

**RICARDO O. DELA CRUZ, EDGARDO CRISOSTOMO, ZOILO COPO,
VILMA COPO, RONALDO L. SANTOS, ROBERTO G. OMALIN,
CRISANTA H. MADRIAGA, RUTH SANTOS ROWENA CUBIN, RUSTICO
AMAYA, EUFEMIA O....**

A.M. No. P-12-3064 (Formerly A.M. OCA IPI No. 09-3180-P). June 18, 2012

Ponente: SERENO, J.

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SERENO, J.:

Complainants Ricardo O. dela Cruz, et al. were employees of Viva Footwear Corporation (Viva), located at Barrio San Vicente, San Pedro, Laguna.[1] Respondent Ma. Consuelo Joie A. Fajardo (respondent Fajardo) is Sheriff IV of the Regional Trial Court (RTC), Branch 93 of San Pedro, Laguna.

The Facts of the Case

The present case had its genesis when the Philippine National Bank (PNB) foreclosed on the real estate mortgage of Viva. Thereafter, RTC Branch 93 of San Pedro, Laguna in LRC No. SPL-0462 issued in favor of PNB a Writ of Possession,[2] which was implemented by respondent Fajardo.

Complainants alleged that respondent Fajardo forcefully evicted all the officers and employees of Viva after a mere three-day notice.[3] They accused her of levying on Viva's properties, which were exempt from execution, and of wrongfully applying the proceeds of the sale to PNB. They were thus deprived of their claims in a labor dispute with Viva over their unpaid wages and other benefits.

On 17 June 2009, complainants filed an Affidavit with the Office of the Court Administrator (OCA), charging respondent with grave misconduct, grave abuse of authority, and conduct prejudicial to the best interest of the service.[4]

On 29 June 2009, the OCA required respondent Fajardo to file her comment on the Complaint within 10 days from notice,[5] but she did not comply despite her receipt of the Notice. On 14 September 2009, the Court Administrator issued to respondent a 1st Tracer reiterating the Court's directive; otherwise, the matter would be resolved without her comment.[6] She still failed to comply.

On 17 December 2009, the OCA[7] formally recommended to the Court (through its First Division) the issuance of a show cause order against respondent, requiring her to explain why she should not be administratively dealt with for her refusal to submit a Comment despite being sent two directives by the OCA.[8] Further, the latter required her to submit her Comment within five days from receipt of the Order. On 27 January 2010, the First Division of this Court issued a Resolution adopting the recommendations of the OCA.[9]

On 05 March 2010, respondent submitted to this Court her Comment dated 02 March 2010 and apologized for her delayed response. She also prayed that the charges against her be dismissed for lack of merit. [10] On 05 April 2010, this Court noted her letter-explanation.[11]

The Findings of the OCA

On 13 September 2010, the OCA issued its evaluation, report and recommendation on the Complaint against respondent.[12] It found that she had not committed grave abuse of authority in implementing the Writ of Execution against Viva. The OCA recognized that once the sheriff was given the writ, it was purely ministerial on the latter's part to implement it. Moreover, the Court Administrator found that issues proffered by complainants pertained to preference of credits under the Civil Code – issues that were judicial in nature and could not be resolved by the sheriff.

The OCA noted, however, the glaring noncompliance of respondent with the Court's twin directives for her to submit a comment on the charges against her. The OCA deemed her noncompliance as gross insubordination. When she finally responded to the Order of the Court, she apologized in her letter, but did not explain why she failed to comply with its directives. For this reason, the OCA recommended that a fine of ₱10,000 be meted out to her, and that the case against her be re-docketed as a regular administrative matter.[13]

On 01 December 2010, the Third Division of this Court required the parties to manifest, within 30 days from receipt of the Notice, whether they were willing to submit the case for decision on the basis of the pleadings and records already filed.[14] On 01 March 2011, complainants filed their Ex-Parte Manifestation dated 22 February 2011 expressing their willingness to submit the case for decision on the basis of the pleadings already submitted to this Court.[15]

On 28 March 2011, the Third Division of this Court issued a Resolution noting complainants' Manifestation and resolved to await that of respondent.[16] However, even after a considerable lapse of time, she still failed to file it. Thus, on 13 February 2012, the Court resolved to dispense with her manifestation and considered the matter submitted for decision.[17]

Our Ruling

After a thorough review of the records, this Court ADOPTS the recommendations of the OCA to DISMISS the administrative case against respondent Fajardo for lack of merit, but finds her GUILTY of gross insubordination.

We affirm the OCA's dismissal of the administrative Complaint against respondent, because it involves matters that are judicial in nature. The issue as to the correct application of the proceeds from the auction sale of the properties of Viva involves the application of the Civil Code provisions on the preference of credits. The sheriff, and even the OCA, has no jurisdiction to resolve such matters, which are actually ripe for a case before the regular courts. Complainants should have filed a third-party suit in the case between Viva and PNB.

Well-settled is the rule that a sheriff's duty in the execution of a writ is purely ministerial – to execute the order of the court strictly or to the letter. Court sheriffs have no discretion over whether or not to execute the judgment. When a writ is placed in their hands, it is their duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to implement it in accordance with its mandate. For it is only by doing so that they can ensure that the order is executed without undue delay.[18] Thus, as the Court has found no grave abuse of authority in the implementation of the Writ of Execution, the Complaint against herein respondent is dismissed.

However, with regard to respondent having committed gross insubordination as an employee of the judiciary, we find her guilty.

The OCA correctly pointed out that in her letter-explanation, respondent failed to explain why, despite her receipt of the Notices, she did not comply with the directives of this Court to submit her comment. The records show that

the OCA had sent notices to her at RTC–Branch 93 of San Pedro, Laguna, where she is the branch sheriff. While she apologized to this Court for her failure to submit her comment, she did not explain the reasons for her non-submission thereof and only averred that it was the first time she learned of the Complaint against her. The OCA did not find her explanation satisfactory, because she did submit her Comment, but only after a Show-Cause Order had been issued to her– and almost a year after the first directive requiring her to file the Comment.

Respondent’s “prolonged and repeated refusal to comply”[19] with the directives of this Court constituted willful disrespect of its lawful orders, as well as those of the OCA. Respondent committed the infraction twice, yet failed to fully explain the circumstances that led to the repeated omissions. Hence, we have no reason to overturn or mitigate the penalty recommended by the OCA.

While complainants have dutifully complied with every directive of the Court in this case, respondent, on the other hand, has exhibited a penchant for ignoring its directives.

Gross insubordination is the indifference of a respondent to an administrative complaint and to resolutions requiring a comment thereon.[20] The offense is deemed punishable, because every employee in the judiciary should not only be an example of integrity, uprightness, and honesty; more than anyone else, they are bound to manifest utmost respect and obedience to their superiors’ orders and instructions.[21]

WHEREFORE, we AFFIRM in all respects the report of the OCA finding respondent Fajardo guilty of gross insubordination and ADOPT its recommendations as follows:

- 1) To DISMISS the administrative case filed against respondent for lack of merit and for being judicial in nature;
- 2) To find respondent Fajardo GUILTY of gross insubordination for her failure to immediately comply with the Office of the Court Administrator’s directives and to FINE her in the amount of ten thousand pesos (₱10,000), with a warning that a repetition of the same or a similar offense will warrant the imposition of a more severe penalty;
- 3) To have the instant case RE-DOCKETED as a regular administrative matter.

SO ORDERED.

Carpio, (Chairperson), Brion, Bersamin,[*] and Reyes, JJ., concur.

[*] Designated as additional member in lieu of Associate Justice Jose Portugal Perez, who took no part due to prior action as Court Administrator per Raffle dated 18 July 2011.

[1] Rollo, p. 1.

[2] Id. at 6.

[3] Id. at 8.

[4] Id. at 5.

[5] Id. at 18.

[6] Id. at 19.

[7] The 17 December 2009 Recommendation was signed by then Court Administrator (now Supreme Court Justice) Jose P. Perez and then Deputy Court Administrator Nimfa C. Vilches.

[8] Rollo, pp. 20-21.

[9] Id. at 22.

[10] Id. at 24.

[11] Id. at 33.

[12] The 13 September 2010 Recommendation was signed by Court Administrator Jose Midas P. Marquez and Deputy Court Administrator Nimfa Cuesta-Vilches.

[13] Rollo, pp. 38-41.

[14] Id. at 47.

[15] Id. at 48.

[16] Id. at 51.

[17] Id. at 54.

[18] Cebu International Finance Corporation v. Cabigon, A.M. No. P-06-2107, 14 February 2007, 515 SCRA 616.

[19] Rollo, p. 40.

[20] Gonzales v. Rimando, A.M. No. P-07-2385, 26 October 2009, 604 SCRA 403.

[21] Mallare v. Ferry, 414 Phil. 286 (2001).

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