

**ROBERTO R. IGNACIO, COMPLAINANT, VS. RODOLFO PAYUMO,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, QUEZON CITY, BRANCH
93, RESPONDENT.**

A.M. No. P-00-1396 (Formerly OCA IPI No. 97-375-P). October 24, 2000

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

Complainant Roberto R. Ignacio charges respondent Deputy Sheriff Rodolfo Payumo with Grave Misconduct relative to LRC case No. Q-330 entitled "Re: Application for Registration Sps. Krause A. Ignacio and Teresa R. Ignacio, Applicants vs. Sps. Servando Franco and Leonor Santos, et al., Oppositors".

In his complaint, Ignacio alleges that respondent Payumo has caused him extreme prejudice and damage with the latter's unjustified refusal to fulfill his obligation to implement a writ of demolition for purposes of which the said respondent had received the amount of P40,000.00. Complainant claims that he has sent a demand letter to the respondent for the return of the said amount but the latter failed to return the same.

In his Comment, respondent Payumo denied the allegations in the complaint. He claims that on September 9, 1997 he served a notice to vacate/demolition on all the oppositors of the aforesaid LRC case by virtue of the writ of demolition issued by Judge Apolinario Bruselas, Jr. On the same day, he also served notice to the Office of the Mayor of Quezon City informing the said office that the demolition of the subject premises will be conducted on September 15, 1997. On said scheduled date, respondent allegedly hired 80 persons to assist him in the demolition of about 30 structures erected on the subject premises. However, due to violent resistance of the occupants, respondent failed to demolish the structures. He further alleges that he requested the assistance of the PNP officers or SWAT team. Respondent explains that his failure to implement the writ was not due to personal reasons but was a consequence of his compliance with the order of the trial court directing him to hold further proceedings on the writ of execution/demolition until the court shall have resolved the motion for reconsideration filed earlier. With regard to the P40,000.00, he claims that the money was spent in accordance with the instructions of the complainant in connection with the implementation of the writ. It allegedly covered the expenses for service of notices, surveillance of the premises and payment to persons hired to assist in the demolition.

In the Resolution dated March 29, 2000, the parties were required to manifest if they are willing to submit the case for resolution/decision on the basis of the pleadings already filed. Both parties interposed no objection to submitting the case on the basis of the pleadings/records filed and submitted.

The Court Administrator recommended that respondent Deputy Sheriff be declared guilty of Misconduct in Office and be meted a fine in the amount of Five Thousand Pesos (P5,000.000). He posits the view that respondent, as Deputy Sheriff, ought to know the prescribed legal procedure in the implementation of a writ of demolition.

We agree with the Court Administrator.

A sheriff must comply with Section 9, Rule 141 of the Rules of Court in serving processes.[1] Said section

prescribes the legal procedure in the implementation of the writ. Thus:

"SEC. 9. Sheriffs and other persons serving processes. - xxx xxx xxx

In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interest party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor."

The sheriff is obliged to secure the approval of the issuing court of the estimated expenses and fees for implementation of the writ of execution.[2] Costs or rough estimates for the implementation of the writ of demolition and possession must be submitted to the court for approval.[3] Respondent Payumo admits having received the amount of P40,000.00 allegedly for expenses in connection with the implementation of the writ. Granting arguendo that it were so, respondent should submit a full report of the estimated expenses in the implementation of the writ for approval of the court. He did not. Clearly, respondent failed to comply with what is incumbent upon him.

Only the payment of sheriff's fees can be lawfully received by a sheriff and acceptance of any other amount is improper, even if it were to be applied for lawful purposes.[4] The sheriff executing writs of processes should estimate the expenses to be incurred and upon the approval of the estimated expenses, the interested party has to deposit the amount with the Clerk of Court and Ex-Oficio Sheriff. A sheriff acts irregularly when he submits his Sheriff's Partial Report and Sheriff's Return without liquidating the amounts previously received.[5] Sheriffs and deputy sheriffs, as officers of the court and, therefore agents of law, must discharge their duties with due care and utmost diligence because in serving the court's writs and processes and in implementing the orders of the court, they cannot afford to err without affecting the efficiency of the process of the administration of justice.[6] Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them.[7]

WHEREFORE, as recommended by the Court Administrator, respondent Deputy Sheriff Payumo is hereby found guilty of Misconduct in Office and ordered to pay a FINE in the amount of Five Thousand Pesos (P5,000.00) with a stern warning that a repetition of the same or similar act shall be dealt with more severely by this Court.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Purisima, JJ., concur.

[1] Ong vs. Meregildo, 233 SCRA 632.

[2] Vda. De Gillego vs. Roxas, 235 SCRA 158.

[3] Miro vs. Tan, 235 SCRA 405.

[4] Gacho vs. Fuentes, Jr., 291 SCRA 474.

[5] Bercasio vs. Benito, 275 SCRA 405.

[6] Bornasal, Jr. vs. Montes, 280 SCRA 181.

[7] Llamado vs. Ravelo, 280 SCRA 597.

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