

ANTONIO B. MANZANO, COMPLAINANT, VS. MARIO P. SAUR, DEPUTY PROVINCIAL SHERIFF OF COTABATO CITY, RESPONDENT.

A.M. No. P-1337. January 22, 1980

Ponente: SANTOS, J.

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SANTOS, J.:

Atty. Antonio B. Manzano filed on July 30, 1976 a verified complaint against Mario P. Saur, deputy provincial sheriff of Cotabato City with station in Cotabato City for malversation and malfeasance committed allegedly as follows:

"a. On June 16, 1972, the undersigned, as counsel of the plaintiff in Civil Case No. Q-15680 entitled 'Maximo Tan vs. Pablo Cua', presented to deputy provincial sheriff Mario Saur in Cotabato City, a Writ of Execution issued by the Court of First Instance of Quezon City, Branch XVIII - in order to collect the sum of P26,000.00 from said defendant; a xerox copy of the Writ of Execution dated May 25, 1972 is hereto attached as Annex "A";

b. Subsequently, by virtue of the aforementioned Writ (Annex "A"), the respondent Mario Saur levied certain properties of the defendant Pablo Cua; however, because of the pleas of the defendant that he be given time to pay the judgment, an arrangement was made between said defendant Cua and the undersigned whereby he (Cua) would pay, thru the deputy sheriff (Mario Saur), an installment payment of P1,000.00 a month starting June 1, 1972 until the entire sum of P26,000.00 shall have been paid in full;

c. For a certain time, i.e., from June to September 1972, the respondent deputy sheriff collected from the defendant Cua the agreed monthly installments which he, in turn, remitted to the undersigned in Manila;

d. From September 1972 to April 1976, no word was received from deputy sheriff Mario Saur except a letter which he sent to the undersigned on August 14, 1973 wherein he informed that he was "relieved of the problem of collecting from Cua etc.", and was discouraging the undersigned to proceed to Cotabato City because going there was "at anyone's risk"; a copy of said letter is hereto attached as Annex "B";

e. On April 5, 1976, the undersigned, armed with an Alias Writ of Execution which was issued by the CFI of Quezon City, arrived in Cotabato City and to his great surprise, he learned from the defendant Pablo Cua that the herein respondent Mario Saur had been collecting from him the sum of P300.00 a month since April 15, 1975 up to March 1976 or total collection of P3,300.00; copies of the receipts signed by Mario Saur are hereto attached and marked as Annex "C", "C-1", "C-2", "C-3", "C-4", "C-5", "C-6", "C-7", "C-8", "C-9", "C-10";

f. When confronted about the aforesaid collections, and his failure to remit, deputy sheriff Mario Saur admitted having misappropriated the sum of P3,300.00 he has collected from the defendant; he, however, promised to remit said amount to the undersigned within a period of sixty (60) days or up to June 5, 1976; a copy of his undertaking is hereto attached and marked as Annex "D";

g. Since June 5, 1976 up to the present, deputy sheriff Mario Saur has refused and failed to comply with his commitment to remit the money he misappropriated in spite of several letters of demand and telegrams sent to him; a copy of a letter of demand dated April 22, 1976 is hereto attached and marked as Annex "E".

From the foregoing facts, it is evident that Deputy Sheriff Mario Saur has misappropriated the sum of P3,300.00 which he received from the defendant Cua and considering that said money is in *legis custodia*, he is thereby guilty of malversation. Accordingly, it is respectfully prayed that respondent be required to answer this complaint and be investigated. In the event, he is adjudged guilty of the charges levelled against him, it is further prayed that he be removed from the service."^[1]

On August 2, 1976, Court Administrator (C/A) Lorenzo Relova, then Acting Judicial Consultant, referred the complaint - thru Atty. Benjamin Muñasque, Clerk of Court, CFI, Cotabato City - to respondent Saur for comment.^[2] On March 7, 1978, after a follow-up letter, Atty. Muñasque endorsed to this court the answer of respondent Saur, which, pertinently reads as follows:

"A. Undersigned Deputy Sheriff admits the allegation in paragraph a;

B. Second paragraph b is also true;

C. Third paragraph is also true, undersigned Deputy Sheriff was able to collect and remit the amount of P4,000.00;

D. The peace and order situation in the City of Cotabato became unstable and the defendant stopped paying due to the business stand-still and partly that the plaintiff complained that he did not receive any amount from his attorney;

E. Counsel for the plaintiff arrived in Cotabato City to serve and execute alias execution, and alleged to the undersigned that he is willing to give any amount on excess of P10,000.00, for Sheriffs fees and expenses, and or bonus if we can collect in full from defendant Cua the amount of P10,000.00. The undersigned with said counsel were able to collect P11,000.00 from defendant Cua and counsel said that such amount is sufficient enough for an amicable settlement;

F. When counsel found out that there is an excess collection of P3,300.00 paid by Cua by small installment during the peace and order depression; then he also demanded for the same which is already part of the collection and not for sheriffs fees or expenses;

G. That undersigned Deputy Sheriff is ready and willing to refund and pay the said amount if only he has the money to do so. Undersigned is even willing to offer a salary deduction from his monthly salary in order to satisfy this obligation.

Premises considered, it is respectfully prayed that the above complaint be withdrawn or dismissed."^[3]

From the foregoing recitals - specifically paragraph f of the complaint and the admissions in paragraphs A, B, C, and G of the answer - it is established that respondent deputy sheriff Mario Saur collected from defendant Cua the amount of P3,300.00 by virtue of the writ of execution and that, thereafter, instead of delivering the proceeds to complainant, he misappropriated the same for his own use and benefit; he even offers to repay the same amount; and "...offer(s) (a) salary deduction(s) from his monthly salary in order to satisfy this obligation." It is thus clear that respondent admits the commission of the acts charged.

Respondent's admissions dispense with the need to refer the matter for investigation and afford Us the evidence on record upon which to resolve the merits of the complaint. Thus, as early as 1923, in *Re: Impeachment of Flordeliza*,^[4] referral of the charges to the Attorney-General for investigation was dispensed with and the case was resolved on the basis of the facts found on record. More than fifty years later, in *Aquino vs. Aficial*,^[5] We resolved the controversy on the basis of the facts of record which provide sufficient basis for the determination of the respondent's liabilities. In *Sta. Maria vs. Ubay*,^[6] We reiterated the foregoing, held that the cumbersome, time-consuming procedure of investigation need not be resorted to if the allegations in the complaint, the comments thereon, and the documents presented provide ample basis for a resolution of the complainant's

charges. And, only recently, We held in *Lawan vs. Moleta*,^[7] that the charges against the respondent, a municipal judge, may be resolved since the facts of record sufficiently provide a basis for the determination of the respondent's liability.

But what is the proper penalty to be imposed on respondent? Complainant prays for his dismissal from the service. We agree. Respondent's failure to turn over to complainant the sum of P3,300.00 which he agreed and undertook to collect for him involves a serious breach of faith reposed in him as an officer of the court and therefore constitutes gross misconduct in office. In the case of *Abdulwahid vs. Reyes*,^[8] this Court found respondent Efren B. Reyes, deputy sheriff Branch I, CFI, Zamboanga City, guilty of serious misconduct and ordered his dismissal from the service after it has been found, inter alia, that he misappropriated for his own use and benefit the amount of P1,136.41 which he, as deputy sheriff, had collected from the judgment debtor pursuant to a writ of execution issued in Civil Case No. 224138 of the City Court of Manila, Branch VII.

WHEREFORE, this Court finding the charge of serious misconduct and malfeasance in office sufficiently established, hereby orders the DISMISSAL of respondent from service, with prejudice to reemployment and without prejudice to the criminal action which may be filed against him.

SO ORDERED.

Barredo, (Chairman), Antonio, Aquino, Concepcion, Jr., and Abad Santos, JJ., concur.

[1] Record, pp. 1-3.

[2] Id., p. 19.

[3] Id., p. 24.

[4] 44 Phil. 608 (1923).

[5] Adm. Matter No. P-1065, Jan. 31, 1978, 81 SCRA 2222.

[6] Adm. Matter No. 595-CFI, Dec. 11, 1978, 87 SCRA 179.

[7] Adm. Matter No. 1696-MJ, June 19, 1979.

[8] Adm. Matter Nos. P-902 & 926, Jan. 31, 1978; 81 SCRA 213.

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