

MA. LOURDES V. AREOLA, ATTORNEY-IN-FACT OF PRAXEDES AFFICIONADO, ET AL., COMPLAINANTS, VS. OSCAR P. PATAG, SHERIFF, REGIONAL TRIAL COURT, BRANCH 67, BINANGONAN, RIZAL, RESPONDENT.

A.M. No. P-06-2207. December 16, 2008

Ponente: REYES, R.T., J.

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REYES, R.T., J.:

THE instant administrative complaint is one for grave misconduct against Oscar P. Patag, Sheriff, Regional Trial Court (RTC), Branch 67, Binangonan, Rizal, relative to the implementation of a writ of execution in Civil Case No. 04-045.

In a verified complaint[1] dated August 7, 2005, Ma. Lourdes V. Areola averred that, on November 3, 2004, the Municipal Trial Court, Branch 2, Binangonan, Rizal rendered judgment in favor of plaintiffs Mercedes Afficionado (a.k.a. Baby Girlie Bonus) and Praxedes Afficionado in Civil Case No. 04-045 for unlawful detainer. On November 30, 2004, on behalf of plaintiffs, she filed a motion for the execution of the decision and the same was granted by the court. A writ of execution was issued on March 7, 2005. This was received by respondent on April 13, 2005.

According to complainant, respondent failed to execute the writ of execution on time and failed to make the necessary return thereon. She alleged that the writ was executed only on July 13, 2005. Furthermore, she alleged that respondent disobeyed the directives in the writ when he allowed spouses Santiago and Frank Lagrameda to occupy the premises awarded to plaintiffs in the unlawful detainer case.

In his comment[2] dated September 7, 2005, respondent denied the material allegations of the complaint. He averred that the delay in the implementation of the writ was mainly due to the fault of complainant's principals since they paid the fees for the implementation only on July 13, 2005. He also averred that immediately upon payment of the fees, he proceeded to the subject premises to implement the writ, accompanied by Praxedes Afficionado and her grandchildren. He delivered the possession of the premises and issued delivery possession on the same date.

As regards the charge that he allowed the entry of spouses Santiago and Frank Lagrameda into the premises, respondent averred that the property was not covered by the writ nor is it a subject matter in Civil Case No. 04-045. He stressed that the property is the subject matter of Civil Case No. 01-035 entitled "Mercedes Concepcion Afficionado, et al. v. Annabelle Rivera Tipones," which was raffled to RTC, Branch 70, Binangonan, Rizal and was dismissed on June 15, 2005.

On July 26, 2006, this Court issued a Resolution[3]referring the instant administrative matter to the Executive Judge, RTC, Binangonan, Rizal for investigation, report and recommendation.

In his Report dated December 11, 2006, Executive Judge Narmo P. Noblejas found respondent guilty of neglect

and recommended that respondent be meted a P3,000.00 fine.[4] The Executive Judge held that "respondent's excuse or explanation that the principals paid the court fees only on July 13, 2005 is unavailing because he could have advised them to pay the corresponding fees. Likewise, he could have prepared an estimate of expenses for court approval under Rule 141 and, if not paid, for him to make a return to the court pursuant to Section 14 of Rule 39 of the Revised Rules of Court." [5]

The matter was, thereafter, referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.[6]

In its Memorandum dated March 26, 2007, the OCA echoed the findings of the Executive Judge and recommended that respondent "be found guilty of neglect of duty and be fined in the amount of P3,000.00 to be deducted from his terminal leave credits or other benefits which he may receive from the Court." [7] It noted that respondent "could not be held liable for grave misconduct as charged because there is no showing that he acted with malice or intentional wrong doing in delaying the execution of the writ." [8]

By the very nature of his duties, a sheriff performs a very sensitive function in the dispensation of justice.[9] He is duty-bound to know the basic rules relative to the implementation of writs of execution, and should, at all time, show a high degree of professionalism in the performance of his duties.[10] The sheriff is the front-line representative of the justice system in this country and if he loses the trust reposed in him, he inevitably diminishes, likewise, the faith of the people in the judiciary.[11]

As found by both the OCA and the Executive Judge, respondent was remiss not only in his implementation of the writ, but also in the submission of his return of the writ of execution.[12] There is nothing on record to show that respondent made an estimate of the expenses to be incurred for the execution of the writ. Nor did he prepare an estimate to be approved by the court. There is also nothing on record to show that respondent made a return of the writ of execution within the period provided in Section 14 of Rule 39.

It is mandatory for a sheriff to make a return of the writ of execution to the clerk or judge issuing it. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason or reasons therefor. The officer is, likewise, tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until judgment is satisfied in full or its effectivity expires.[13]

However, records reveal that on April 6, 2006, Atty. Jason O. Reyes, Clerk of Court, Office of the Clerk of Court, RTC, Binangonan, Rizal informed the OCA of the demise of respondent.[14] Records further reveal that in her "Ex Parte Motion to Dismiss Administrative Case" [15] dated November 2, 2006, complainant Areola herself prayed that the administrative case against respondent be dismissed and considered closed on the ground that she was reliably informed that respondent is already dead.

This is not the first time that a respondent in an administrative case died during its pendency. In some cases, the death occurred either before respondent could submit a comment on the complaint,[16] before an investigation could be conducted, or before the investigating judge or the OCA could make a finding on the culpability of respondent.[17] In *Apiag v. Cantero*, [18] the investigation against respondent for gross misconduct had already been terminated, and the investigating judge and the OCA had already made a finding on the charge and recommended respondent's suspension and dismissal from the service, respectively; but respondent died while his case was being deliberated upon by the Court. In all these instances, the Court ordered the dismissal of the cases and did not see it fit to impose a penalty on respondents.

Similarly, in view of the death of respondent Sheriff Oscar P. Patag before the investigating judge or the OCA

could make a finding on his culpability, this Court finds it inappropriate to impose a sanction upon him.[19]

WHEREFORE, the complaint against the late Sheriff Oscar P. Patag is DISMISSED.

SO ORDERED.

Ynares-Santiago (Chairperson), Austria-Martinez , Chico-Nazario, and Nachura, JJ., concur.

[1] Rollo, pp. 2-10.

[2] Id. at 43-46.

[3] Rollo, pp. 67-68.

[4] See Report of Executive Judge Narmo P. Noblejas, p. 6.

[5] Id. at 5.

[6] See this Court's Resolution dated January 24, 2007.

[7] See OCA's Memorandum dated March 26, 2007, p. 4.

[8] Id. at 3.

[9] Sexton v. Casida, A.M. No. P-05-2048, September 30, 2005, 471 SCRA 168, 174; Espina v. Gato, A.M. No. P-02-1580, April 9, 2003, 401 SCRA 40, 45.

[10] Andal v. Tonga, A.M. No. P-02-1581, October 28, 2003, 414 SCRA 524, 531.

[11] Meneses v. Zaragosa, A.M. No. P-04-1768, February 11, 2004, 422 SCRA 434, 447; Camsa v. Rendon, A.M. No. MTJ-02-1395, March 28, 2003, 400 SCRA 1, 8.

[12] See OCA's Memorandum dated March 26, 2007, p. 3, and Report of Executive Judge Narmo P. Noblejas, p. 5.

[13] Arevalo v. Loria, A.M. No. P-02-1600, April 30, 2003, 402 SCRA 40, 48.

[14] See OCA's Memorandum dated March 26, 2007, p. 2.

[15] See Complainant's "Ex Parte Motion to Dismiss Administrative Case against Sheriff Oscar P. Patag," p. 1.

[16] Report on the Judicial Audit Conducted in the Municipal Trial Court of Tambulig, A.M. No. MTJ-05-1573, October 12, 2005, 472 SCRA 419, 430, citing Report on the Judicial Audit Conducted in the RTC, Br. 1, Bangued, Abra, A.M. No. 97-9-283-RTC, May 31, 2000, 332 SCRA 273.

[17] Camsa v. Rendon, A.M. No. MTJ-02-1395, February 19, 2002, 377 SCRA 271. In this case, the Court held -

"Indeed, the memorandum of the OCA, dated 25 June 2001, suggested the referral of the matter to the Executive Judge for investigation, report and recommendation. There was yet not investigation conducted, let alone a finding thereon by either the OCA or the investigating judge, on the charges against respondent judge. To allow an investigation to proceed against him who could no longer be in any position to defend himself would be a denial of his right to be heard, our most basic understanding of due process. The case against the late judge should now be dismissed and the administrative matter against him deemed closed and terminated."

[18] A.M. No. MTJ-95-1070, February 12, 1997, 268 SCRA 47.

[19] Vide: Report on the Judicial Audit Conducted in the Municipal Trial Court of Tambulig, *supra* at 430; Apiag v. Cantero, *supra* at 64.

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