LIBRADA D. TORRES, COMPLAINANT, VS. NELSON C. CABESUELA,SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 9, MANILA, RESPONDENT.

A.M. No. P-00-1391. September 28, 2001

Ponente: KAPUNAN, J.

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KAPUNAN, J.:

On July 3, 1998, this Court received from the Deputy Ombudsman for the Military the complete records of OMB-1-97-0659 entitled "Librada D. Torres versus Senior Inspector Elmer Beltejar, SPO1 Alfredo Caday, PO3 Armando Francisco, PO3 Randy Beltran, all members of the Philippine National Police Station, San Antonio, Nueva Ecija and Sheriff Nelson C. Cabesuela of the Metropolitan Trial Court (MeTC), Branch 9, Manila" for violation of Section 3(e) of Republic Act No. 3019[1] (Anti-Graft and Corrupt Practices Act) relative to Civil Case No. 151528-CV of the MeTC, Branch 9, Manila docket.

It appears from the records that complainant Torres executed an affidavit-complaint dated December 20, 1996 alleging that she is one of the owners of San Antonio High School in San Antonio, Nueva Ecija. Said school is the owner of a Mitsubishi Pajero mortgaged to Philam Savings Bank, Inc. The school failed to pay its obligation so the bank filed a complaint for replevin and damages. On September 6, 1996, Judge Amelia A. Fabros of MeTC, Branch 9, Manila, granted the bank's prayer for a writ of replevin. Consequently, a writ of replevin addressed to respondent sheriff was issued. On December 2, 1996, said vehicle was taken from complainant's residence by the members of the PNP , San Antonio, Nueva Ecija, named herein. Later on, complainant filed a motion to amend the complaint to include herein sheriff as respondent in the complaint since it was by virtue of the "Sheriff's Deputization" issued by respondent that respondent police officers were able to "implement" the writ.

Respondent sheriff filed a motion to dismiss alleging that after Judge Fabros came out with the writ of seizure, he issued the "Sheriff's Deputization" addressed to the Chief of Police of San Antonio, Nueva Ecija requesting for assistance in the implementation of said writ. According to him, he "deputized" the police officers only after he attempted to implement the writ and found the vehicle at a local motorshop undergoing repairs. Because of this, he opted to "constructively seize" the vehicle by serving copies of the complaint, summons and bond to complainant and a certain Ignacio Gonzales.

Complainant filed her opposition and/or comment thereto contending that the act of the respondent in deputizing the police officers in implementing the writ of seizure did not find support in law and in the Rules of Court. She stated that respondent usurped the powers of Judge Fabros.

On September 26, 1997, the motion to dismiss was denied.

On November 20, 1997, the Deputy Ombudsman for the Military issued a resolution recommending the filing of an information for violation of Section 3(e) of R.A. No. 3019 against the police officers and herein respondent but dismissing the case for violation of R.A. No.6713 and Article 177 of the Revised Penal Code. The same resolution likewise directed that a copy of the resolution be furnished the Supreme Court thru the Court Administrator for

administrative proceedings against herein respondent.

On February 12, 1999, the Court Administrator required herein respondent to comment on the affidavit-complaint and amended complaint.

In his comment, respondent claimed that he issued the "Sheriff's Deputization" in good faith although he admitted that his act was unlawful. He contended that his only purpose for issuing the same was to seek the assistance of the Chief of Police of Nueva Ecija because he was not familiar with the place and for said Chief of Police to seize the vehicle. Moreover, he opined that complainant was a very powerful and influential person as shown by her ability to remove the vehicle from the motorshop without seeking the permission of the court.

On July 3, 2000, the Court issued a resolution directing the docketing of the case as a regular administrative proceeding and requiring the parties to manifest if they are willing to submit the case as the basis of the pleadings already filed. Only respondent sheriff filed a manifestation. Complainant's silence was considered as a conforme to the submission of the case for resolution on the basis of the pleadings thus filed.

In his report, the Court Administrator found the complaint meritorious and recommended that a fine of P5,000.00 be imposed upon the respondent, viz:

> The act of respondent in issuing the Sheriff's Deputization is without legal basis.
>
> First, respondent should have known that under Administrative Circular No. 12 (5) it is provided that "No sheriff or deputy sheriff shall execute a court writ outside his territorial jurisdiction without first notifying in writing and seeking the assistance of, the sheriff of the place where the execution shall take place".
>
> Respondent's act of implementing the writ in Nueva Ecija when his territorial jurisdiction is confined only to Manila is a clear violation of the law. The proper recourse would have been to seek the assistance of the sheriff of Nueva Ecija rather than deputizing the police officer of said place.
>
> Furthermore, in Tordesillas vs. Basco (108 SCRA 551, 556) it was held that under Sections 3 and 4 of Rule 60 of the Rules of Court, it is the personal duty and responsibility of the sheriff to personally implement the writ and it constitutes serious misconduct and gross negligence for a sheriff to delegate his primary role in implementing a writ of seizure. Respondent's absence during the seizure of the subject vehicle by the police officers falls squarely within this prohibition for which he should be held liable.

We agree with the Court Administrator and hereby adopt his findings and recommendation.

Sheriffs are ministerial officers. Their office is to execute all writs returnable to the court, unless another is appointed, by special order of the court, for the purpose.[2]

As a ministerial officer, respondent sheriff should have known that it was his duty, in the absence of instructions, to faithfully perform what was incumbent upon him to do. Administrative Circular No. 12 was promulgated in order to streamline the service and execution of court writs and processes in the reorganized courts under Batas Pambansa Blg. 129 and to better serve the public good and facilitate the administration of justice. Paragraph 5 of said Circular is clear and self-explanatory. "No sheriff or deputy sheriff shall execute a court writ outside his territorial jurisdiction without first notifying in writing, and seeking the assistance of the sheriff of the place where the execution shall take place." Accordingly, as sheriff of the MeTC, Branch 9 of the City of Manila, respondent sheriff of San Antonio, Nueva Ecija, to enforce the subject writ instead of unlawfully deputizing the Chief of Police of San Antonio, Nueva Ecija.

Officers of the court and all court personnel are exhorted to be vigilant in the execution of the law. Sheriffs, as agents of the law, are therefore called upon to discharge their duties with due care and utmost diligence. They

cannot afford to err in serving court writs and processes and in implementing court orders lest they undermine the integrity of their office and the efficient administration of justice.[3]

WHEREFORE, respondent NELSON C. CABESUELA is hereby found GUILTY of abuse of authority and is ORDERED to pay a FINE in the amount of FIVE THOUSAND PESOS (P5,000.00) with a stern warning that a repetition of similar acts in the future shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Pardo, and Ynares-Santiago, JJ., concur.

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[1] SEC. 3. Corrupt practices of public officers. - In addition to acts or omissions of public officers already penalized by existing law, the following shall constitute corrupt practices of any public officer and are hereby declared to be unlawful:

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> (e) Causing any undue injury to any party, including the Government, or giving any private party any unwarranted benefits, advantage or preference in the discharge of his official, administrative or judicial functions through manifest partiality, evident bad faith or gross inexcusable negligence. This provision shall apply to officers and employees of offices or government corporations charged with the grant of licenses or permits or other concessions.

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[2] Manual for Clerks of Court, p. 148.

[3] Mamanteo v. Maguman, 311 SCRA 259 (1999).

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