

TEODORO C. RIVERA AND ANGELITA M. RIVERA, PETITIONERS, VS. ROMEO R. CAGUJAS, DEPUTY SHERIFF, REGIONAL TRIAL COURT, MAKATI, BRANCH 138, RESPONDENT.

A.M. No. P-93-792. January 07, 1994

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PER CURIAM:

In a verified complaint filed with the Office of the Court Administrator on 18 January 1993, the complainants charged the respondent deputy sheriff with grave misconduct. They allege that a writ of preliminary attachment was issued by Branch 138 of the Regional Trial Court (RTC) of Makati in Civil Case No. 5631 entitled Benguet Corporation versus Conrado Amurao, Teodoro C. Rivera and Felizardo Guanan. However, although the respondent (as deputy sheriff assigned to Branch 138) had been duly informed that complainant Teodoro C. Rivera's car (a 1981 model 2-door COLT Mitsubishi) was subject to a mortgage executed prior to the issuance of the writ, he still levied thereon on attachment and took possession thereof contrary to the ruling of this Court that a mortgaged chattel cannot be attached (citing *Blouse Potenciano vs. Mariano*, 96 SCRA 463 [1980]) and that despite the orders of the court of 18 July 1986, 15 January 1987, and 30 January 1992 directing him to return the car to complainant Teodoro C. Rivera, the respondent continued to retain the car which he used "to his personal benefit such that it is now in [an] advanced state of dilapidation totally excluding the complainants from enjoying their property." Complainants then pray that after due investigation, the respondent be dismissed from the service for serious misconduct in office.

In his Comment filed on 14 May 1993, the respondent denies the allegations in the complaint and contends that before he could comply with the orders of the court of 18 July 1986 and 15 January 1987 to return the car, he received a copy of the 30 January 1987 Order of Judge Nemesio S. Felix of the RTC of Makati commanding him to temporarily withhold the release of the car until further orders, it appearing that the mortgage over it had been discharged on 21 January 1985. The 30 January 1987 Order was never recalled, amended, or altered until he received a copy of the 30 January 1992 Order of Judge Roberto Diokno making effective the Orders of 18 July 1986 and 15 January 1987. Upon receipt of the 30 January 1992 Order, he filed a compliance dated 23 March 1992 informing the court of the 30 January 1987 Order; since no subsequent order was made, he made representations with the complainants' counsel for the turn-over of the car to the latter's custody. He was, however, surprised when he was instead directed to deliver the car in Baguio City, compelling him to file on 4 January 1993 an Urgent Manifestation and Motion for Clarification which he supplemented on 12 January 1993. He further denies having used the car for his personal benefit.

On 31 May 1993, the complainants filed their Reply to the Comment.

Issues having been joined, this case was referred to Executive Judge Salvador S. Abad Santos of the RTC of Makati for investigation, report, and recommendation.

The parties presented their evidence in the formal investigation conducted by Executive Judge Abad Santos.

On 16 November 1993, Executive Judge Abad Santos submitted his report wherein he made the following

findings and conclusions:

"A cursory examination of the evidence adduced by the parties will show that by reason of a writ of attachment (Exh. 2-A) issued by RTC Branch 138, Makati, complainants' Mitsubishi Colt Galant was levied upon by respondent sheriff (Exh. 3) on 25 May 1984. The following day, an affidavit of Third-Party Claim was filed by FNCB alleging that the latter had a better right to the possession of the vehicle for the reason that it was mortgaged to them. (Exh. F) Complainant Angelita Rivera likewise filed a similar affidavit with respondent sheriff asserting her conjugal share over the attached vehicle. (Exh. 15) Failing in this, complainants asked the Court (Br. 138) to intervene. Thus the Court in its Order dated 18 July 1986 ruled in favor of the complainants and 'ordered (respondent sheriff) to return the motor vehicle to defendant Teodoro Rivera immediately upon receipt of this Order and to levy on the right or equity of redemption as directed by this Court in its Order dated April 15, 1986.' (Exhs. G, 4) Six months lapsed and still no return of the vehicle was made. Hence the Order dated 15 January 1987 directing the sheriff and 'all concerned xxx to comply with the Order dated July 16, 1986.' (Exhs. H, 5) Again, inspite of the last Order and notwithstanding written demands to return the vehicle (Exhs. K, M and 12) and the lapse of some four (4) years from the date of the last Order, respondent sheriff still refused to return the vehicle. Exasperated, complainants' counsel Atty. Marcial O.T. Balgos (who incidentally testified at the hearing with regard to the pleadings he filed and the letters he wrote towards the return of the vehicle) on 4 March 1991 filed 'Consolidated Motions to Make Effective the Orders Dated 18 July 1986 and 15 January 1987 and for Contempt' by reason of which an order dated 30 January 1992 was issued the dispositive portion of which reads:

'Wherefore, the Consolidated Motions etc. are hereby granted.

Consequently, the Order dated July 16, 1986 stands. Deputy Sheriff Romeo Cagujas is ordered to explain why he would not be held in contempt of Court for delaying the administration of justice.'

Respondent Sheriff defied this Order. Thus, on 13 October 1992, complainants' counsel again filed an urgent Motion to Implement Orders. This has remained unacted to date.

Finally on 4 January 1993 respondent sheriff filed a motion asking for clarification as to where the vehicle was to be delivered. This was almost a year after the order to return under pain of contempt was issued. Until now, however, the vehicle is still with the respondent sheriff.

Complainants advance the reason for respondent sheriff's refusal to return the vehicle -- the same was being used by him. They claim that the state of disrepair the vehicle is into prove[s] this. Besides, there are the two eye-witnesses whose testimonies were to the effect that on one occasion each, the two saw the car being used. They did not see however who the driver was. On the other hand respondent sheriff has only the order dated 30 January 1987 and his bare denial to rely on for his defense. The 'order' authorized him 'to temporarily withhold the release of the aforecited motor vehicle until further [sic] orders of this Court,' he asserts.

The order of 30 January 1987 authorizing the respondent sheriff to hold on to the car is not sufficient to shield him from liability. There are several indicia to show respondent sheriff was unusually interested in the car for his personal use.

First, upon being notified the day after the attachment that the car was mortgaged as proved by the registration certificate and the various documents attesting to the same, he should have already released it to either the mortgagee or the complainants especially since the indemnity bond posted by the attaching creditor was insufficient.

Second, the two orders (18 July 1986 and 15 January 1987) requiring him to return the car and to levy on the right or equity of redemption instead are clear and left him with no choice but to comply; and he had all the time to do so until the order of 30 January 1987 was issued. At the least, during this period, his possession was already

illegal.

Third, the court sees no logic in respondent sheriff's insistence in keeping the car since by his own admission he had no garage and a safe place to store it. This was just parked in front of his house leaving it exposed to the elements. Personal use therefore becomes a plausible reason.

Fourth, an ocular inspection of the vehicle conducted at the hearing on November 4, 1993 revealed that despite the amount of P43,000.00 which respondent sheriff shouldered to put it in the condition it was at the time of inspection, the car was found to still be wanting in body and upholstery repairs. The bumpers were fabricated; all doors and door posts were replaced; the flooring was likewise replaced; the two front rims were not original anymore and so with the tires. The upholstery was torn in many portions and the air-conditioning unit was detached. All these indicate use of the vehicle by the respondent sheriff thus giving credence to complainants' eyewitnesses and to the charge."

He then recommends:

"The foregoing considered it is respectfully recommended that respondent deputy sheriff Romeo R. Cagujas be found guilty of gross misconduct and that he be dismissed from the service with forfeiture of all benefits he may be entitled thereto and with prejudice to future reinstatement in the government service and employment in government [owned] and/or controlled corporations."

After a careful consideration of the facts either admitted by the parties in their pleadings or established by the evidence adduced before the Investigating Judge, we are convinced that the latter's aforementioned findings and conclusions are in order. We therefore adopt them as our own.

It must, however, be added that in committing the acts complained of, the respondent is as well guilty of dishonesty and conduct grossly prejudicial to the administration of justice and the best interest of the public service. His personal use of the attached vehicle for a long period of time and wanton disregard of the court orders directing him to return it to its owner exhibited an attitude blatantly at war with the principle of public service as solemnly enshrined in the 1987 Constitution (Section 1, Article XI) and the Code of Conduct and Ethical Standards for Public Officials and Employees (R.A. No. 6713). The respondent should have kept in mind that he is an employee of that organ of the government which is involved in the sacred task of administering justice and whose conduct and behavior should perform "be circumscribed with the heavy burden of responsibility" and must, at all times, "not only be characterized by propriety and decorum but above all also must be above suspicion." (*Jereos vs. Reblando*, 71 SCRA 126 [1976], *Sy vs. Academia*, 198 SCRA 705 [1991]). "Every employee of the judiciary should be an example of integrity, uprightness and honesty." (*Ablanida vs. Intia*, Adm. Matter No. R-770-P, 17 May 1988).

In a manner of speaking, the respondent willfully chose to be unfaithful to his trust thereby causing undue harm to the image of the Judiciary. He should not be allowed to stay a minute longer in the government service.

WHEREFORE, in the light of the foregoing, the Court resolved to DISMISS from the service respondent ROMEO R. CAGUJAS for grave misconduct, dishonesty, and conduct prejudicial to the administration of justice and the best interest of the public service, with forfeiture of all benefits and with prejudice to re-employment in any branch or service of the Government, including government-owned or controlled corporations. This decision shall take effect upon the respondent's receipt of a copy hereof.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

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