sale of the goats sold to Magno Porticos who was with him when the goats were taken from the complainant, "it is hardly believable," as the Judge below aptly stated, "that respondent Benjamin Maravilla could have forgotten all these facts" which were of recent occurrence when he made his first return in the morning of August 5, 1972. The respondent was not new to the work of a sheriff's deputy as prior to August 1972 he had been for years a deputy sheriff.

Likewise fantastic is the respondent's claim that he forgot to file his afternoon return until he remembered it on September 4, 1972. For, if it were true that in the afternoon of August 5, 1972 he made a second return to replace the first and incorrect return he made in the morning of the same day, reason and common sense would dictate that in the natural course of events the correct return should have been filed, at the latest, on the following day. Yet, despite his long years of experience, he came to remember the second return only on September 4, 1972 – a month after he had allegedly made it and long after the instant complaint (dated August 7, 1972) was received in the Department of Justice on August 17, 1972 and endorsed to him for reply on August 23, 1972.

The claim that the respondent had in fact levied upon the goats of the complainant also fails close scrutiny. The 13-year-old son of the complainant was present at the premises when the respondent and his companions came and took away the goats. And yet, instead of leaving the receipt evidencing the attachment of the goats with the son of the complainant who was old enough to receive it, the respondent left the alleged receipt with a neighbor of

the complainant and a copy thereof with a policeman of New Bataan. The respondent did not offer any explanation for this unusual act, nor did he present those two persons named as witnesses to prove that he did actually issue a receipt for the goats. Worse, when he made his return on August 5, 1972 by virtue of a court order, the respondent in no uncertain terms placed on record that the herein complainant "has no real or personal property that could be attached in accordance with law." These and other circumstances definitely pointing to the conjured-up character of the respondent's excuse impel the moral and inevitable certainty that he seized the goats of the complainant without any intention of accounting for them. The respondent could perhaps be forgiven for failing to mind, in the general excitement engendered by gunning after two runabout goats, that they might well be worth a fortune to the complainant who had just been booted out from the place his family used to call their home; but, definitely, no mercy can be extended to an officer of the court, particularly one performing line functions, who, with deceit in mind takes away chattels for pure gastric pleasures to himself and his friends, in abject disregard of due process of law.

This Court also finds as a clear case of sleight of hand the alleged existence of notices posted to announce the sale of the goats. According to the respondent, he prepared eight copies of the notice, and that three were sent by ordinary mail to the Chief of Police of New Bataan, a copy was sent by mail to the complainant, three copies were posted in Davao City, and a copy was filed in the expediente of civil case 5054. The investigating Judge, however, found four more copies of the alleged notice, and no explanation for this has been given. Moreover, if, as claimed by the respondent, he sent on July 24, 1972 by ordinary mail to the Chief of Police of New Bataan three copies of the notice for posting, we find it quite unusual and extraordinary that those copies could have reached New Bataan for posting on the very day they were mailed, the latter place being 155 kilometers away from Davao City. The investigating Judge, who is stationed in Davao City and who must naturally be presumed to be familiar with the conditions of mail transmission in Davao, remarks thus:

"... This is highly improbable. New Bataan, Davao del Norte, a remote municipality of the said province, is about 155 kilometers from Davao City and would require at least one week before ordinary mail would reach that town. Even if handcarried, the notice of sale could not possibly reach the Chief of Police on July 24, 1972.
.."

The alleged memorandum of sale of the goats likewise bears the telltale marks of fabrication. The said memorandum is dated August 1, 1972, yet, it speaks of an auction sale "conducted by the undersigned officer on August 1, 1972 at 10:50 o'clock in the morning in front of the residence of the undersigned . . ." when the more natural thing to say since there already is a date appearing at the bottom of the said memorandum is that the auction sale was "conducted by the undersigned officer at 10:50 o'clock this morning. . ." The same observation applies to the alleged certificate of sale.

Upon all the foregoing, the Court is of the considered opinion that the evidence amply supports the conclusion that the respondent is guilty not only of gross misconduct in office, but as well of deliberately attempting to cover up his malfeasance by means of falsified documents purporting to show that he had done his duties as an officer of the court in accordance with law. Contrary to the recommendation of the investigating Judge, the behavior of the respondent cannot be regarded lightly. His conduct casts a sinister shadow on the integrity of judicial administration and law enforcement, and runs athwart the Court's all-embracing policy of fastening securely the people's faith to the courts.

ACCORDINGLY, the respondent Benjamin Maravilla is hereby dismissed from the service. A copy of this decision shall be forwarded to the City Fiscal of Davao City for possible criminal prosecution of the respondent.

Makalintal, C.J., Fernando, Barredo, Makasiar, Antonio, Esguerra, Muñoz Palma, Aquino, Concepcion Jr., and Martin, JJ., concur.

Teehankee, J., is on leave.

[*] The order reads as follows: "Upon agreement of Atty. Lauri de Vera for the plaintiff and Atty. Samuel C. Occena for the deferment made in chamber prior to the time this case was called in Court, the hearing of the instant motion and motions and/or incidents necessarily ancillary thereto appearing in the records and still unresolved, is hereby transferred to Monday, August 7, 1972, at 8:30 A.M.

"It appearing in the records that an alias writ of execution was issued for the enforcement of the Court's decision and the Court having been informed that the same had already been enforced, and yet, there is no return of such enforcement having been made up to date, the sheriff is hereby ordered to make such return forthwith. . . ."

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