

## **FERMIN ACOSTA, COMPLAINANT, VS. RUBEN MAGTOTO, DEPUTY SHERIFF, CFI, MALOLOS, BULACAN, RESPONDENT.**

*A.M. No. P-319. June 30, 1977*

Ponente: FERNANDO, J.

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### **FERNANDO, J.:**

In a sworn letter complaint dated October 8, 1974, com-plainant Fermin G. Acosta charged respondent Ruben Magtoto, Deputy Sheriff of the Court of First Instance of Bulacan, with negligence in the performance of duty by his failure to serve the summons and complaint on the defendant in Civil Case No. 4522-F entitled "BRIGIDA GATCHALIAN, et al., vs. IRINEO CARREON" allegedly resulting in the "unnecessary delay in the proceedings of the case for more or less two (2) months." [1] It is alleged that service of said summons and complaint was not even attempted and no valid reason has been given by respondent for his omission or failure to do so.

According to the complaint, copies of the summons and complaint in Civil Case No. 4522-F were furnished the Sheriff's Office of the Province of Bulacan on August 12, 1974 for service upon the defendant and the herein respondent Ruben Magtoto was the deputy assigned to effect said service; that from August 12, 1974 up to October 4, 1974, no return had been made by the Sheriff's Office; and that the Provincial Sheriff of Bulacan, as a result of this complaint, directed respondent to explain. [2]

In his answer dated October 31, 1974, the respondent alleged that he was given the summons for service upon defendant Irineo Carreon in Civil Case No. 4522-M on August 21, 1974; that two weeks thereafter he went to Bambang, Bulacan, Bulacan, to serve the summons but on that occasion the house of defendant was closed and there was nobody to receive said summons and the copy of the complaint attached thereto; that again on October 5, 1974, he went to the same place to accomplish his assignment and this time he was able to serve the summons upon the son of defendant, a Mr. Jacinto Carreon; and that there was delay in serving the summons because of the volume of work given to him and that besides his work in the Office of the Provincial Sheriff, he is also assigned to serve all processess of Branch II of the Court of First Instance of Bulacan. [3]

It is quite clear from the answer of the respondent that there is substantial truth in the complaint lodged by com-plainant. The respondent admits his failure to perform his duty on time. He only pleads certain circumstances to explain or mitigate his remission. There appears no reason to conduct a time-consuming investigation of the matter.

The explanation of the respondent deputy sheriff is not satisfactory. He made the first attempt to serve the summons two weeks after the service thereof was assigned to him on August 21, 1974. The respondent went back to serve the summons only on October 5, 1974, about one month from the first time he went to the house of the defendant in Civil Case No. 4522-M. This lackadaisical attitude of the respondent is not conducive to an efficient administration of justice.

WHEREFORE, the respondent, Ruben Magtoto, Deputy Sheriff of Bulacan Province, is hereby reprimanded with a warning that a repetition of the same failure to perform his duty on time will be dealt with severely.

**SO ORDERED.**

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

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- [1] Sworn letter-complaint of Fermin G. Acosta, p.1, Adm. Matter No. P-319 Folder;
- [2] Memorandum of Provincial Sheriff Flor F. Resurreccion, dated October 31, 1974, Folder, p. 5;
- [3] Answer to Memorandum of Provincial Sheriff, Folder, p. 6;

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