

ATTYS. VILMA HILDA D. VILLANUEVA-FABELLA AND WILMAR T. ARUGAY, COMPLAINANTS, VS. JUDGE RALPH S. LEE AND SHERIFF JUSTINIANO C. DE LA CRUZ JR., BOTH OF THE METROPOLITAN TRIAL COUR...

A.M. No. MTJ-04-1518. January 15, 2004

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Once more, we remind members of the judicial branch – judges and judicial personnel alike -- to be conscientious, diligent and thorough in the performance of their functions. At all times they must observe the high standards of public service required of them.

The Case and the Facts

In an administrative Complaint[1] dated November 12, 2002, Attys. Vilma Hilda D. Villanueva-Fabella and Wilmar T. Arugay charged Judge Ralph S. Lee of the Metropolitan Trial Court (MeTC) of Quezon City (Branch 38) with manifest partiality, incompetence and gross ignorance of the law; and Sheriff Justiniano C. de la Cruz Jr. of the same MeTC, with unjust, oppressive, irregular and excessive enforcement of a writ of attachment. The factual antecedents of the matters are summarized by the Office of the Court Administrator (OCA) as follows:

“The complainants are counsels for the defendants in Civil Case No. [38]-28457 entitled ‘Star Paper Corporation vs. Society of St. Paul and Fr. Leonardo Eleazar’ for Sum of Money with Prayer for Preliminary Attachment. They narrated that on 19 June 2002, their clients were served a copy of the complaint and a Writ of Attachment by Sheriff Dela Cruz based on the plaintiff’s allegation that the defendants contracted a debt in bad faith with no intention of paying the same.

“On the aforementioned day, a printing machine was levied and delivered to the plaintiff’s warehouse, although there was an offer by the defendants to pay right there and then P223,457.75, the amount fixed in the order of attachment, but the plaintiff denied the defendants’ plea not to attach the machine, saying that [it] had already set [its] mind on attaching the same.

“Atty. Fabella, together with three (3) priests, asked the sheriff to levy on a less expensive machine but to no avail. She then told the sheriff that he [would] unnecessarily levy on the machinery because a cash deposit to discharge the attachment could be filed that same afternoon but he just dismissed the same, saying that it takes time before the court could approve the counterbond.

“The complainants claim[ed] that Sheriff Dela Cruz violated x x x Rule 57, Section 7, 1997 Rules of Civil Procedure which provide[d] that in the attachment of personal property capable of manual delivery, [the property should] be taken and safely kept in the sheriff’s custody. The machinery, according to complainants, [was] brought to [the] plaintiff’s warehouse in San Francisco del Monte, Quezon City. The foregoing show[ed] that the implementation of the writ of attachment was marred by excessiveness, irregularity and oppressiveness.

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“On 3 July 2002, Judge Lee granted the defendants’ Urgent Motion to Discharge Attachment filed 19 June 2002. Thereafter, on 9 July 2002, an Urgent Ex-Parte Motion to Withdraw Cash Deposit was filed, without notice to the defendants and despite failure of the plaintiff to set such litigious motion for hearing and contrary to existing laws and jurisprudence. Judge Lee granted the same in his Order of 17 July 2002. Defendants only learned of the withdrawal when they received a copy of the said Order.

“A Motion for reconsideration of the 17 July 2002 Order was filed on 30 August 2002. Defendants stressed that the Motion to Withdraw Cash Deposit has no basis, shows no urgency, lacks notice and hearing, and is already a prejudgment of the case even before the pre-trial stage which is tantamount to the taking of property without due process of law.

“For failure of the plaintiff to appear at the pre-trial conference, the court granted the motion to declare the plaintiff as non-suited as well as the prayer to allow the ex parte presentation of the defense’s evidence on its counterclaim.

“The plaintiff then filed a Verified Motion for Reconsideration of the Order declaring it as non-suited[,] which was set for hearing in the morning of 24 October 2002, the same day the aforementioned ex parte presentation of evidence was supposed to commence.

“Judge Lee was not around in the morning so the hearing on the motion did not materialize with the ex-parte presentation of evidence in the afternoon because the Clerk of Court refused to proceed for the reason that a motion for reconsideration had been filed the day before. The Clerk of Court then conferred with the respondent Judge in his chambers who produced a handwritten note granting the said motion. She explained to complainant Atty. Arugay that she did not notice that Judge Lee had already issued the Order granting such motion[;] thus, the ex parte presentation of evidence could not proceed.

“According to complainants, the Clerk of Court could not explain the irregularity in the granting of the plaintiff’s Motion for Reconsideration and the fact that the same was swiftly resolved[,] while the defendants’ similar motion [had] not been resolved for more than two (2) months already.”[2]

In his Comment[3] dated January 9, 2003, respondent judge claimed that the Complaint was fatally defective, because complainants did not have legal personality to file it; neither did they present affidavits, verified statements or any authority to represent their clients. Further, the Complaint did not contain a certification of non-forum shopping, but instead had a handwritten verification not sworn to or subscribed before an administering officer.

He likewise assailed complainants’ allegations as hearsay. As to what had allegedly transpired during the implementation of the subject Writ of Attachment, he adopted the averments in respondent sheriff’s Comment[4] alleging the presumption of regularity in the discharge of official functions.

Respondent judge admitted that he had committed a procedural error when he released the counter-bond[5] to the plaintiff in the said civil case. However, when the defendants therein, through their Motion for Reconsideration, called his attention to the mistake, he immediately ordered[6] the return[7] of the counter-bond to the custody of the Office of the Clerk of Court. He cited jurisprudence to defend his acts and asserted his good faith and lack of malice. Moreover, he averred that he had not delayed the resolution of the Motion. Finally, he urged the Court to dismiss the instant Complaint outright for being instituted without basis and merely to harass him.

In his Comment,[8] respondent sheriff claimed that after receiving the Writ of Preliminary Attachment, he sought its implementation through the assistance of the clerk of court of the MTC-Makati, Sheriff Ernesto Adan, and the Makati police. He allowed the parties in the civil case to negotiate for a settlement, but when the negotiations

bogged down, he attached a printing machine that was not in use at the time.

He denied that there was abuse in the levy, claiming that the machine was an old 1970 model. Moreover, he said that, contrary to complainants' allegation that the machine was valuable, no receipt to prove its true value was ever shown.

Respondent sheriff added that it was in his own belief and best judgment to temporarily place the delicate printing machine in the warehouse of the plaintiff for safekeeping. The machine was eventually returned to the defendants by virtue of the Order discharging the Writ. In fact, one of the complainants personally acknowledged receipt of the machine.

As to the allegation that he was arrogant, respondent sheriff claimed that he waited for more than three hours before exercising his ministerial function. Lastly, he adopted the averments in the Comment of respondent judge on other events that had transpired during the pendency of the civil case, the subject of the instant Complaint.

Evaluation and Recommendation of the OCA

The OCA opined that the provisions cited by complainants -- those in Sections 12 and 18 of Rule 57 of the 1997 Rules of Civil Procedure[9] -- did not require the adverse party to be first notified and then heard before an attachment bond may be released. Considering that the bond posted by the attaching creditor would answer for the damages and costs the court may award the adverse party by reason of the attachment, the better practice was for the latter to be notified and heard before the motion to discharge attachment could be resolved.

According to the OCA, the error was corrected when respondent judge, on Motion for Reconsideration, reversed himself before the adverse party incurred any damage. The OCA emphasized that before the full disciplinary powers of this Court could befall a judge, the erroneous act should have been committed with fraud, dishonesty, corruption, malice or bad faith. It opined that such fact had not been clearly and convincingly shown in the instant case.[10]

The OCA found that respondent sheriff had erred when he deposited the plaintiff's levied property in the warehouse and thereby lost actual or constructive possession thereof. The OCA said that this legal violation could not be justified by the weight and the condition of the machine, which could have been deposited in a rented private warehouse where it could have been guarded under his strict supervision.

Consequently, the OCA recommended that respondent judge "be REMINDED to be more circumspect in the performance of his duties and to keep abreast with the law and jurisprudence"; and that respondent sheriff "be SUSPENDED for one (1) month without pay for violation of Rule 57, Section 7(b) of the 1997 Rules of Civil Procedure with a WARNING that a repetition of the same or similar act(s) shall be dealt with more severely in the future." [11]

The Court's Ruling

We agree with the findings and the recommendation of the OCA.

Administrative Liability

With respect to the charges against respondent judge, we find that his grant of the withdrawal of the cash deposit -- an Order he later reversed by ruling that the deposit be returned to the clerk of court -- was a mere error of judgment, not an act revealing gross ignorance of the law or procedure.

Attachment is a juridical institution intended to secure the outcome of a trial -- specifically, the satisfaction of a pecuniary obligation.[12] Such order is enforced through a writ that may be issued at the commencement of an

action,[13] commanding the sheriff to attach property, rights, credits or effects of a defendant to satisfy the plaintiff's demand.[14] Hence, the property of a defendant, when taken, is put in custodia legis.[15]

In order to prevent the sheriff from levying an attachment on property, the defendant (also called the adverse party) may make a deposit or give a counter-bond in an amount equal to that fixed in the order of attachment. Such deposit or counter-bond is intended to secure the payment of any judgment that the plaintiff (also called the attaching party or the applicant to the writ) may recover in the action.[16] After a writ has been enforced, however, the adverse party may still move for the discharge of the attachment, wholly or in part, by also making a deposit or giving a counter-bond to secure the payment of any judgment[17] the attaching party may recover in the action.[18] The property attached shall then be released and delivered to the adverse party; and the money deposited shall be applied under the direction of the court to the satisfaction of any judgment that may be rendered in favor of the prevailing party.[19]

In the instant case, respondent judge had ordered[20] the withdrawal of the cash deposit of the defendant and released it in favor of the plaintiff, even before judgment was rendered. This action was clearly in violation of the Rules mandating that after the discharge of an attachment, the money deposited shall stand in place of the property released.[21] However, the inadvertence[22] of respondent judge was not gross enough to merit sanction.

First, he rectified himself within the period given for deciding motions. Section 15(1) of Article VIII of the Constitution mandates all trial courts to resolve all matters filed within three months from date of submission.[23] The Motion for Reconsideration[24] of the July 17, 2002 Order granting the withdrawal of the deposit was filed on August 30, 2002, and submitted for resolution on September 5, 2002,[25] the date of hearing.[26] The Order[27] granting this Motion was then issued on November 4, 2002, well within the three-month period. The money was returned, and no prejudice was suffered by any of the parties.

Second, respondent judge owned up to his mistake[28] in his Comment. This is an admirable act. Under the Code of Judicial Conduct, judges should be the embodiment of competence[29] and should so behave at all times as to promote public confidence in the integrity of the judiciary.[30] They must be faithful to the law.[31] That respondent judge admitted his mistake shows his recognition of his fallibility and his openness to punishment, the imposition of which restores public confidence in the judicial system. His July 17, 2002 Order was merely an honest mistake of judgment -- an innocent error in the exercise of discretion -- but not a display of gross incompetence or unfaithfulness to the law.

We have already ruled that as long as the judgment remains unsatisfied, it would be erroneous to order the cancellation of a bond filed for the discharge of a writ of attachment.[32] In like manner, it would be erroneous to order the withdrawal of a cash deposit before judgment is rendered. Be that as it may, "a [judge] may not be held administratively accountable for every erroneous order x x x he renders." [33] Otherwise, a judicial office would be untenable,[34] for "no one called upon to try the facts or interpret the law in the administration of justice can be infallible." [35] For liability to attach for ignorance of the law, the assailed order of a judge must not only be erroneous; more important, it must be motivated by bad faith, dishonesty, hatred or some other similar motive.[36] Certainly, mere error of judgment is not a ground for disciplinary proceedings.[37]

Complainants alleged that respondent judge committed another violation of the Rules of Court when he granted[38] the plaintiff's Urgent Ex-Parte Motion to Withdraw Cash Deposit.[39] The Rules mandate that, except for motions that the court may act upon without prejudicing the rights of the adverse party, every written motion shall be set for hearing by the applicant.[40] The notice of hearing shall be addressed to the defendants therein and shall specify the time and date of the hearing, which must not be later than ten (10) days after the filing of the motion.[41] The motion and notice shall be served at least three days before the date of hearing.[42]

Without proof of its service, the court cannot act upon it.[43]

Indeed, the plaintiff's Motion to withdraw the cash deposit lacked notice of hearing and proof of service. Respondent judge should not have acted upon it. However, because he had erroneously thought that the rights of the defendants would not be prejudiced thereby, he took action. His poor judgment obviously resulted in his issuance of the erroneous Order that granted the release of the deposit.

Similarly, the verified Motion for Reconsideration of the Order declaring plaintiff as non-suited and allowing the ex-parte presentation of evidence by the defense should have been heard in open court, not granted in chamber. Respondent judge must have thought that this Motion, which had been filed by the plaintiff, required immediate action; and so the former granted it by ordering -- through a handwritten note which we do not approve of -- the deferment of the scheduled presentation.[44] This Order should not have been issued, because the Motion had been filed only a day before the scheduled hearing.[45] The rules on notice of hearing and proof of service should have been observed by both the plaintiff's counsel and respondent judge. Unfortunately, the latter's poor judgment likewise prevailed, but still fell short of gross ignorance of the law or procedure.

Specious is the argument of respondent judge that complainants have no legal personality to file the instant Administrative Complaint against him. His contention that the allegations contained therein are hearsay[46] also deserves scant consideration. Rule 140 allows the institution of disciplinary proceedings against judges, not only upon a verified complaint -- supported by affidavits of persons who have personal knowledge of the facts alleged therein or by documents substantiating the allegations -- but even upon an anonymous one.[47] Complainants herein have the requisite personal knowledge and have, in fact, executed a joint Complaint-Affidavit and substantiated their allegations with pertinent documents.

The verification[48] in their Complaint, albeit handwritten after the jurat, is sufficient in form and substance.[49] Such verification is a clear affirmation that they are prepared to establish the truth of the facts pleaded.[50] In fact, the lack of it is "merely a formal defect that is neither jurisdictional nor fatal." [51] This Court may order the correction of a pleading, "if the attending circumstances are such that strict compliance with the rule may be dispensed with in order to serve the ends of justice." [52] The jurat that preceded the verification simply evidences the fact that the Affidavit was properly made and sworn to before the officer certifying it.[53] Furthermore, a certification against forum shopping is not needed in this case; Rule 140 makes no such requirement.

We find that the charges against respondent sheriff have bases. Verily, he blatantly violated Section 7(b) of Rule 57 of the Rules of Court when he deposited the machine in the warehouse of the plaintiff. In enforcing a writ of attachment, a sheriff who takes personal property capable of manual delivery shall safely keep it in custody after issuing the corresponding receipt therefor.[54] Respondent sheriff failed to do so.

To constitute a valid levy of attachment, the officer levying it must have "actual possession of the property attached." [55] "He must put himself in [a] position to, and must assert and, in fact, enforce a dominion over the property adverse to and exclusive of the attachment debtor." [56] To this rule we add that the officer cannot even deliver the property to the attachment creditor, as the parties must await the judgment in the action. The levied property must be in the "substantial presence and possession" [57] of the levying officer, who "cannot act as special deputy sheriff of any party litigant." [58] The officer may put someone "in possession of the property for the purpose of guarding it," but the former cannot be "relieve[d] x x x from liability to the parties interested in said attachment." [59]

Sheriffs are officers of the court[60] who serve and execute writs addressed to them by the court, and who prepare and submit returns of their proceedings.[61] They also keep custody of attached properties.[62] As officers of the court, they must discharge their duties with "great care and diligence." [63] They have to

“perform faithfully and accurately what is incumbent upon [them]”[64] and show at all times a “high degree of professionalism in the performance of [their] duties.”[65]

The duty of sheriffs to execute a writ issued by a court is purely ministerial,[66] not discretionary.[67] Clearly, they must keep the levied property safely in their custody, not in that of any of the parties. They exercise no discretion in this regard, for attachment is harsh, extraordinary and summary in nature -- a “rigorous remedy which exposes the debtor to humiliation and annoyance.”[68] Contrary to the claim of respondent sheriff, his unusual zeal and precipitate decision to give possession of the machine to the plaintiff effectively destroys, the presumption of regularity in his performance of official duties.[69] “Any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.”[70]

In implementing the Writ, respondent sheriff cannot afford to err without adversely affecting the proper dispensation of justice.[71]

“Sheriffs play an important role in the administration of justice. As agents of the law, high standards are expected of them. x x x His conduct, at all times, must not only be characterized by propriety and decorum but must, and above all else, be above suspicion.”[72]

As a public officer who is a repository of public trust, respondent sheriff has the obligation to perform the duties of his office “honestly, faithfully and to the best of his ability.”[73] He must be “circumspect and proper in his behavior.”[74] Reasonable skill and diligence he must use in the performance of official duties, especially when the rights of individuals may be jeopardized by neglect.[75]

Sheriffs must always “hold inviolate and invigorate the tenet that a public office is a public trust.”[76] As court personnel, their conduct must be beyond reproach and free from any suspicion that may taint the judiciary.[77] In view of their exalted position as keepers of public faith, court personnel are indeed saddled with a heavy burden of responsibility[78] to the public. Hence, they must thoroughly avoid any impression of impropriety, misdeed or negligence in the performance of official duties.[79] We have held thus:

“x x x [T]his Court condemns and would never countenance such conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.”[80]

Once again we emphasize that “[a]t the grassroots of our judicial machinery, sheriffs x x x 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;[81] 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.”[82] Dismissed for lack of basis, however, is the charge of excessive enforcement of a writ filed against respondent sheriff.

Applying Section 8 of Rule 140 of the Rules of Court, respondent judge is found wanting in the exercise of good discretion only. His errors of judgment fall short of gross ignorance of the law or procedure, yet reflect poorly on his esteemed position as a public officer in a court of justice. Judges must be conscientious, studious and thorough,[83] observing utmost diligence in the performance of their judicial functions.[84] They have to “exhibit more than just cursory acquaintance with statutes and procedural rules.”[85] Moreover, they must require court personnel to observe at all times high standards of public service and fidelity.[86]

Applying the Uniform Rules on Administrative Cases in the Civil Service,[87] we find respondent sheriff guilty of simple neglect of duty for violating Section 7(b) of Rule 57 of the Rules of Court. Simple neglect of duty is the

“failure x x x to give proper attention to a task expected”[88] of an employee, thus signifying a “disregard of a duty resulting from carelessness or indifference.”[89] Classified as a less grave offense, it is punishable by a suspension of one month and one day to six months. Considering that the failure of respondent sheriff to fulfill his duty seems to be his first infraction during his stint in the judiciary, the Court considers the recommended sanction appropriate.

WHEREFORE, the Court reiterates its REMINDER[90] to Judge Ralph S. Lee of the Metropolitan Trial Court of Quezon City (Branch 38) to evince due care in the exercise of his adjudicative functions. On the other hand, Sheriff Justiniano C. de la Cruz Jr. of the same branch is found GUILTY of simple neglect of duty and is hereby SUSPENDED for one month and one day without pay, with a warning that a repetition of the same or of a similar act in the future shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 1-7.

[2] OCA Report, pp. 1-4; rollo, pp. 101-104.

[3] Rollo, pp. 49-57.

[4] Dated January 9, 2003; rollo, pp. 96-98.

[5] See OR No. 16169183 dated June 20, 2002; id., p. 20.

[6] See Order dated November 4, 2002; id., p. 91.

[7] See OR No. 17204808 dated December 19, 2002; id., p. 94.

[8] Rollo, pp. 96-98.

[9] The OCA erroneously refers to these as the Rules of Criminal Procedure. See OCA Report, p. 4; id., p. 104.

[10] Id., pp. 5 & 105.

[11] Id., pp. 5-6 & 105-106.

[12] Sta. Ines Melale Forest Products Corp. v. Hon. Macaraig Jr., 359 Phil. 831, 855-856, December 2, 1998.

[13] Also called preliminary attachment, its purpose is to seize the debtor’s property in advance of the final judgment and hold it to satisfy the said judgment. (Regalado, Remedial Law Compendium, Vol. I [5th rev. ed.], p. 399.) Attachment secures a contingent lien on the property, until the creditor obtains a judgment and applies the property to its satisfaction. (Francisco, The Revised Rules of Court in the Philippines, Vol. IV-A [1971], p. 5.)

[14] Moran, Comments on the Rules of Court, Vol. III (1997), pp. 2-3.

[15] Ibid.

[16] §5 of Rule 57 of the Rules of Court. See Feria and Noche, Civil Procedure Annotated, Vol. 2 (2001 ed.), p. 285.

[17] Moran, Comments on the Rules of Court, supra, p. 46; citing Philippine British Assurance Co., Inc. v. IAC, 150 SCRA 520, 527, May 29, 1987.

[18] §12 of Rule 57 of the Rules of Court; Feria and Noche, Civil Procedure Annotated, *supra*, p. 302.

[19] §18 of Rule 57 of the Rules of Court. On the presupposition that a judgment has been rendered, the applicant who fails to recover by execution can proceed against the deposit. (Regalado, Remedial Law Compendium, *supra*, p. 414.) This option presupposes a judgment rendered.

[20] See Order dated July 17, 2002; rollo, p. 33.

[21] §12 of Rule 57 of the Rules of Court. See Moran, Comments on the Rules of Court; *supra*, p. 47.

The deposit of cash or the filing of a counter-bond does not put the property attached out of the reach of the attaching party. The cash deposit or counter-bond stands in its place. Hence, its release does not in any way prejudice his rights. (*Dizon v. Valdes*, 131 Phil. 728, 731-732, April 25, 1968.)

[22] See Order dated November 4, 2002; rollo, p. 91.

[23] *Spouses Morta v. Judge Bagagñan*, AM No. MTJ-03-1513, November 12, 2003, p. 8.

[24] Rollo, pp. 34-41.

[25] See Order dated September 5, 2002; rollo, p. 90.

[26] See Notice of Hearing/Request for Submission; *id.*, p. 41.

[27] Rollo, p. 91.

[28] *Id.*, p. 53.

[29] Canon 1 of Rule 1.01 of the Code of Judicial Conduct.

[30] Canon 2 of Rule 2.01 of the Code of Judicial Conduct.

[31] Canon 3 of Rule 3.01 of the Code of Judicial Conduct.

[32] *Anzures v. Alto Surety & Insurance Co., Inc.*, 92 Phil. 742, 743, February 28, 1953.

[33] *Daracan v. Natividad*, 341 SCRA 161, 175, September 27, 2000, per Ynares-Santiago, J.; citing *Santos v. Judge Orlino*, 357 Phil. 102, 109, September 25, 1998; and *Rodrigo v. Quijano*, 79 SCRA 10, 12, September 9, 1977.

[34] *Santos v. Judge Orlino*, *supra*.

[35] *Pilipinas-Bank v. Justice Tirona-Liwag*, 190 SCRA 834, 846, October 18, 1990, per Gutierrez Jr., J.; citing *Consolidated Bank and Trust Corporation v. Capistrano*, 159 SCRA 47, 56, March 18, 1998, *per curiam*.

[36] *Guerrero v. Villamor*, 357 Phil. 90, 99, September 25, 1998.

[37] *Id.*, p. 100.

[38] See Order dated July 17, 2002; rollo, p. 33.

[39] Rollo, pp. 31-32. This Motion was filed on July 9, 2002.

[40] Paragraph 1 of §4 of Rule 15 of the Rules of Court.

[41] §5 of Rule 15 of the Rules of Court.

[42] Unless the court, for good cause, sets the hearing on shorter notice. (Paragraph 2 of §4 of Rule 15 of the

Rules of Court.)

[43] §6 of Rule 15 of the Rules of Court.

[44] Rollo, p. 51.

[45] The Motion was filed on October 23, 2002; the hearing was scheduled the following day. See rollo, p. 51.

[46] §36 of Rule 130 of the Rules of Court.

[47] This complaint should be supported by public records of indubitable integrity. (§1 of AM No. 01-8-10-SC, September 11, 2001.) See also *Cruz v. Judge Yaneza* 363 Phil. 629, 649, March 9, 1999 and *Macalintal v. Judge Teh*, 345 Phil. 871, 875-876, October 16, 1997.

[48] Complaint, p. 7; rollo, p. 7.

[49] Paragraph 2 of §4 of Rule 7 of the Rules of Court.

[50] *Harp v. State*, 26 SW 714, 715, May 5, 1894. See *Guevara*, *Legal Forms Annotated* (15th rev. ed., 1991), p. 46.

[51] *Pfizer, Inc. v. Galan*, 358 SCRA 240, 247, May 25, 2001, per Davide Jr., CJ.

[52] *Ibid.* The Rules shall be liberally construed to secure a just, speedy and inexpensive disposition of every action and proceeding. (§6 of Rule 1 of the Rules of Court.)

[53] *Young v. Wooden*, 265 SW 24, 24-25, October 3, 1924. See also *Tañada*, *Modern Philippine Legal Forms*, Vol. I (6th ed., 1996), p. 31; and *Peña*, *Legal Forms for Conveyancing and Other Deeds* (4th ed., 1994), p. 39.

[54] §7(b) of Rule 57 of the Rules of Court.

[55] *Walker v. McMicking*, 14 Phil. 668, 673, December 23, 1909, per Johnson, J.

[56] *Ibid.*

[57] *Ibid.*

[58] *Bilag-Rivera v. Flora*, 315 Phil. 668, 680, July 6, 1995, per Padilla, J.

[59] *Feria and Noche*, *Civil Procedure Annotated*, *supra*, p. 288; citing *Walker v. McMicking*, *supra*.

[60] §D of Chapter VII, *The 2002 Revised Manual for Clerks of Court*, Vol. I.

[61] §D of Chapter VI, *id.*

[62] §F of Chapter VI, *id.*

[63] *Vda. de Velayo v. Ramos*, 374 SCRA 1, 6, January 17, 2002, per Ynares-Santiago, J.

[64] *Spouses Biglete v. Maputi Jr.*, 377 SCRA 1, 5, February 15, 2002, per Sandoval-Gutierrez, J.; citing *Remollo v. Atty. Garcia*, 357 Phil. 79, 86, September 25, 1998.

[65] *Spouses Morta v. Judge Bagagñan*, AM No. MTJ-03-1513, November 12, 2003, p. 12, per Panganiban, J.

[66] “When a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandate.” (*Francisco v. Cruz*, 340 SCRA 76, 85, September 8, 2000, per Davide Jr., CJ.)

- [67] *Remollo v. Atty. Garcia*, supra. See *Portes v. Deputy Prov. Sheriff Tepace*, 334 Phil. 839, January 30, 1997.
- [68] *Lirio v. Ramos*, 331 Phil. 378, 389, October 11, 1996, per Davide Jr., J. (now CJ). See *Gruenberg v. CA*, 138 SCRA 471, 477-478, September 10, 1985, per Gutierrez Jr.; citing *Salas v. Adil*, 90 SCRA 121, 125, May 14, 1979, per Antonio, J.
- [69] *Cunanan v. Flores*, 377 Phil. 5, 11, November 24, 1999. See *Bilag-Rivera v. Flora*, supra.
- [70] *Spouses Biglete v. Maputi Jr.*, supra.
- [71] *Magat v. Judge Pimentel*, 346 SCRA 153, 159, November 28, 2000. See *Ignacio v. Payumo*, 344 SCRA 169, 172, October 24, 2000.
- [72] *Llamado v. Ravelo*, 345 Phil. 842, 853, October 16, 1997, per Hermosisima Jr., J.
- [73] *Vda. de Velayo v. Ramos*, supra; citing *Spouses Pecson v. Sicat Jr.*, 358 Phil. 606, 616, October 19, 1998, per Romero, J.
- [74] *Tiongco v. Molina*, 416 Phil. 676, 683, September 4, 2001, per Quisumbing, J.; citing *Evangelista v. Penserga*, 312 Phil. 806, 815, March 27, 1995, per Bidin, J.
- [75] *Ibid.*
- [76] *Ventura v. Concepcion*, 346 SCRA 14, 18, November 27, 2000, per curiam.
- [77] *Abanil v. Ramos Jr.*, 346 SCRA 20, 24, November 27, 2000.
- [78] *Llamado v. Ravelo*, supra.
- [79] *Vda. de Velayo v. Ramos*, supra.
- [80] *Loyao Jr. v. Armechin*, 337 SCRA 47, 52, August 1, 2000, per Ynares-Santiago, J.; citing *Office of the Court Administrator v. Sheriff IV Cabe*, 389 Phil. 685, 698-699, June 26, 2000, per De Leon Jr., J.; *Mendoza v. Judge Mabutas*, 223 SCRA 411, 419, June 17, 1993, per curiam; and *Sy v. Academia*, 198 SCRA 705, 717, July 3, 1991, per curiam.
- [81] *Remollo v. Atty. Garcia*, supra.
- [82] *Canlas v. Balasbas*, 337 SCRA 41, 46, August 1, 2000, per Panganiban, J.; citing *Vda de. Abellera v. Dalisay*, 335 Phil. 527, 530-531, February 12, 1997, per Melo, J.
- [83] *Judge Paz v. Judge Tiong*, 323 Phil. 430, 437, February 9, 1996.
- [84] *Saylo v. Judge Rojo*, 386 Phil. 446, 452, April 12, 2000.
- [85] *Cortes v. Judge Agcaoili*, 355 Phil. 848, 883, August 20, 1998, per Panganiban, J.
- [86] Canon 3 of Rule 3.09 of the Code of Judicial Conduct.
- [87] §52.B.1. of Rule IV of the Uniform Rules on Administrative Cases in the Civil Service, CSC Resolution No. 991936, August 31, 1999, amending §23 of Rule XIV of the Omnibus Civil Service Rules and Regulations implementing Book V of EO 292 and other pertinent civil service laws, CSC Resolution No. 91-1631, December 27, 1991.
- [88] *Atty. Dajao v. Lluch*, 380 SCRA 104, 108, April 3, 2002, per Sandoval-Gutierrez, J.
- [89] *Philippine Retirement Authority v. Rupa*, 415 Phil. 713, 721, August 21, 2001, per Puno, J.

[90] See the Court's July 7, 2003 Resolution upholding the May 19, 2003 OCA Report reminding respondent judge to be more circumspect in the performance of his duties and to keep himself abreast with the law and jurisprudence. The herein reiteration is included in this Decision to close the matter in this Court's records.

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