MARCH 6, 2003

IRENEO GERONCA, Complainant, vs. VINCENT HORACE V. MAGALONA, Respondent.

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PER CURIAM

Before us is an administrative case for gross misconduct, gross dishonesty, neglect of duty and conduct prejudicial to the best interest of the service filed by the complainant Ireneo Geronca against respondent Vicente Horace V. Magalona, Sheriff IV of the Regional Trial Court (RTC), Branch 46 of Bacolod City.

In a sworn complaint[1] dated March 6, 2003, the complainant claimed that he was the judgment obligee in Civil Case No. 4657, entitled Spouses Ireneo and Mariles Geronca v. Poweroll Construction Co., et al., in which case the RTC of Bacolod City issued a writ of execution. According to the complainant, after the issuance of the writ, respondent asked for P10,000 to implement it in Dumaguete City which was 300 kilometers away from Bacolod City. The complainant, however, learned that the writ was served on the judgment obligor nearby, in a place near Bacolod City's Hall of Justice.

The complainant added that respondent levied on three secondhand and dilapidated motorcycles belonging to the judgment obligor even if there were brand new motorcycles available. After the auction sale of the motorcycles, respondent also refused to deliver to him the amount of P7,000 paid by the winning bidder. He likewise rejected demands to turn over the keys of the two motorcycles complainant bought at said auction.

In his Comment,[2] respondent repudiated the allegations saying that he did not ask for the P10,000 execution fee; rather, it was the complainant who “voluntarily” gave the money to him. He likewise averred that he could not be expected to levy on the brand new motorcycles as these were not registered in the judgment obligor's name.

In a resolution dated June 8, 2005,[3] we adopted the Office of the Court Administrator’s (OCA's) recommendation for the executive judge of Bacolod City to conduct an investigation on the matter.

In a report[4] dated August 8, 2005, Judge Roberto S. Chiongson, the investigating judge, informed this Court:

> The Comment of the [r]espondent consists of vague generalities and feeble denials. He alleges that he performed his duty with utmost [d]iligence, [p]rudence and [r]easonable celerity but without any specification or explanation how he performed his duty. He does not deny having received the amount of P10,000 and nor does he deny his failure to deliver the amount of P7,000 which [was] the proceeds of the auction sale.[5]

Judge Chiongson found respondent guilty of dishonesty and gross misconduct, and recommended his suspension for three months without pay. The OCA, on the other hand, held respondent guilty of grave misconduct, dereliction of duty and negligence. In its memorandum[6] to this Court, the OCA stated:

> In fine, respondent's conduct in the implementation of the writ of execution constitutes grave misconduct which under the Civil Service Rules is classified as a grave offense with a penalty of dismissal. Likewise, failure to faithfully comply with the provisions of Rule 141 of the Rules of Court constitutes dereliction of duty and negligence which warrants the imposition of disciplinary measures.
>
> WHEREFORE, it is respectfully submitted for the consideration of the Honorable Court that respondent

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> Vincent Horace U. Magalona, Sheriff IV, RTC, Branch 46, Bacolod City, Negros Occidental, [be found] GUILTY of GRAVE MISCONDUCT, [DERELICTION OF DUTY AND NEGLIGENCE] and [should be] DISMISSED from the SERVICE.

After a careful review of the records of this case, we find respondent guilty of dereliction of duty, grave misconduct and dishonesty.

Rule 141, Section 9 of the Rules of Court provides:

> SEC. 9. - Sheriffs and other persons serving processes xxx
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> In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriffs expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guard's fees, warehousing and similar charges, in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to the liquidation within the same period for rendering a return on the process. Any unspent amount shall be submitted by the deputy sheriff assigned with his return, and the sheriffs expenses shall be taxed as costs against the judgment debtor.

A sheriff may collect fees for his expenses from the party requesting the execution of a writ but only in accordance with the procedure rule laid down in the aforecited provision. Thus, a sheriff must (1) make an estimate of expenses; (2) obtain court approval for such estimated expenses and (3) liquidate his expenses within the same period for rendering a return on the writ.

In respondent's case, not only did he fail to observe the proper procedure but he also made false representations to the complainant so he could collect money from him. The evidence supports the complainant's allegation that respondent served the writ in Bacolod City and not in Dumaguete City as he claimed.

Respondent's insistence that the complainant voluntarily gave the money to him did not make his misconduct any less reprehensible. A sheriff is not allowed to receive gratuities or voluntary payments from parties they are ordered to assist in the course of their duties.[7]

Moreover, respondent's refusal to turn over the proceeds of the auction sale and the keys of the motorcycles despite repeated demands showed his lack of integrity, uprightness and honesty in the discharge of his duties. Pocketing the proceeds of the auction and the P10,000 execution fee was reprehensible and unbecoming of a public servant like respondent.

Indeed, for respondent's failure to observe the procedures in Rule 141, he was guilty of dereliction of duty. He was likewise liable for grave misconduct and dishonesty when he (1) unlawfully collected the P10,000 execution fee; (2) refused to surrender the proceeds of the auction sale and (3) failed to turn over the motorcycle keys to the complainant despite the latter’s demands.

Misconduct means intentional wrongdoing or deliberate violation of a rule of law or standard of behavior. To constitute an administrative offense, misconduct should relate to or be connected with the performance of official duties.[8]

In grave misconduct, as distinguished from simple misconduct, the elements of corruption, clear intent to violate the law or flagrant disregard of established rule must be manifest. Corruption as an element of grave misconduct consists in the act of an official who unlawfully uses his station or character to procure some benefit for himself.[9]

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On the other hand, dishonesty means “a disposition to lie, cheat, deceive or defraud; untrustworthiness; lack of integrity, lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.”[10]

Respondent ought to be reminded that he is an officer of the court and should at all times show a high degree of honesty and professionalism in the performance of his duties. As a front-line representative of the judicial system, he must always demonstrate integrity in his conduct for once he loses the people's trust, he also diminishes the people's faith in the entire judiciary.[11]

In one case,[12] we held:

> At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with litigants, hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.

Under the Uniform Rules on Administrative Cases in the Civil Service, dereliction of duty calls for a suspension of one month and one day to six months. On the other hand, grave misconduct and dishonesty (both classified as grave offense) carry the penalty of dismissal from service. Nonetheless, Section 55 thereof states that, if the respondent is found guilty of two or more charges, the penalty to be imposed should be that corresponding to the most serious charge and the rest shall be considered as aggravating circumstances.

This Court, made up of men and women who were, at some point of their careers, either in private practice or in the administration of justice in the lower courts, is not unmindful of the “SOP” practiced by a number of sheriffs in extorting money from judgment creditors (to enforce writs) or judgment debtors (not to enforce writs), or both (lagaring hapon). We condemn this practice and will not hesitate to dismiss those found guilty thereof.

WHEREFORE, respondent Vicente Horace V. Magalona is found guilty of dereliction of duty, grave misconduct and dishonesty. Accordingly, he is hereby DISMISSED from the service with forfeiture of all his benefits except accrued leave credit and disqualified from reemployment in any government agency, including government-owned or controlled corporations. He is also ORDERED to return the P10,000 unlawfully exacted from the complainant Ireneo Geronca and to turn over the proceeds of the auction sale and the two keys of the motorcycles to him.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, and Leonardo-De Castro, JJ., concur.

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[1] Rollo, pp. 1-7.

[2] Dated 17 August 2004. The OCA twice required respondent to file his Comment but he failed in both instances. It was only after a show-cause order was issued that he finally filed his Comment. Rollo, pp. 24-25.

[3] Rollo, p. 41.

[4] Id., pp. 61-63.

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[5] Id., p. 62.

[6] Id., pp. 82-88.

[7] Canlas v. Balasbas, 391 Phil. 706 (2000).

[8] Salazar v. Barriga, A.M. No. P-05-2016, 19 April 2007.

[9] Id.

[10] Dela Cruz v. Luna, A.M. No. P-04-1821, 8 August 2007.

[11] Visitacion, Jr. v. Ediza, 414 Phil. 699 (2001)

[12] Vda. De Velayo v. Ramos, A.M. No. P-99-1332, January 17, 2002, 374 SCRA 313. See also Vda. De Abellera v. Dalisay, 335 Phil. 527 (1997).

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