

ROMEO CORTEZ, COMPLAINANT, VS. DANTE C. SORIA, SHERIFF IV, REGIONAL TRIAL COURT, ALAMINOS, PANGASINAN, RESPONDENT.

A.M. No. P-02-1614. July 31, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In a Complaint-Affidavit dated February 10, 1999, complainant Romeo Cortez charged respondent Dante Soria, Sheriff IV of the Regional Trial Court of Alaminos, Pangasinan, with Conduct Unbecoming of a Government Employee. It appears that respondent acted as witness in a Deed of Real Estate Mortgage whereby Gloria Dela Cruz mortgaged her parcel of land to complainant and his wife. Subsequently, respondent also acted as attorney-in-fact of complainant and his wife.[1]

Respondent was later appointed as attorney-in-fact of Fructuosa S. Pedro and, in such capacity, he bought the mortgaged property for and in behalf of Fructuosa S. Pedro. Thereafter, respondent, still acting for and in behalf of Fructuosa S. Pedro, filed a complaint for legal redemption and consignment against complainant. It was further alleged that respondent led a group of men who entered the property subject of the mortgage and cut the trees therein.[2]

In an Affidavit dated June 22, 2000, respondent denied that he was appointed as agent of complainant and his wife but admitted that he was appointed by Fructuosa S. Pedro as her attorney-in-fact for purposes of filing and prosecuting an action for legal redemption against complainant and his spouse before the Regional Trial Court of Alaminos, Pangasinan, Branch 55. Complainant filed a motion to dismiss the said case but the same was denied. After complainant failed to answer the complaint, respondent moved that complainant be declared in default, which motion was granted by the trial court.[3]

Respondent argued that there was no conflict of interest on his part as he was only performing his duties as an attorney-in-fact. According to him, if it were true that he cut trees on the property, the same would constitute a crime for which complainant should have first filed a complaint before the Barangay Lupon, then to the police authorities of the locality. He alleged that the complaint was intended to harass him because complainant could no longer defend himself in the civil action, having been declared in default. Furthermore, the complaint was filed to frustrate respondent's application to travel abroad.

The records show that the complaint filed by complainant against respondent before the Office of the Deputy Ombudsman for Luzon, docketed as Ombudsman Case No. OMB-1-99-0413, for Violation of R.A. No. 3019, was dismissed on June 28, 1999.[4] Complainant's motion for reconsideration was denied on August 23, 1999.[5]

Pursuant to the Court's Resolution dated January 17, 2001,[6] complainant and respondent manifested their willingness to submit the case for resolution based on the pleadings filed.[7]

Respondent compulsorily retired on March 31, 1999, but his clearance has not yet been acted upon on account of the pendency of the instant administrative case against him.

It should be stressed that cessation from office of a respondent because of death[8] or retirement neither warrants the dismissal of the administrative complaint filed against him while he was still in the service nor renders said administrative case moot and academic.[9] In other words, the jurisdiction that was this Court's at the time of the filing of the administrative complaint is not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case.[10] The retirement of a judge or any judicial officer from the service does not preclude the finding of any administrative liability to which he shall still be answerable.[11] As pointed out by the Court in *Gallo v. Cordero*: [12]

This jurisdiction that was ours at the time of the filing of the administrative complaint was not lost by the mere fact that the respondent public official had ceased in office during the pendency of his case. The Court retains its jurisdiction either to pronounce the respondent public official innocent of the charges or declare him guilty thereof. A contrary rule would be fraught with injustice and pregnant with dreadful and dangerous implications . . . If innocent, respondent public official merits vindication of his name and integrity as he leaves the government which he has served well and faithfully; if guilty, he deserves the to receive the corresponding censure and a penalty proper and imposable under the situation.

Since the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standard of honesty, integrity and uprightness.[13] Thus, as an officer of the court who is required to conduct himself with propriety and decorum, a sheriff must be circumspect and proper in his behavior.[14] Above all else, he must be beyond suspicion.[15]

Certainly, respondent's acceptance of his designation as attorney-in-fact to file an action in the same branch where he is employed, against a party to whom he had been an attesting witness in an earlier transaction involving the very property subject of the action, cannot but raise the suspicion that the assignment was accepted for less than noble motives. Indeed, there is the distinct possibility that respondent will intercede or intervene in his official capacity as sheriff in the said case.

Had respondent been imbued with that requisite degree of propriety demanded of all those involved in the administration and dispensation of justice, he would have in good grace declined the assignment at the outset. That would have forestalled the suspicion that he was impelled by dubious considerations to accept the position. His claim that there was no conflict of interest in his acceptance of the assignment is but a tenuous excuse to the prohibition against engaging directly in private business imposed on all officials and employees of the judiciary.[16]

Furthermore, while judicial officials and employees are not prohibited from engaging in gainful activities other than their judicial functions, the permission to do so is circumscribed by the unmistakable command that they should regulate extra-judicial activities to minimize the risk of conflict with judicial duties.[17] Needless to state, such conflict is greatly magnified in this case when respondent accepted an appointment as attorney-in-fact for the singular purpose of prosecuting a complaint in the court where he is employed.

In fact, *Fructuosa S. Pedro*'s choice of respondent to act as her attorney-in-fact creates the disturbing thought that the latter's services were purposely sought to help her in the proceedings filed before the trial court. The impropriety of respondent's involvement in the controversy cannot be gainsaid, for Canon 2, Rule 2.03 of the Code of Judicial Conduct states in no uncertain terms that:

The prestige of judicial office shall not be used or lent to advance the private interests of others, nor convey or permit others to convey the impression that they are in a special position to influence the judge.[18]

Indeed, the act of respondent in accepting the position of attorney-in-fact for *Fructuosa S. Pedro*, "for a period of ten (10) years from execution or until revoked by another instrument,"[19] can be properly called

“moonlighting.”[20] As the Court pointed out in *Hipolito v. Mergas*: [21]

While “moonlighting” is not normally considered as a serious misconduct, nonetheless, by the very nature of the position held by respondent, it obviously amounts to a malfeasance in office. In sum, he is bound, *virtute officii*, to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their own affairs.

Indeed, respondent failed to observe that degree of dedication to the duties and responsibilities required of him as a Sheriff when he engaged in such irrelevant activities.[22]

As had been stated earlier, the administration of justice is a sacred task and it demands the highest degree of efficiency, dedication and professionalism.[23] In this regard, the Court finds it necessary to reiterate that sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them.[24] They should always hold inviolate and invigorate the tenet that a public office is a public trust.[25]

The conduct required of court personnel must be beyond reproach and must always be free from suspicion that may taint the judiciary.[26] It is therefore incumbent upon every member of the judiciary family to work hand in hand in restoring and upholding, rather than destroying the integrity of the courts to which they belong.[27]

The Office of the Court Administrator (OCA) recommends that respondent be fined in the amount of Five Thousand Pesos (P5,000.00). We find the recommendation reasonable.

WHEREFORE, in view of all the foregoing, respondent Dante C. Soria, Sheriff IV is hereby ordered to pay a FINE in the amount of Five Thousand Pesos (P5,000.00) for Conduct Unbecoming of a Government Employee, to be deducted from whatever retirement benefits may be due him.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, Kapunan, and Austria-Martinez, JJ., concur.

[1] Rollo, pp. 1-2.

[2] *Ibid.*, pp. 3-7.

[3] *Id.*, pp. 15-17.

[4] *Id.*, pp. 18-20.

[5] *Id.*, pp. 21-23.

[6] *Id.*, p. 26.

[7] *Id.*, pp. 27, 29-30.

[8] *Mañozca v. Domagas*, 248 SCRA 625 [1995]; *Apiag v. Cantero*, 268 SCRA 47 [1997].

[9] *Sy Bang v. Mendez*, 287 SCRA 84, 92 [1998]; *Tuliao v. Ramos*, 284 SCRA 378, 388 [1998]; *Secretary of Justice v. Marcos*, 76 SCRA 301 [1977].

[10] *Flores v. Sumaljag*, 290 SCRA 568, 569 [1977].

[11] *Lilia v. Fanuñal*, A.M. No. RTJ-99-1503, 13 December 2001; *Cabarloc v. Cabusora*, 348 SCRA 217, 226 [2000]; *Cadauan v. Alivia*, 344 SCRA 174 [2000].

[12] 245 SCRA 219 [1995].

[13] *Anonymous v. Geverola*, 279 SCRA 279 [1997].

[14] *Elipe v. Fabre*, 241 SCRA 249, 253 [1995].

[15] *Bilag-Rivera v. Flora*, 245 SCRA 603, 612 [1995]; *OCA v. Fuentes*, 247 SCRA 506, 516 [1995].

[16] *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*, 232 SCRA 707, 712 [1994]; see Rules 5.02,

5.03, 5.06 (1) and 5.07, Code of Judicial Conduct.

[17] Canon 5, Code of Judicial Conduct; see also Rule 5.07 of the same Code.

[18] See also *Miranda v. Mangrobang, Sr.*, A.M. No. RTJ-01-1665, 29 November 2001; *Marcas, Sr. v. Arcangel*, 258 SCRA 503 [1996].

[19] Annex B, Complaint; Rollo, p. 3.

[20] *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*, *supra*.

[21] 195 SCRA 6, 10 [1991].

[22] *Biyaheros Mart Livelihood Association, Inc. v. Cabusao, Jr.*, *supra*.

[23] *Contreras v. Mirando*, 280 SCRA 608, 610 [1997].

[24] *Llamado v. Ravelo*, 280 SCRA 597 [1997].

[25] *Ventura v. Concepcion*, 346 SCRA 14, 18 [2000].

[26] *Abanil v. Ramos, Jr.*, 346 SCRA 20, 24 [2000].

[27] *Contreras v. Mirando*, *supra*, p. 611.

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