

DOMINGO PEÑA, JR., COMPLAINANT, VS. ACHILLES ANDREW V. REGALADO II, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, NAGA CITY, RESPONDENT.

A.M. NO. P-10-2772 (Formerly A.M. OCA I.P.I NO. 07-2615-P). February 16, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

In a Letter[1] dated April 2, 2007, complainant Domingo Peña, Jr. reported to the Office of the Court Administrator (OCA) the alleged unethical conduct of respondent Sheriff IV Achilles Regalado II in implementing the writ of execution issued in relation to *People v. Domingo Peña, Jr. and Domingo Francisco* (Criminal Case No. 1852 for Falsification of Public Documents). The judgment on execution ordered complainant and Domingo Francisco to each pay a fine of P5,000.00 and damages in the amount of P30,000.00 to private complainant, Flora Francisco. Complainant averred that respondent collected from him P13,000.00, P4,500.00 and P2,000.00 on September 6, 2006, November 29, 2006, and December 29, 2006, respectively, without issuing official receipts. He was merely issued handwritten acknowledgment receipts, which he attached to the complaint as Exhibits "A," "B," and "C."

In his Comment,[2] respondent admitted that he received the said amounts from complainant, but claimed that he already delivered them to Mrs. Francisco, as evidenced by the acknowledgment receipts signed by the latter. According to respondent, complainant went to his office on September 6, 2006 and gave him P13,000.00. On the same day, he went to Francisco's house to give her the amount, but the latter was not around. Respondent allegedly went back to Francisco's house the following day and gave her the money. Later on, he collected the two succeeding payments at complainant's house and immediately gave the amounts collected to Francisco. Respondent claimed that the complaint was filed to harass and prevent him from further executing the judgment against complainant.

The Court referred the complaint to Judge Jaime E. Contreras, Executive Judge of the Regional Trial Court of Naga City, for investigation, report and recommendation.[3]

During the hearing, complainant testified that he was not issued official receipts for the money he gave to respondent, only handwritten provisional receipts. He said he knew, however, that respondent already gave the money to Francisco. He then informed Judge Contreras that he was no longer interested in pursuing the case because of his health condition.[4]

When interrogated, respondent confessed that he did not remit the money he collected from complainant to the Office of the Clerk of Court. He allegedly did so to spare Francisco, who is already very old, the inconvenience of filing a motion to release the money. He pointed out that such procedure was practical, considering that Francisco's house is only adjacent to that of the complainant. He explained that he was not able to give the P13,000.00 to Francisco on the same day he collected it from complainant, because she was not around at that time; and so, he gave it to her the following day.[5] He said that he has been a sheriff for 12 years already, and he

had followed the same procedure in some of the cases assigned to him for execution.[6]

Francisco confirmed that she received P13,000.00 from respondent on September 6, 2006, the date indicated in the provisional receipt. She, however, claimed that she did not receive P4,500.00 and P2,000.00, respectively, on November 29, 2006 and December 29, 2006, the dates indicated in the provisional receipts.[7] Francisco said that she signed the two latter receipts on the assurance of respondent that he would come back with the said amounts.[8]

The records reveal that, when respondent failed to return and give Francisco the amounts of P4,500.00 and P2,000.00, she wrote Judge Contreras a Letter dated June 20, 2007,[9] complaining about respondent's failure to collect the balance of the judgment award after the lapse of two years. As a result, Judge Contreras required Francisco and respondent to appear before him, during which the judge advised respondent to just pay the balance of the amount collected. It was only after that conference that Francisco received the amounts of P4,500.00 and P2,000.00.[10]

When confronted, respondent denied that it was only after the conference that he gave the money to Francisco, stating that the latter may have already forgotten what actually transpired, since it happened three years ago.[11]

Judge Contreras disagreed. On the contrary, he found that Francisco was still mentally alert despite her age and, consequently, gave her testimony more credence. Judge Contreras also noted that this was the second offense for which respondent had been investigated, and the evidence was clear that in both cases[12] respondent did not follow basic rules in implementing the writs of execution. He took into consideration respondent's admission that he has been doing such irregular acts or practices for the past 12 years in several cases assigned to him. He then recommended that respondent be suspended for 15 days from service without pay, with a stern warning that the repetition of the same or similar acts in the future shall be dealt with more severely.

In a Resolution dated September 2, 2009, the Court referred Judge Contreras' report to the OCA for evaluation, report and recommendation.

In a Memorandum dated January 7, 2010, the OCA found respondent guilty of grave misconduct and dishonesty and recommended that a more severe penalty be imposed upon him, thus:

- That the instant administrative complaint, dated 2 April 2007, of Domingo Peña, be RE-DOCKETED as a regular administrative matter;
- That respondent Sheriff IV Achilles Andrew Regalado II, Regional Trial Court, OCC, Naga City, be found GUILTY of GRAVE MISCONDUCT and DISHONESTY; and
- That he be meted the penalty of DISMISSAL from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with perpetual disqualification from re-employment in any government agency, including government owned and controlled corporation.

The Court likewise finds respondent administratively liable, but modifies the OCA's designation of the offense and the penalty imposed.

Despite complainant's manifest apathy towards the outcome of this administrative case, the Court is duty-bound to proceed with its investigation and resolution to determine whether respondent has, in fact, erred in his conduct. Complainant's lack of interest in pursuing the case will not exonerate respondent from any administrative action. It will not divest this Court of jurisdiction to determine the truth behind the complaint, as the need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein.[13]

Sheriffs are officers of the court who serve and execute writs addressed to them by the court, and who prepare and submit returns on their proceedings. As officers of the court, they must discharge their duties with great care and diligence. They have to perform faithfully and accurately what is incumbent upon them and show at all times a high degree of professionalism in the performance of their duties.[14] Despite being exposed

to hazards that come with the implementation of the judgment, sheriffs must perform their duties by the book.[15]

Section 9, Rule 39 of the Rules of Court lays down the procedure to be followed by the sheriff in implementing money judgments:

SEC. 9. Execution of judgments for money, how enforced. --

(a) Immediate payment on demand. -- The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

When the judgment obligee is not present at the time the judgment obligor makes the payment, the sheriff is authorized to receive it. However, the money received must be remitted to the clerk of court within the same day or, if not practicable, deposited in a fiduciary account with the nearest government depository bank. Evidently, sheriffs are not permitted to retain

the money in their possession beyond the day when the payment was made or to deliver the money collected directly to the judgment obligee.

Respondent's excuse for not turning over the money to the clerk of court does not persuade us enough to arrive at a contrary finding. He explains that it was practical to directly give the money he collected from complainant to Francisco, whose house is just adjacent to that of the complainant. Firstly, complainant could have directly made the payment to Francisco or her representative. Secondly, considering that the first payment was handed to him by complainant in his office, respondent could have easily turned it over to the clerk of court. Instead, respondent went to Francisco's house to give her the money, presumably as an act of good will.

Respondent may have been motivated by a noble intention when he directly gave the P13,000.00 to Francisco, but the same cannot be said of the two succeeding payments. Francisco had to file a complaint against respondent before the latter delivered the same to her. Though respondent insists that he gave the amounts to Francisco on the same day he received them, this is belied by Francisco's positive testimony that she received the money several months after the dates indicated in the receipts. This is corroborated by Francisco's letter-complaint to Judge

Contreras and her account of what transpired in the conference that the latter arranged.

Good faith on the part of respondent, or lack of it, in proceeding to properly execute his mandate would be of no moment, for he is chargeable with the knowledge that being an officer of the court tasked thereto, it behooves him to make due compliance.[16] As implementing officers of the court, sheriffs should set the example by faithfully observing and not brazenly disregarding the Rules of Court.[17] Incredibly, respondent even blatantly admitted that he followed the same procedure in some of the other writs of execution that he enforced.

Moreover, the records show that, upon receipt from complainant (judgment obligor) of three payments, respondent merely issued handwritten acknowledgment receipts to him. This act constitutes a violation of Section 113, Article III, Chapter V of the National Accounting and Auditing Manual which provides "that no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof." [18]

Accordingly, we find respondent guilty of conduct prejudicial to the best interest of the service for not following the proper procedure in enforcing writs of execution. Sheriffs have the duty to perform faithfully and accurately what is incumbent upon them, and any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.[19] The Court will not hesitate to impose the ultimate penalty on those who fall short of their accountabilities. The Court condemns and does not tolerate any conduct that violates the norms of public accountability and diminishes public confidence in the judicial system.[20]

Section 52(A)(20) of the Revised Uniform Rules on Administrative Cases classifies conduct prejudicial to the best interest of the service as a grave offense punishable by suspension of six months and one day to one year for the first offense.

WHEREFORE, judgment is rendered, finding respondent Achilles Andrew V. Regalado II GUILTY of conduct prejudicial to the best interest of the service and is hereby SUSPENDED from the service for one (1) year without pay, with a stern warning that a repetition of the same offense shall be dealt with more severely.

SO ORDERED.

Corona, (Chairperson), Velasco, Jr., Peralta, and Mendoza, JJ., concur.

[1] Rollo, pp. 3-4.

[2] Id. at 9-12.

[3] Id. at 28.

[4] Id. at 52-53.

[5] Id at 55-56.

[6] Id. at 82-83.

[7] Id. at 79.

[8] Id. at 68.

[9] Id. at 94.

[10] Id. at 80.

[11] Id. at 82.

[12] Two other administrative complaints are pending against respondent sheriff: A.M. IPI-09-3133-P and A.M. IPI-07-2614-P.

[13] Bunagan v. Ferraren, A.M. No. P-06-2173, January 28, 2008, 542 SCRA 355, 362.

[14] Escobar Vda. de Lopez v. Luna, A.M. No. P-04-1786, February 13, 2006, 482 SCRA 265, 275.

[15] Caja v. Nanquil, 481 Phil. 488, 518-519 (2004).

[16] Zarate v. Judge Untalan, 494 Phil. 208, 217 (2005).

[17] Flores v. Falcotelo, A.M. No. P-05-2038, January 25, 2006, 480 SCRA 16, 30.

[18] Lopez v. Ramos, A.M. No. P-05-2017, June 29, 2005, 462 SCRA 26, 34.

[19] Mangubat v. Camino, A.M. No. P-06-2115, February 23, 2006, 483 SCRA 163, 169-170.

[20] Velasco v. Tablizo, A.M. No. P-05-1999, February 22, 2008, 546 SCRA 403, 412.

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