

LEPANTO CONSOLIDATED MINING COMPANY, COMPLAINANT, VS. ALFONSO V. MELGAR AND WILLIAM L. BADEN, DEPUTY SHERIFFS, RTC, BAGUIO CITY, RESPONDENTS.

A.M. No. P-92-725. April 30, 1996

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PER CURIAM:

In deciding these consolidated administrative cases, this Court reiterates the oft-repeated holding that sheriffs, being front-line personnel in the administration of justice, must always act with utmost integrity in the fulfillment of their duties, and exercise deliberate care to ensure that no undue damage is caused to others in the performance of their functions.

In the first captioned case (A.M. No. P-92-758), the Lepanto Consolidated Mining Company in its administrative complaint[1] dated June 15, 1992 charged Deputy Sheriffs Alfonso V. Melgar and William L. Baden with "Grave Abuse of Authority and Serious Misconduct"[2]:

"a) For demanding or attempting to extort pecuniary benefit from the complainant in connection with the performance of their duties as officers of the court;

"b) For causing or threatening to cause undue injury, and even physical harm, to the complainant and its employees by threatening to do acts in abuse of and beyond the allowable limits of their functions;

"c) In the case of Sheriff ALFONSO MELGAR, by showing undue and suspicious interest in the enforcement of a writ of attachment issued by a court in which he is not assigned, even to the extent of willfully and deliberately disobeying the orders of his court not to take part in the said proceedings."

On the other hand, the second case (A.M. No. P-92-758) is related to and arose from the first. It consists of an administrative complaint dated June 22, 1992 filed by Executive Judge Ruben C. Ayson (presiding judge, RTC, Branch 6, Baguio City) against respondent Melgar for insubordination and serious misconduct, in connection with the implementation of the writ of preliminary attachment issued by the RTC, Branch 3, Baguio City against Lepanto Mining in Civil Case No. 2439-R, as respondent Melgar had no prior permission to join the team implementing the writ and his intended participation thereat was in fact denied by complainant judge on the ground that it may be misconstrued that Branch 6, which had nothing to do with the case, was approving the order of attachment issued by Branch 3.

These cases were referred by this Court to the Court Administrator for evaluation, report and recommendation, Whose findings were duly submitted in Memorandum dated January 29, 1996 signed by Deputy Court Administrator Reynaldo L. Suarez.

The Facts

The pertinent facts are summarized in the said Memorandum, as follows:

"This case (A.M. No. P-92-725) arose from Civil Case No. 2439-R entitled 'Traders Trucking vs. Lepanto

Mining Company, et al.,’ whereby on May 27, 1992 Judge Angel Valera Colet of RTC, Branch 3, Baguio City, issued a Writ of Preliminary Attachment commanding Sheriff Baden to attach the properties of the defendant (herein complainant) with a value of P20,318,316.20. Respondent Sheriff William Baden requested in a letter to Atty. Delilah Gonzales-Muñoz, RTC Clerk of Court and Ex-Officio Sheriff that he be assisted by Sheriffs Alfonso Melgar and Nestor Rimando. The Clerk of Court expressed no objection to the request, provided that said Sheriffs should also seek the approval of the Presiding Judge of their respective branches. Judge Ruben Ayson, denied the request to respondent Sheriff Baden insofar as respondent Melgar is concerned.

"On May 29, 1992, respondent Sheriff Melgar, without authority and showing ‘unusual and suspicious’ interest in the enforcement of the writ of attachment, proceeded to take part in the same and went with respondent Sheriff Baden and Sheriff Rimando to the Office of the Lepanto Mining Company at Mankayan, Benguet.

"Respondents presented Atty. Bolislis (the resident legal counsel of Lepanto) with a copy of the Writ of Attachment. Sheriff Alfonso Melgar did most of the talking and appeared to be the leader of the group.

"Sheriffs Melgar and Baden asked Atty. Agapito Bolislis what properties of Lepanto could be attached worth the amount of the Writ of P20,000,000.00. And Atty. Bolislis said that the power plant of Lepanto would be worth much more than the amount. Sheriff Melgar noted the information but asked that they be allowed to inspect the power plant and other properties of the company.

"They agreed to see each other later at about 2:00 o’clock that afternoon of the same day. Before leaving the office of Atty. Bolislis respondent Sheriffs Melgar and Baden waited until all their companions had gone out of the room and talked to Atty. Bolislis saying that the management need not worry because they were open to arrangement (‘puede namang pag-usapan’) and to tell the management that the amount of P90,000.00 would be acceptable to them (‘puede na’).

"Respondents returned to Atty. Bolislis in the afternoon and asked if he relayed the message to which Atty. Bolislis replied that he had not done so.

"Sheriff Melgar then proceeded to type ‘Receipt of Machineries/Equipment Attachment’ which they formally served to Atty. Bolislis, together with a copy of the writ of attachment. The properties attached were the power plant of Lepanto which is worth more than P26 M, thus more than the amount stated in the Writ.

"On May 31, 1992 (a Sunday) respondents returned to the company and wanted to stop and shut down the operation of the compressor plant which provides air supply to underground workers of Lepanto. A letter dated May 31, 1992 written by respondent Baden threatened to stop the operation of the plant.

"Despite the pleas of Atty. Bolislis, respondents were insistent in closing down the compressor plant unless the company would come across with their demands, thus, a verbal argument on the matter occurred between Atty. Bolislis and respondent Melgar. Respondents left with a threat that they would return with soldiers.

"At about 8:00 p.m. on the evening of Tuesday, June 2, 1992, Sheriffs Melgar and Baden returned to the compressor plant accompanied by four (4) security guards and six (6) armed men. They entered the compressor plant and ordered the technicians on duty to immediately shut down the engines of the plant. The technicians refused saying that they will do so only upon the order of their supervisors. Atty. Bolislis told them that they would agree to shut down the compressor plant only if there was court order to the effect and further reminded them that if they shut down the compressor plant they would kill hundreds of miners inside the mines who depended on the said machines for air supply.

"Respondents did not succeed in stopping or shutting down the compressor plant because they did not have the technical know-how to do it themselves.

"On June 3, 1992, the Presiding Judge of RTC, Branch 3 issued an order citing among others 'that there may be no necessity to stop the operation of the said power plant and air compressors as this could result in unnecessary harm to both defendants (sic) and its employees' and commanded respondents Melgar and Baden to 'cease and desist(') from stopping the operations and/or shutting down the power plants and the air compressors which they have placed under attachment.

"Another administrative complaint dated June 25, 1992 arising from the same act was filed by the same complainant against Sheriff Melgar charging the latter with serious misconduct. It is alleged among others that Sheriff Melgar falsified his application for leave filed with the Supreme Court by narrating false facts to cover up his participation in the implementation and enforcement of the Writ of Preliminary Attachment of RTC, Branch 3, Baguio City.

"In his letter dated June 22, 1992 (A.M. No. P-92-758) Judge Ruben Ayson charged Deputy Sheriff Alfonso Melgar with grave abuse of authority and serious misconduct for joining William Baden and Nestor Rimando in the implementation of the writ of preliminary attachment in Civil Case No. 2439-R without authority, and in attempting to justify his participation in the implementation of the questioned writ by claiming that he was on leave of absence. In his application for leave of absence for the period May 28, and 29, 1992 he stated therein that he was sick and confined at home, when he was actively participating in the implementation of the writ.

"In the resolution dated September 7, 1992 of the Supreme Court, First Division, respondents Melgar and Baden were required to file their comments. Compliance thereto was filed out of time they implored the kind indulgence of the Honorable Court for their failure to file the same within the extended period.

"In their counter-affidavit, respondents Melgar and Baden denied the imputations of the complainant. They denied demanding the amount of P90,000.00 from the company. They claim that the additional levy on attachment on the compressor plant was made as a supplement to the power plant equipment as there was no showing that the power plant is worth more than P20,000,000.00. They further claim that it is inherent in their duties that equipment or properties under custodia legis are to be preserved and should not be operated or otherwise used as will depreciate and would defeat the purpose of attachment; thus, the necessity of preserving the attached properties.

"To corroborate their claim of innocence, they submitted the affidavits of Engr. Florencio Flora, Jr., a representative of complainant Company, and Deputy Sheriff Rimando, who were with them when the questioned writ was implemented."

The Deputy Court Administrator then noted that Deputy Sheriff Melgar had previously been dismissed from the service. In the resolution dated March 3, 1993 of the Supreme Court En Banc in Administrative Case No. P-92-698,[3] entitled Chito Valenton and Baning Ang vs. Alfonso Melgar, respondent Melgar was found guilty of grave misconduct prejudicial to the best interest of the service and consequently was dismissed from office, with prejudice to re-employment in any branch of the government including government-owned and controlled corporations. Thus, the complaint against him in the instant case was accordingly dismissed for being moot and academic.

On the other hand, the administrative complaint insofar as Sheriff Baden is concerned was referred by this Court to Executive Judge Clarence Villanueva, RTC, Baguio City for further investigation, per resolution of the First Division dated December 3, 1993.

The investigating judge submitted his investigation report dated April 14, 1994 to the Office of the Court Administrator. The pertinent portion[4] of the findings of the investigating judge, quoted in the Deputy Court Administrator's Memorandum, is reproduced below:

"A public office is a public trust. They are at all times accountable to the people, oath-bound to serve the

public with utmost responsibility, integrity, loyalty and efficiency. It is incumbent upon them to know the functions and duties of their positions, its scopes and its limitations. Care should be exerted that in the performance of their functions no damage should be done to another.

"Sherrifs (sic) of the Courts are not excluded from the above tenet. They play an important role in the execution and administration of justice. Thus, they should perform their duties in accordance with pertinent provisions of the law, rules and regulations for to do otherwise would defeat the cause of justice.

"In the case at bar, respondent Baden admitted to be in the service for eight (8) years, thus by this time he should know by heart the pertinent provisions of law and the rules on attachment. Rule 57, Section 7 (a) provides to wit:

"Section 7. Attachment (of) real and personal property; recording thereof. - Properties shall be attached by the officer executing the order in the following manners:

"(a) Real property, or growing crops thereon, standing upon the records of the registrar of deeds of the province in the name of the party against whom attachment be issued, or not appearing at all upon such records by filing with the register of deed(s) a copy of the order, together with a description of the property attached, and a notice that it is attached, and by leaving a copy of such order, description and notice to the occupant of the property, if any there be. x x x. The Registrar must index attachment filed under this paragraph IN THE NAMES OF BOTH OF the applicant and the adverse party."

"The letter of the law is explicit. It does not include shutting down of machineries used in the operation of the business enterprise. The respondents know for a fact that should they proceed with the closure of the compressor plant, great and irreparable damage would result to the company. It would paralyze operations of the company and could cause death to the underground miners. A big question comes to the fore. Why did respondents Melgar and Baden pick on the compressor plant of the company which was not among those earlier attached on May 29, 1993.

"From respondent Baden's own admission, the company have (sic) other properties such as a sawmill, various vehicles such as pick-up vans, trucks and cars. They know the damage that would ensue should they cause the closure of the compressor plant. The ulterior motive is apparent. They wanted the company to come to terms with their demands. And what are these demands that compel them to be over zealous in shutting off the compressor plant? Could it be the demand for P90,000.00 " consideration as alleged by the complainant? Extortion is hard to prove because in most cases the parties present are only the complainant and the respondents. However, this becomes apparent by the subsequent acts of the parties. In this case, the ulterior motive of respondents is manifested by their persistent effort to close the compressor plant of the company to the latter's prejudice whereas there are other properties of the company which they could lay their hands on for attachment should their claim that the value of the power plants are not sufficient. However, as contained in the affidavit of Sheriff Rimando, before they left the premises of the company on May 29, 1992, Sheriff Melgar had first proceeded to the accounting office of the company to determine the book value of the power plants which were attached on said date. By that time they should have known that the value of the attached power plants is more than sufficient to cover the consideration of the Writ of Attachment.

"In all the proceedings of the execution of the subject writ both respondents Melgar and Baden were together. While it should be Sheriff Baden who could primarily conduct the attachment proceedings, he allowed Sheriff Melgar to head the group. He offered no objection to the acts of Sheriff Melgar. This is an indication that he approves and conforms with all the acts of Sheriff Melgar. Thus, he is equally liable to (sic) the acts of Sheriff Melgar and in fact he had directly participated in the attempt to close the compressor plant of Lepanto.

"To the mind of the investigating Judge, the conduct of Sheriff Melgar and Baden is reproachful and constitute(s) a serious/ grave misconduct on their part. This merits disciplinary sanction."

In agreeing with the above report of the investigating Judge, the Deputy Court Administrator wrote:

"Public service requires that utmost integrity and strictest discipline. Thus, a public servant must exhibit at all times the highest sense of honesty and integrity. No less than the constitution sanctifies the principle that a public office is a public trust, and enjoins all public officers and employee(s) to serve with the highest degree of responsibility, integrity, loyalty and efficiency (Section 1, Article XI, 1987 Constitution). The Code of Conduct and Ethical Standards for Public Officials and Employees additionally provides that every public servant shall at all times uphold public interest over his or her personal interest. (As cited in *Gano vs. Leonen*, 232 SCRA 98).

"The conduct of respondent Baden in the execution of Writ of Execution was not in pursuant (sic) to their over zealous duty to uphold the public interest but to place his own personal interest over and above public interest. By his act into according or abetting the felonious design of Sheriff Alfonso Melgar he has circumscribed to whatever fruit it will reap. Thus, he should suffer the same fate.

"In view of the foregoing, the undersigned favorably endorses for approval and adoption by the Honorable Court the recommendation of the Investigating Judge that respondent Sheriff William Baden be dismissed from the service, with forfeiture of all retirement benefits and leave credits to which he may be entitled and with prejudice to re-employment in the government service including government-owned and controlled corporation."

The Court's Ruling

In light of the aforequoted findings of facts and recommendation, this Court is convinced that respondents are guilty of grave abuse of authority, malfeasance and serious misconduct. Their actuations in attempting to shut down the compressor plants constitute nothing less than criminal extortion of the worst kind. Aggravating their misdeed is the fact that they misused and abused their power, authority and position as sheriff for their own illicit gain, in the process posing an actual and palpable danger to the lives of countless underground miners, not to mention exposing the property of complainant company to serious risk of loss. This Mafia-like viciousness and ruthlessness deserves the strongest condemnation and stiffest sanctions possible. Unfortunately, in an administrative case such as this, we cannot impose a more severe penalty than dismissal with forfeiture of all benefits.

In *Mendoza vs. Mabutas*,^[5] we reiterated the standards to which officers and employees involved in the administration of justice are held bound:

"[T]his Court condemns and would never countenance any 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 would diminish or even just tend to diminish the faith of the people in the Judiciary."

We have also held that by the very nature of their functions, sheriffs must at all times act above suspicion:

"This Court has repeatedly stressed that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, like the courts below, from the presiding judge to the sheriff and deputy sheriff to the lowest clerk should be circumscribed with the heavy burden of responsibility. His conduct, at all times, must not only be characterized with propriety and decorum but above all else must be above suspicion. (*Jereos, Jr. v. Reblando, Sr.*, 71 SCRA 126, 131-132 [1976])."^[6]

WHEREFORE, in view of the foregoing, this Court approves and adopts the recommendation of the Deputy Court Administrator and hereby orders respondent Deputy Sheriff William Baden **DISMISSED** from the service, with forfeiture of all retirement benefits and leave credits to which he may be entitled and with prejudice to re-employment in the government service, including government-owned and controlled corporations. Let a copy

of this Decision be spread in the employment records of both William L. Baden and AlfOnso V. Melgar.

SO ORDERED.

Narvasa, C.J., Padilla, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., Panganiban, and Torres, Jr., JJ., concur.

[1] Rollo of A.M. No. P-92-725, pp. 5-22.

[2] Ibid., p. 6.

[3] 219 SCRA 372 (March 3, 1993).

[4] Rollo, pp. 198-200.

[5] 223 SCRA 411, 419 (June 17, 1993); see also *Sy vs. Academia*, 198 SCRA 705 (1991).

[6] *Lianes vs. Borja*, 192 SCRA 288 (December 10, 1990), cited in *Cunanan vs. Tuazon*, 237 SCRA 380 (October 7, 1994).

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