SPOUSES ERROL AND TERESITA PAN, COMPLAINANTS, VS. ALBERT S. SALAMAT, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 80, MALOLOS, BULACAN, RESPONDENT.

A.M. NO. P-03-1678. June 26, 2006

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative case against Sheriff IV Albert S. Salamat ("respondent sheriff") of the Regional Trial Court, Branch 80, Malolos, Bulacan, for grave misconduct, dishonesty and acts prejudicial to the best interest of the service.

The Facts

In a Complaint dated 10 December 2001, the spouses Errol and Teresita Pan ("complainants") stated that on 30 June 2000, they filed a civil case[1] for sum of money with damages against the spouses Dalmacio and Prosperidad Ramos ("spouses Ramos"). Subsequently, the trial court rendered judgment in favor of complainants and issued a writ of execution,[2] addressed to respondent sheriff, on 24 September 2001.

On 18 October 2001, respondent sheriff, together with complainants, went to the spouses Ramos' residence to implement the writ. They failed to implement the writ because they were refused entry since the spouses Ramos were not home. However, respondent sheriff left a copy of the writ with instructions to have the spouses Ramos coordinate with him on its implementation.

Later, complainant Teresita Pan ("complainant Teresita") allegedly made several representations with respondent sheriff for the re-implementation of the writ. During this period, complainant Teresita became "suspicious" that respondent sheriff might be in connivance with the spouses Ramos because respondent sheriff told complainants that all communications with the spouses Ramos must be relayed to him and he would be the one to communicate with the spouses Ramos.[3]

Subsequently, complainants filed an Urgent Ex-Parte Motion to Break Open. On 16 November 2001, the court issued the break open order ("Order"). Complainant Teresita claimed that respondent sheriff was "hesitant" to re-implement the writ until he was shown the Order. Respondent sheriff then agreed to re-implement the writ on 17 November 2001.

When respondent sheriff and complainants arrived at the spouses Ramos' residence to re-implement the writ, they were surprised to find an almost empty house. Nevertheless, respondent sheriff proceeded to levy on the spouses Ramos' remaining personal properties.[4] Later, a concerned barangay official informed complainants that the night before he saw the spouses Ramos loading their personal properties on a six-wheeler truck for an unknown destination.[5] Another neighbor confirmed this information.[6]

Believing that respondent sheriff leaked the information on the Order to the spouses Ramos, complainant Teresita confronted respondent sheriff. Respondent sheriff denied the accusation, stating that he did not know the spouses Ramos' phone number. Then on the pretext that she had consumed her mobile phone load, complainant Teresita borrowed respondent sheriff's mobile phone and found the spouses Ramos' number in the phone book. Respondent sheriff then admitted that he communicated with the spouses Ramos the night before and told them to keep their money and jewelry. Respondent sheriff added that he did not think the spouses Ramos would keep all their other belongings. Respondent sheriff also apologized to complainant Teresita and promised that he would not tip off the spouses Ramos if they re-implement the writ.

In his Comment[7] dated 22 February 2002, respondent sheriff denied that he informed the spouses Ramos of the re-implementation of the writ. He stated that the motion to break open was set for hearing and Dalmacio Ramos ("Dalmacio") personally received a copy of the notice of hearing.[8] Since Dalmacio attended the hearing,[9] respondent sheriff concluded that the spouses Ramos were forewarned that a break open order would be issued.

Respondent sheriff admitted that he knew Dalmacio's mobile phone number but denied that he stored it in his phone book. He even lent complainant Teresita his mobile phone to prove that he had nothing to hide. He said that Dalmacio "begged" him not to give the number to complainants who were "antagonistic" toward him. Respondent sheriff claims that he gave complainants' number to Dalmacio and told him to talk to them personally.

Respondent sheriff explained that Dalmacio gave him his number because he was asked to relay a message to complainants and to inform Dalmacio of their reply. Respondent sheriff said he saw nothing wrong with the request because Dalmacio was only trying to settle his obligation. Respondent sheriff admitted that all communications which came from the spouses Ramos were relayed through him.[10] But he denied that he instructed complainants that all communications with the spouses Ramos should be relayed to him first.

Respondent sheriff also denied that he was "hesitant" to re-implement the writ. He explained that he even agreed to implement the Order on a Saturday, a non-working day. If he appeared to be "quite hesitant and adamant," it was because of the lack of logistical support needed to implement properly the Order. Respondent sheriff also stated that he was able to levy on some of the spouses Ramos' personal properties but was not able to take possession of them because of lack of logistical support. Finally, respondent sheriff explained that if he really connived with the spouses Ramos, he could have refused to implement the writ that Saturday and even delayed it for a couple of days to give the spouses Ramos sufficient time to hide all their personal properties.

In their reply dated 18 March 2002, complainants admitted that the spouses Ramos were indeed aware of the motion to break open. But the spouses Ramos did not know whether it would be granted or when it would be implemented. They pointed out that the spouses Ramos removed their personal properties just hours before the Order's implementation. Complainants reiterated their belief that respondent sheriff tipped off their every move to the spouses Ramos, which led to their loss of trust and confidence on respondent sheriff.

In his Rejoinder dated 13 August 2002, respondent sheriff again denied that he tipped off the spouses Ramos. He added that the spouses Ramos probably became vigilant when they learned about the motion to break open and, since the court is a court of record, they could easily verify if the motion was granted.

The Recommendation of the
Office of the Court Administrator

In its Report dated 26 July 2002, the Office of the Court Administrator (OCA) found respondent sheriff liable for "conduct prejudicial to the best interest of the service for conniving with defendant Ramoses in absconding with their property to frustrate and obstruct the implementation of the writ of execution."[11] The OCA reached this

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conclusion after finding that respondent sheriff failed to specifically deny the allegations (1) that he told the spouses Ramos to take and hide their jewelry and money and (2) that he sent several text messages to complainant Teresita apologizing and promising that he would no longer tip off the spouses Ramos of any subsequent re-implementation of the writ. The OCA Report provides: "The failure of respondent sheriff to specifically deny the above-mentioned allegations were deemed admission of the facts alleged. Thus, we need not belabor in proving the factual allegation as it was deemed admitted for failure to deny the same."[12]

The OCA recommended the re-docketing of the case as an administrative matter. The OCA also recommended that respondent sheriff be fined P1,000 with a stern warning that a repetition of the same or similar act in the future would merit a more severe penalty.

In a Resolution dated 28 August 2002, the Court ordered the re-docketing of the case as a regular administrative matter.

In a Resolution dated 3 March 2003, the Court required the parties to manifest if they were willing to submit the case for resolution based on the pleadings filed. Respondent sheriff manifested affirmatively. Complainants did not file any manifestation. The Court deems that complainants have waived their right to file the required manifestation.

The Court's Ruling

The Court finds respondent sheriff liable for simple misconduct.

On Respondent Sheriff's Alleged Connivance
with Spouses Ramos

In administrative proceedings, the complainant bears the burden of proving, by substantial evidence, the allegations in the complaint.[13] Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.[14]

In this case, complainants failed to substantiate the allegation that respondent sheriff tipped off the spouses Ramos. The circumstances cited in the complaint[15] and affidavits[16] do not rule out the possibility that, other than respondent sheriff, another person could have informed the spouses Ramos that the trial court had issued the break open order.

Apart from the allegation that respondent sheriff sent several text messages to complainants apologizing and promising not to tip off the spouses Ramos again, complainants did not present any evidence to support the charge. Complainants did not quote said text messages in their pleadings. Nor did they give other details about the text messages. The Court finds it implausible that complainants would not thoroughly discuss these text messages in their pleadings when other aspects of the complaint have been presented in detail.

The OCA found respondent sheriff liable for conduct prejudicial to the best interest of the service because of his failure to deny specifically complainants' allegations. But before respondent sheriff's silence could be deemed an admission of the allegations against him, there must be substantial evidence to support these allegations. Since complainants failed to present sufficient evidence to support these allegations, respondent sheriff cannot be held liable.

On Respondent Sheriff's Administrative Liability

However, by respondent sheriff's own admission that he relayed Dalmacio's messages to complainants, he transcended the bounds of propriety and became administratively liable. It was not part of respondent sheriff's duty to act as messenger of the parties. Respondent sheriff, as an officer of the court, should have refrained from

actuations which could cast doubt on his integrity and taint the good image of the judiciary.

The Court cannot countenance any act or omission which diminishes the faith of the people in the judiciary.[17] Respondent sheriff's impropriety subjected the image of the court to public suspicion and distrust. Thus, respondent sheriff is guilty of simple misconduct.

On the Appropriate Penalty
on Respondent Sheriff

Section 52(B)(2) of the Revised Rules on Administrative Cases in the Civil Service[18] classifies simple misconduct as a less grave offense punishable by suspension of one month and one day to six months for the first offense. Considering that this is respondent sheriff's first offense, suspension for one month and one day is appropriate.

WHEREFORE, we FIND respondent Albert S. Salamat, Sheriff IV of the Regional Trial Court, Branch 80, Malolos, Bulacan, GUILTY of simple misconduct for which we SUSPEND him for one month and one day without pay. We WARN respondent sheriff that a repetition of the same or similar offense shall merit a more severe sanction.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., concur.

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[1] Docketed as Civil Case No. 416-M-2000, entitled "Errol and Teresita Pan v. Dalmacio and Prosperidad Ramos."

[2] Rollo, p. 20.

[3] Id. at 2.

[4] Id. at 22.

[5] Id. at 3.

[6] Id. at 24.

[7] Id. at 29-34.

[8] Id. at 35. Even though an Urgent Ex-Parte Motion to Break Open was filed, it was set for hearing on 8 November 2001. The Notice of Hearing was dated 30 October 2001 and was personally received by Dalmacio Ramos on 31 October 2001.

[9] Id. at 36.

[10] Id. at 32.

[11] Report, p. 4.

[12] Id.

[13] Lorena v. Encomienda, 362 Phil. 248 (1999).

[14] Ebero v. Camposano, A.M. No. P-04-1792, 12 March 2004, 425 SCRA 420.

[15] Rollo, pp. 1-5.

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[16] Id. at 24-27.

[17] Madrid v. Quebral, A.M. No. P-03-1744-45, 7 October 2003, 413 SCRA 1.

[18] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated 31 August 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999.

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