

FELISA ELIC VDA. DE ABELLERA, COMPLAINANT, VS. NEMESIO N. DALISAY, DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 9 BALAYAN, BATANGAS, RESPONDENT.*A.M. No. P-87-100. February 12, 1997*

Ponente: MELO, J.

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The instant administrative case involves accusations of dishonesty and other irregularities leveled against respondent Deputy Sheriff Nemesio Dalisay. It has its origins in the execution of the decision of the Regional Trial Court of the Fourth Judicial Region (Branch IX, Balayan, Batangas) in its Civil Case No. 1546 entitled "Felisa Abellera vs. Republic Planters Bank and Manuel Ona."

Plaintiff therein, Felisa Abellera, in her complaint-affidavit alleged that she obtained a judgment in her favor ordering Republic Planters Bank (RPB) to pay the amount of P317,387.40. This judgment became final and executory. On July 13, 1987, she went with respondent to the Balayan branch of RPB to collect the award. Respondent talked to the bank manager, Rufino Pamaran (Rollo, pp. 1-2). Two RPB Manager's Checks were issued: Check No. 545747 for P30,000.00 payable to Nemesio Dalisay, and Check No. 545748 for P285,648.66 payable to Felisa Elic vda. de Abellera. The balance of P1,738.74 was given as a discount as agreed upon by the bank and respondent (Report and Recommendation, p. 3; Rollo, p. 102). Respondent Deputy Sheriff explained to complainant that the P30,000.00 answers for his 10% sheriff's fees as agreed upon with her counsel, Atty. Pedro Belmi. Not knowing any better, complainant was prevailed upon by respondent to sign the necessary receipts. When she talked to her lawyer, he denied any such agreement and protested that aside from being excessive, the amount should not be charged against her as she was the prevailing party. Complainant also alleged that she learned that respondent received another P30,000.00 from RPB. Thus, Abellera, through her counsel, filed before this Court a complaint-affidavit dated July 20, 1987 charging respondent with dishonesty and other irregularities (Rollo, pp. 1-2).

The Court, per a Resolution dated September 21, 1987, ordered respondent to file his comment within ten days from notice (Ibid., p. 4). After several extensions, respondent finally filed his unverified letter-comment, personally, which the Court received on February 15, 1988 (Ibid., pp. 5-14). In said letter-comment, respondent denied all accusations made by the complainant. He also stated that his execution of the decision in Civil Case No. 1546 was proper and regular and that the receipts, duly signed by complainant and annexed to his letter-comment prove his innocence (Ibid., pp.-17-18).

In her Reply, complainant reiterated her charges (Ibid., pp. 27-29). Thereafter, the Court, through a Resolution dated March 21, 1988 referred the case to Acting Executive Judge Ernesto H. Gorospe of the Regional Trial Court of the Fourth Judicial Region (Branch IX, Balayan, Batangas) for investigation, report, and recommendation (Ibid., p. 38). At the hearing, respondent did not present any evidence in his defense (Report and Recommendation, p. 3; Rollo, p. 102).

The investigating judge submitted his Report and Recommendation dated September 20, 1996. Finding that it was highly irregular for respondent to charge the prevailing party his sheriff's fees, the same being in the nature of costs of litigation, Judge Gorospe found respondent guilty of dishonesty and recommended that a fine be imposed on respondent, this being his first offense, and that he also return the P30,000.00 to the complainant (*Ibid.*, p.4; p.103). No finding was made regarding the other P30,000.00 which complainant alleged respondent also received from RPB.

The Court agrees with the findings of the investigating judge. Section 10(g), Rule 142 of the Revised Rules of Court states that lawful fees paid by the prevailing party in entering and docketing the action and for the service of any process are included as costs. Generally, costs are allowed to the prevailing party, unless by order of the court, it is assessed against either party or divided among them (Section 1, Rule 142, Revised Rules of Court). Given these rules, it was highly irregular for respondent to deduct his fees from the award in the absence of any court order to that effect.

Even granting that the fees were assessable against complainant, the amount demanded was clearly excessive. The Rules allow as sheriff's fee for money collected by order, execution, attachment or any other judicial or extrajudicial process, an amount from four (4%) per centum on the first P4,000.00 and two (2%) per centum in excess of P4,000.00 (Section 9(1), Rule 141). As such, the ten (10%) per centum fee demanded by respondent was excessive.

At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants, hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice. . . (Punzalan-Santos vs. Arquiza, 244 SCRA 527, 535 [1995]).

Respondent's conduct failed, miserably, to measure up to these standards and to the demands of the position of his office. It is well to note that complainant placed her unqualified trust on respondent. It is extremely disappointing to see such trust betrayed.

WHEREFORE, the Court finds respondent Deputy Sheriff Nemesio Dalisay guilty of dishonesty for which he is hereby ordered to pay a fine of Five Thousand Pesos (P5,000.00) and to return to complainant Felisa Elic vda. de Abellera the amount of Thirty Thousand Pesos (P30,000.00), these to be done within fifteen (15) days from the finality of this decision, otherwise, said sums shall be deducted from his salary at the rate of P5,000.00 per month, beginning with the fine. Respondent is further given the stern warning that similar conduct in the future will be dealt with more severely.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Francisco, and Panganiban, JJ., concur.

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