ILDEFONSO P. JACINTO, COMPLAINANT, VS. BERNABE M. CASTRO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 24, ECHAGUE, ISABELA RESPONDENT.

A.M. No. P-04-1907 (Formerly OCA IPI No. 04-1872-P). July 03, 2007

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

Branch 24 of the Regional Trial Court (RTC) of Echague, Isabela found the accused in Criminal Case No. JR-2387, "People of the Philippines v. Christopher Salvador," guilty of reckless imprudence resulting in homicide and physical injuries[1] and ordered him to pay Ildefonso P. Jacinto (Jacinto), herein complainant, among others, actual damages in the amount of P73,266 and attorney's fees in the amount of P10,000, and in case of insolvency, Artemio Salvador (Salvador), the owner of the passenger jeepney involved in the case, would be subsidiarily liable.

The trial court subsequently issued a writ of execution of the civil aspect of the case,[2] which was not, however, satisfied as, by the report of herein respondent Sheriff Bernabe M. Castro, "the accused has neither personal nor real property to be levied upon."[3] A "Subsidiary Writ of Execution against Artemio Salvador" was later issued.[4]

Herein complainant Jacinto thereupon charged respondent Sheriff for Refusal to Perform Official Duty and Acts Favoring Judgment Debtors in connection with the implementation of the writ of execution issued by the trial court.

In his complaint, Jacinto alleges that in the implementation of the writ of execution for which he gave the amount of P5,000 to respondent, the latter seized a motorized tricycle from the accused but that he (respondent) released it after the accused promised that he would pay P50,000, which promise was not, however, kept;[5] that respondent also seized Salvador's passenger jeepney which respondent similarly released;[6] that in respondent's Sheriff's Return of January 15, 2003, the latter reported that the accused has no more leviable properties;[7] and that his counsel called the attention of respondent for his failure to implement the writ, but he failed to respond.[8]

Justifying the release of the tricycle, respondent, in his Answer[9] of April 14, 2004, explains that the accused was no longer the owner thereof, he (the accused) having sold it to one Julius Raspado who showed him a copy of a deed of sale[10] for the purpose.

Respecting his Sheriff's Return of January 15, 2003, respondent claims that the only property he could seize from the accused was the tricycle, in support of which he attached to his Answer a certification from the municipal assessor of Jones, Isabela that the accused has no registered property therein.[11]

As for the passenger jeepney which he seized from its owner Salvador, but which he later released, respondent explains that a certain Catalino Tabiolo showed him a copy of a deed of sale executed in his favor by Salvador, hence, his release thereof is in good faith.[12]

As to his failure to reply to the letter of counsel for complainant, respondent explains that since complainant and his representative were present when he seized the tricycle and passenger jeepney which he later released, he posits that they should have relayed the same to complainant's counsel. Respondent nonetheless apologizes for his failure to reply.[13]

As to the expenses incurred in the implementation of the writ, respondent explains that since complainant did not make any deposit with the Clerk of Court for the purpose and he had to go as far as Arubub, Jones, Isabela, complainant gave him P100 for transportation expenses.[14]

The case was referred for investigation, report and recommendation of the Executive Judge of the RTC, Echague, Isabela who reported that the parties submitted their case for resolution on the basis of the pleadings.

The Office of the Court Administrator (OCA), noting that respondent released the vehicles despite the absence of affidavits supporting third-party claims and the prior approval of the court, found that respondent failed to adhere to the rules regarding third-party claims. It found too that respondent failed to observe the rules on acceptance of fees representing expenses for the implementation of writs.

Finally, the OCA found that respondent failed to observe Section 5(a) of Republic Act No. 6713 (R.A. 6713) on public officials and employees' obligation to respond to letters, telegrams or other means of communications sent by the public.

The OCA thus recommended the suspension of respondent for one (1) month and one (1) day without pay, with a stern warning that a repetition of a similar conduct shall be dealt with more severely.

When a person other than the judgment obligor or his agent claims title or right to the possession over a property levied on in execution, Section 16 of Rule 39 of the Rules of Court directs:

> SEC. 16. Proceedings where property claimed by third person. - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefor is filed within one hundred twenty (120) days from the date of the filing of the bond.
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> The officer shall not be liable for damages for the taking or keeping of the property, to any third-party claimant if such bond is filed. Nothing herein contained shall prevent such claimant or any third person from vindicating his claim to the property in a separate action, or prevent the judgment obligee from claiming damages in the same or a separate action against a third-party claimant who filed a frivolous or plainly spurious claim.

x x x x

Evidently, respondent failed to observe the foregoing rule.

That sheriffs play an important role in the administration of justice, they being called upon to, among other things, serve and execute orders and processes with due care and utmost diligence,[15] can never be overemphasized. If they fail to execute final judgments of the courts, such judgments become empty victories for the prevailing party.[16]

By receiving money from complainant to enforce the writ of execution, respondent lost sight of the requirements in Section 10(l)(2) of Rule 141 of the Rules of Court which, among other things, provides the rules on payment of

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sheriff's expenses in executing writs pursuant to court orders or decisions, which section reads:

x x x x

> With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested 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. THE LIQUIDATION SHALL BE APPROVED BY THE COURT. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted to the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. (Emphasis supplied)

Respondent likewise lost sight of Section 5(a) of R.A. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees, which provides that "[a]ll public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request."

Respondent is thus guilty of simple neglect of duty[17] which is, under Section 52 (B)(1) of the Uniform Rules on Administrative Cases in the Civil Service, considered a less grave offense punishable by suspension from office for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense.

Instead, however, of suspending respondent, this Court, consistent with this Court's pronouncements in Aquino v. Lavadia[18] and Morta v. Bagagñan,[19] deems it appropriate, so as not to hamper his work and other duties of his office, to impose on respondent a fine equivalent to his two- month salary, with a stern warning that a repetition of the same or similar offense shall be strictly dealt with.

WHEREFORE, respondent BERNABE M. CASTRO, Sheriff IV, Regional Trial Court, Branch 24, Echague, Isabela, is guilty of simple neglect of duty and violation of Section 10(l)(2) of Rule 141 of the Rules of Court and Section 5(a) of Republic Act No. 6713 and is hereby ordered to pay a FINE equivalent to his TWO-MONTH SALARY with a stern warning that a repetition of the same or similar act shall be dealt with more severely.
SO ORDERED.

Carpio, (Acting Chairperson), Tinga, and Velasco, Jr., JJ., concur.
Quisumbing, J., (Chairperson), on official leave.

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[1] Rollo, p. 1.

[2] Id.at 7.

[3] Id. at 8.

[4] Id. at 9.

[5] Id.at 3.

[6] Id. at 4.

[7] Id. at 8.

[8] Id. at 4.

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[9] Id.at 18-21.

[10] Id. at 18.

[11] Id. at 19.

[12] Id. at 20.

[13] Ibid.

[14] Ibid.

[15] Bautista v. Orque, Jr., A.M. No. P-05-2099, October 31, 2006, 506 SCRA 309, 313.

[16] Santuyo v. Benito, A.M. No. P-05-1997, August 3, 2006, 497 SCRA 461, 468; Escobar Vda. de Lopez v. Luna, A.M. No. P-04-1786, February 13, 2006, 482 SCRA 265, 278.

[17] Escobar Vda. de Lopez v. Luna, supra note 16.

[18] 417 Phil. 770 (2001).

[19] 461 Phil. 312 (2003).

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