

FELICITAS SALAZAR--CHOCO, BIBIANO SALAZAR AND WARLITO CHOCO, COMPLAINANTS, VS. DEMETRIO S. VILLAFLOR, DEPUTY SHERIFF OF THE OFFICE OF THE PROVINCIAL SHERIFF OF DAVAO CITY, RESP...

A.M. No. P-1243. January 31, 1978

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

This is an administrative charge filed by Felicitas Salazar-Choco and others against Demetrio S. Villaflor, Deputy Sheriff in the Office of the Provincial Sheriff at Davao City, for abuse of authority, harassment and oppression.

The complaint filed with the Department of Justice on February 20, 1973 alleged that the complainants in the instant administrative case are defendants in Civil Case No. 7809 entitled "Nicasio Palalon, et al. versus Felicitas Salazar-Choco, et al." pending before the Court of First Instance of Davao City, Branch II; that a writ of attachment was issued in said case pursuant to an order dated February 5, 1973; that the order issued in Civil Case No. 7809 directed the sheriff to attach only properties of the defendants in such value as not to exceed the claim set forth in the complaint; that the claim of the plaintiffs in said civil case was P23,142.26 plus attorney's fees of P5,000.00; that the respondent, Demetrio S. Villaflor, as deputy sheriff of the Office of the Provincial Sheriff of Davao City attached personal properties of the defendants consisting of twenty-one (21) units of motor vehicles, all in good running condition and at that time operating within the City of Davao as public utilities, being used for carriage of passengers and/or cargoes; that the assessed market value of one (1) unit of the motor vehicles which were attached was P5,000.00 and the twenty-one (21) units had a total value of P105,000.00; that the respondent attached properties worth more than the claim of the plaintiffs in Civil Case No. 7809, the total amount demanded being only approximately P28,000.00; that the complainants demanded the release of the motor vehicles in excess of the claim of the plaintiffs in Civil Case No. 7809 but the respondent refused to do so and instead threatened that he might even impound the other motor vehicles belonging to the complainants; that the respondent acted in gross and evident bad faith in attaching properties of the complainants worth more than the claim of the plaintiffs in Civil Case No. 7809; and that the Court of First Instance of Davao City issued an order dated February 9, 1973 directing the release of fifteen (15) units of motor vehicles out of the twenty-one (21) units which were attached and impounded by the respondent.[1]

In his answer[2] filed on February 2, 1973, the respondent averred that some of the attached vehicles might have an assessed value of more than P5,000.00 but most of said vehicles had a value less than P5,000.00; that one (1) unit of the attached vehicles was sold by the owner for only P3,000.00; that before the attachment was effected, the respondent was informed by reliable persons that most, if not all of these vehicles to be attached, were owned by other people and not by the complainants; that right after the attachment, different persons came to file third party claims with the Office of the Sheriff; that the Court of First Instance of Davao City issued an order to release fifteen (15) units of the vehicles attached; that respondent did not act in bad faith in attaching the properties in question because he could not anticipate what the proceeds would be should the properties attached

be sold at public auction, specially if the properties attached were claimed by other persons; and that the respondent was simply discharging his ministerial duty to execute the lawful order of the court.

The investigation of the administrative case was commenced by District Judge Alfredo I. Gonzalez, presiding judge of Branch II of the Court of First Instance of Davao. The investigation, however, was completed by Judge Antonio M. Martinez who was designated as executive judge of the Court of First Instance of Davao.

After the complainants and the respondent had adduced their oral and documentary evidence, Judge Antonio M. Martinez submitted on January 9, 1976 his report, recommending the imposition of the penalty of suspension of one (1) month without pay upon the respondent, Demetrio S. Villaflor. According to Judge Martinez, the complaint and the evidence adduced during the hearing reveal the following uncontroverted facts:

"That on January 29, 1973, Nicasio Palabon, Romeo Hernandez, Rufo Alcoba, M. Plasabas, Andres Gella, Mr. & Mrs. Rufino Balio, Martin Moncada, Natalia Guequin and Aquilina Abas, Plaintiffs, filed a case against Felicitas Salazar-Choco, Bibiano Salazar and Warlito Choco, Defendants, for Recovery of Sum of Money and Damages with Preliminary Attachment, docketed as Civil Case No. 7809 in the Court of First Instance of Davao, Branch II. On February 5, 1973 an order was issued granting the preliminary attachment, the pertinent portion of which is quoted below:

'Plaintiffs in this case have filed a verified complaint for Recovery of Sum of Money and Damages with Preliminary Attachment, stating among others that defendant Felicitas Salazar-Choco, Bibiano Salazar and Warlito Choco have allegedly conspired in converting for their own personal benefit funds of the Davao Association of Auto-Calesas Operators (DHACOO) of which the latter have access thereto, that the total sum of money allegedly misappropriated is P23,142.26; that there is sufficient security for the claim sought to be enforced by the present actions; that plaintiffs are willing to post a bond in the amount of P23,142.26, as required under the Rules of Court.

In view of the foregoing, this Court hereby issues this order of attachment directing the sheriff or his deputy to attach the properties, real or personal of the defendants in such value as not to exceed the claim set forth in the complaint and not exempt from execution, unless the defendants make deposit or give bond sufficient to satisfy such demand, besides costs, or in an amount equal to the value of the properties which is about to be attached.

So ordered.'

(Emphasis supplied).

By virtue of such order the respondent Demetrio S. Villaflor, forthwith attached the properties of the complainant in this case consisting all in all of twenty-one (21) units of motor vehicles in the name of complainant Felicitas Salazar.

The assessed market value of one unit of the motor vehicles which were attached by herein respondent is P5,000.00, or a total value of P105,000.00 for the twenty-one (21) units. The total value far exceeds the claims set forth in the complaint in Civil Case No. 7809 which is approximately P28,000.00.

As manifested further in the complaint in this case, specifically paragraph nine (IX) on page three (3), which appears to be unrefuted by any answer, it appears:

'That herein complainants demanded the release of the motor vehicles in excess of the claim of the plaintiffs in Civil Case No. 7809, but despite of repeated demands of herein complainants, respondent refused to release the motor vehicles and instead threatened complainants that they might even impound the other motor vehicles belonging to herein complainants.'

It appears further that the respondent herein did not heed the demand of the complainant herein and so in that Civil Case No. 7809, Felicitas Salazar through counsel, filed on February 8, 1973 an Urgent Motion To Release Some of the Attached Properties of the Defendant. A copy of this motion forms part of the present complaint.

On February 9, 1973, this Court in Civil Case No. 7809 issued an order granting the motion. The said order is reproduced below:

'Acting on the urgent motion to release some of the attached properties of the defendants filed by the counsel for the defendants and it appearing that the Deputy Sheriff has attached the properties of the defendant in such value exceeding that which has been directed by this court in the total sum of P23,142.26, this court hereby directs that Deputy Sheriff immediately release the fifteen (15) units of the twenty one (21) motor vehicles which are presently attached and impounded and leaving only six (6) units which are considered sufficient to answer the claim of the plaintiff as embodied in their complaint.'

The respondent sheriff did not offer a story different to the foregoing. In fact he has not filed any answer. During the hearing of this case, the respondent's main defense consisted mainly of the fact that he attached and impounded the twenty-one (21) motor vehicles because there are other claimants on those motor vehicles. But at the same time he admitted that the ownership on those vehicles are evidenced by the certificate of convenience belong indisputably to Felicitas Salazar."[3]

From the facts established at the hearing, it is clear that the respondent is guilty of having attached motor vehicles worth much more than the claim of the plaintiffs in the complaint. The total claim of the plaintiffs in Civil Case No. 7809 was only about P28,000.00. The twenty-one (21) units of motor vehicles attached by the respondent had a total value of around P105,000.00.

It is admitted by the respondent in his answer that the attached vehicles may have an assessed value of more than P5,000.00. Even if the attached vehicles were to be assessed at P3,000.00 each, the twenty-one (21) units would still have the total value of P63,000.00 which is much more than the claim of P28,000.00 demanded in the

complaint.

The bad faith of the respondent is shown by the fact that he refused to heed the request of the complainants to release some of the vehicles attached. Indeed, the Court of First Instance of Davao, Branch II, had to issue in Civil Case No. 7809 an order dated February 9, 1973 directing the respondent sheriff to immediately release fifteen (15) units of the twenty-one (21) units which were attached and impounded, leaving only six (6) units which were considered sufficient to answer the claim of the plaintiffs as embodied in the complaint.[4]

The complainants suffered damages as a result of the attachment of the twenty-one (21) motor vehicles. The circumstances and equity of the case warrant the imposition on the respondent of the penalty of suspension of one (1) month without pay.

WHEREFORE, the respondent is hereby found guilty of misconduct in the discharge of his duties and is hereby suspended for one (1) month without pay to take effect when this decision becomes final and executory, with the warning that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Guerrero, JJ., concur.

[1] Rollo, pp. 2-6.

[2] Rollo, pp. 28-29.

[3] Rollo, pp. 44-46.

[4] Rollo, p. 18.

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