

ALFERO C. BAGANO, COMPLAINANT, VS. ARTURO A. PANINSORO, SHERIFF, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 64, CEBU CITY, RESPONDENT.*A.M. No. P-94-1086. July 14, 1995*

Ponente: QUIASON, J.

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Complainant filed an affidavit-complaint with the Office of the Ombudsman (Visayas), charging respondent, the sheriff of the Municipal Trial Court in Cities (MTCC), Cebu City with grave abuse of discretion in the performance of his official duty, attempted extortion and dishonesty relative to the execution of the judgment against complainant in Civil Case No. 40921. The Ombudsman (Visayas) referred the letter-complaint to the Office of the Court Administrator for appropriate action.

I

Complainant alleged that a civil case for collection of a sum of money was filed against him by Electrolux Marketing, Inc. with the Metropolitan Trial Court of Makati, Branch 64 (Civil Case No. 40921). Judgment was rendered, ordering him to pay P7,150.00 plus 24% interest to be computed from December 26, 1990 until fully paid and 25% attorney's fees of the amount due. When complainant failed to appeal within the reglementary period, the decision became final and executory. Consequently, a writ of execution was issued.

On November 13, 1991, between 2:30 to 3:00 P.M., respondent went to complainant's house in Cebu City to serve the writ of execution. Upon reading it, complainant manifested his willingness to pay the adjudged amount and requested respondent to compute the same. Respondent told him that he would do so at the office of the Clerk of Court of the MTCC.

Complainant was surprised to learn from his daughter that on that same day, respondent seized his Tamaraw vehicle, which was then being driven by his daughter. Respondent sent word to complainant to meet him at the Pardo Police Station at 4:00 P.M.

Complainant proceeded to the police station and again he manifested to respondent his willingness to pay the amount stated in the writ of execution. He also requested respondent not to take the vehicle as he needed it for his business. Again, respondent told him that he would compute the amount due at the office of the Clerk of Court of the MTCC. Complainant went to said office but respondent was not there.

Complainant returned to the office of the Clerk of Court on November 14 and 15, but again respondent was nowhere to be found. Gloria Agravante, the Clerk of Court, told complainant that she would summon respondent on November 18.

On November 18, there was a confrontation between complainant and respondent in the presence of Agravante. Respondent demanded the amount of P16,000.00 as complainant's outstanding obligation and said that he would

wait for the instruction of the plaintiff regarding the release of the vehicle. Upon instructions from Agravante, respondent made a recomputation and found that the amount due was only P10,903.85 instead of P16,000.00 as previously demanded by him. Complainant forthwith paid the amount and his vehicle was returned to him.

In his comment, respondent denied that he refused to compute the amount due. He said that upon the request of complainant, Jaime Josue, an employee of Electrolux Marketing, Inc., made the computation at complainant's residence, showing that complainant's obligation totalled P16,460.70. When complainant disagreed with the computation made by Josue, respondent requested him to give a security pending final receipt of the Statement of Account from the company. When complainant refused to give the security in favor of the company, respondent seized the vehicle of complainant.

Respondent claimed that he was advised by the Clerk of Court and Ex-Oficio Provincial Sheriff of the Regional Trial Court to compute the amount based on the writ of execution, the costs of suit and other incidental expenses and that said computation was subject to the approval of the court. When he returned to the office of the Clerk of Court of the MTCC, he made his own computation based on the writ of execution, which amounted to P10,903.85, excluding the cost of suit and other incidental expenses.

In his reply, complainant denied that any computation was made at his residence by an employee of the company. He claimed that there was no need to deposit any valuable property because he was willing to pay his obligation in cash. He further questioned respondent's act of demanding more than what was provided for in the writ of execution and his delay in reporting the attachment of the vehicle to the court.

The Office of the Court Administrator found that complainant did not suffer any substantial damage except for the seizure of his vehicle, which was however eventually returned. It recommended that respondent should just be admonished to exercise more diligence in the performance of his official duties to avoid similar complaints in the future.

We do not agree. Evidence on record show that respondent was remiss in the performance of his duties.

First, in his comment, respondent averred that it was Jaime Josue of Electrolux Marketing, Inc. who computed the amount to be paid by complainant. It is the duty of respondent as an officer of the court to compute the amount due from the judgment debtor and not delegate such duty to a private individual not deputized by the court.

Second, respondent ought to know that the computation of the amount due must be that stated in the writ of execution and not in the Statement of Account issued by Electrolux Marketing, Inc. "Considering the ministerial nature of his duty in enforcing writs of execution, what is incumbent upon [a sheriff] is to ensure that only that portion of a decision ordained or decreed in the dispositive portion should be the subject of execution. No more no less" (Cunanan v. Cruz, 167 SCRA 674, 677-678 [1989]).

Third, respondent acted with undue haste when he seized the vehicle of complainant considering that the latter had already manifested his willingness to pay the amount of the judgment if only respondent would give him the computation.

Lastly, respondent's unexplained disappearance on November 14 and 15, 1991 prevented complainant from settling his obligation and delayed the return of his vehicle.

It is axiomatic that those "involved in the administration of justice xxx must live up to the strictest standard of honesty and integrity in the public service" (Mejia v. Pamaran, 160 SCRA 457, 477 [1988]). Their conduct, therefore, must, at all times, not only be characterized with propriety and decorum but above all else must be above suspicion (Young v. Momblan, 205 SCRA 33 [1992]; Llanes v. Borja, 192 SCRA 288 [1990]).

WHEREFORE, respondent is found GUILTY of dereliction in the performance of his official duties. A fine of P3,000.00 is IMPOSED, with a stern WARNING that the commission of the same or similar offense in the future will be dealt with more severely. Let a copy of this resolution be filed in the personal record of respondent.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.
Bellosillo, J., on leave.

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