

**AGAPITO BARENO AND MCTC JUDGE ABRAHAM PRINCIPE  
PETITIONERS, VS. DEPUTY SHERIFF IGNACIO CABAUATAN, RTC  
BRANCH 22, CABAGAN, ISABELA, RESPONDENTS.**

*Adm. Matter No. R-251-P. June 30, 1987*

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**PER CURIAM:**

Two separate complaints were filed against respondent Deputy Sheriff Ignacio Cabauatan of the Regional Trial Court, Branch 22, Cabagan, Isabela, 1) by Agapito Bareno, dated December 18, 1984, for Misconduct in Office; and 2) by Municipal Circuit Trial Court Judge Abraham Principe, dated January 7, 1985, for Culpable Negligence and Misconduct in Office.

After the various pleadings required by the Court were filed, we referred the case to the Office of the Court Administrator for report and recommendation. The Report reads:

"Complainant Bareno alleges that he was one of the defendants in a civil case adjudged to pay the plaintiffs therein; that in his desire to redeem his properties then being auctioned by respondent, he deposited the amount of eleven thousand five hundred pesos (P11,500.00) with respondent; that the redemption did not take place because he bought the land directly from the buyer at the auction sale; that respondent only returned the amount of ten thousand pesos, leaving a balance of one thousand five hundred pesos; that because respondent failed to return the remaining balance, complainant filed a complaint against respondent with RTC Judge Constantino Consigna, Branch 22 at Cabagan, Isabela; that Judge Consigna required respondent to comment on the complaint but no comment thereon was submitted. Complainant decries the 'willful failure' of respondent to remit the balance of P1,500.00 deposit.

"On the other hand, complainant Judge Principe assails the failure of respondent to serve and render a return of service of the following: (1) complaint and summons issued in Civil Case No. 303 on May 3, 1983; (2) complaint and summons issued in Civil Case No. 316 (Buraga vs. Pintucan) on December 13, 1983; and (3) writ of execution issued in Criminal Case No. 2128 (People vs. Juanita Maguire) on December 6, 1984. On December 6, 1984, complainant reported such failure to RTC Judge Consigna. On December 10, 1984, Judge Consigna required respondent to comment on the complaint of complainant-Judge. However, respondent did not make any comment/explanation thereon. Complainant claims that respondent's negligence and misconduct has prejudiced the party litigants of his court.

"In a 1st Indorsement dated April 9, 1985, this Office referred the above complaints to respondent through RTC Judge Constantino B. Consigna and required respondent to answer the same within ten (10) days.

"In view of respondent's failure to submit an answer, this office required him anew to file the same within three (3) days from notice.

"Finally, on April 2, 1986, RTC Judge Consigna in a 3rd Indorsement submitted the answer of respondent with the recommendation that the complaints herein be dismissed 'in view of (respondent's) satisfactory explanation.'

"In his answer to the complaint of Judge Principe, respondent alleges that the returns of service of the court

processes and writ of the cases mentioned therein were mixed with the other court papers which were 'hurriedly transferred to other sections in the rooms' occasioned by the past typhoons and strong rains; that after a 'lengthy effort' said returns were found and finally submitted to complainant-Judge.

"Anent the complaint of Mr. Bareno, respondent submitted an affidavit executed by Mr. Bareno dated May 14, 1985. Said affidavit states that complainant Bareno found out that on October 10, 1984, the amount of P1,500.00 was given by respondent to his nephew; that his nephew belatedly delivered said amount to complainant after the latter had mailed his complaint against respondent; and that in view of this development, complainant is no longer interested in pursuing this case.

"Respondent prays 'that these complaints against (him) docketed as AM No. 251-P be dismissed with the promise that the same will not be repeated (sic)'.

"In a reply to the aforesaid answer, complainant Judge claims that respondent took more than two (2) years to submit the returns of service. He branded the following reasons given by respondent for the delayed submission of the returns as 'self-serving, flimsy, without probative value' and untrue: (1) Civil Case No. 303 - summons unserved because defendants are now in Manila and plaintiff advised respondent to await defendants' return (Annex 'B', p. 30, rollo); (2) writ of execution in Criminal Case No. 2128 - respondent served writ of execution on September 18, 1984. As defendant (accused) refused to pay, respondent sold the side car of defendant's (accused's) motorcycle at public auction in the amount of P950.00. Said amount was received by complainants in the criminal case (Annex 'C', p. 31, rollo).

"Complainant-Judge avers that there was no sworn statement of plaintiff in Civil Case No. 303 to support respondent's allegation and that granting the same to be true, it was still the duty of respondent to report the failure of service to the court in order not to delay the administration of justice. Complainant likewise, refutes the claim of respondent in Criminal Case NO. 2128 by submitting affidavits of complainants or representatives of complainants in the criminal case to the effect that they did not receive a single centavo from respondent.

"In conclusion, complainant disagrees with the favorable recommendation of Judge Consigna. He termed such indorsement as 'improper and unethical' considering that this case might be referred to Judge Consigna for investigation and the premature evaluation might be construed as partiality on Judge Consigna's part. He prays that respondent be dismissed from the service.

"After a careful review of the pleadings, the undersigned finds respondent guilty of the charges of negligence and misconduct in office.

"Sheriffs and deputy sheriffs have an important role to play in the administration of justice. In *To vs. Dictor*, (110 SCRA 398, 400 [1981], this Court held: 'It is well to remind Sheriffs and Deputy Sheriffs are officers of the court, and considered agents of the law. They form an integral part of the administration of justice because they are called upon to serve court writs, execute all processes, and carry into effect the orders of the Court, as such, they should discharge their duties with due care and utmost diligence.'

"In the case at bar, the actuations of respondent fall short of the standard set by this court. The explanation he offered for the late filing of the returns was indeed flimsy and unbelievable. The records show that in 1984, RTC Judge Consigna referred complainants' grievances to respondent for comment/explanation. Respondent ignored the directive. Even this Court has not been spared. On April 9, 1985, this Office required respondent to answer the herein complaints within ten (10) days from notice. He failed to answer within the required period. On August 9, 1985, this office required respondent anew to file his answer within three (3) days from notice. Again, he failed to do so. It was only on April 2, 1986 that respondent submitted his answer. These circumstances show respondent's obvious disregard of the Court's directives and procedure.

"Respondent took more than two years to file the returns mentioned in the complaints of Judge Principe. The delay could have been avoided had respondent displayed more diligence and zeal in performing his duty. He

bided his time which manifested a complete lack of understanding of his responsibility as an officer of the Court. His nonfeasance has resulted in the delay in the administration of justice.

"In a similar case, (*Amolador vs. Felicidadario*, 84 SCRA 267, 273) for failure of respondent sheriff to file the return of the writ of execution within the period prescribed by the Rules of Court, this Court imposed a fine equivalent to respondent sheriff's basic salary for a period of three months to be paid within fifteen (15) days from finality of the decision. It was stated therein that a deputy sheriff as an officer of the court whose duties form an integrated part of the administration of justice, may be properly punished, short of dismissal suspension from office, by this tribunal which exercises administrative supervision over the judicial branch of the government, for an action committed in violation of the Rules of Court and which impedes and detracts from a fair and just administration of justice.

"Anent the return of the writ of execution in Criminal Case No. 2128, there are affidavits of the offended parties therein which refute respondent's statement. Considering that conflicting statements are made by the offended parties and respondent and that the facts on the record are not sufficient to determine the culpability of respondent, the undersigned submits that an investigation should be ordered by this Court to give the parties ample opportunity to present proof of their respective claims.

"This Court in *Mangaron vs. Bagano* (85 SCRA 1, 7 [1978]), has held that a complaint may be dismissed where complainant manifests lack of interest in the prosecution of the charges. The undersigned submits that this rule does not apply in the complaint of Mr. Bareno. Respondent's alleged payment of P1,500.00 to complainant Bareno's nephew is highly irregular since he was not the proper party to receive the same. Respondent did not even attach any receipt of the alleged payment. Further, the receipt which respondent issued to complainant for P10,000.00 carried an undertaking that respondent will deliver the balance of P1,500.00 on September 10, 1984. No payment was made on that date. It was only on October 10, 1984 that such payment was allegedly made and the same was given not to complainant, but to his nephew. If payment was actually made, it could have been a natural reaction for respondent to correct the impression of complainant Bareno. Yet, he waited until this complaint was filed and for almost a year to inform this Court of said payment. This conduct does not speak well of respondent. It creates a suspicion of respondent's attempt to cover-up his negligence. As an officer of the Court, respondent is required to perform the duties of his office honestly and faithfully and his conduct, at all times, must not only be characterized with propriety but most of all, must be above suspicion."

We find the Report and the observations therein supported by evidence. However, we disagree with the recommendation reading:

"In view of the foregoing, the undersigned respectfully recommends: (a) that a fine equivalent to respondent's basic salary for a period of three (3) months to be paid within fifteen (15) days from finality of the decision, be imposed upon respondent for the unreasonable delay in filing the returns of the summons and the writ of execution in violation of Rule 39, Section 11 of the Rules of Court in line with the ruling in *Amolador vs. Felicidadario*, supra; and (b) that the controversy over the alleged non-payment to the offended parties of the amount of P950.00 realized from the sale of the side car of a motorcycle at public auction pursuant to the writ of execution in Criminal Case No. 2128 (*People vs. Juanito Maguire*) be referred to the Regional Trial Court Judge of Ilagan, Isabela, Branch 18, for investigation, report and recommendation."

The delay and prejudice to the administration of justice caused by respondent's failure to make returns of service of Court processes and of a Writ of Execution is obvious. His explanations are flimsy and lack candor. His lack of diligence and zeal in the performance of his duty is inexcusable. His complete lack of understanding of, if not indifference to, his duties and responsibilities as an officer of the Court manifests itself not only in one but in two civil suits and in one criminal case. His failure to remit the entire amount he had received from complainant Bareno upon the latter's demand and to pay the balance on the date he promised, exhibit dishonesty and disregard

of an undertaking. His nonchalant disregard of the order of the RTC Judge Consigna and of the directive of this Court to comment/answer the charges against him is both disrespectful and contemptuous. These acts of non-feasance and malfeasance cannot be countenanced specially at a time when all efforts are being exerted to restore the people's faith and confidence in the administration of justice.

We find no need to refer the case back to the Regional Trial Court, which would only entail further delay in the resolution of the case. Notwithstanding the conflicting claims regarding the veracity of the alleged payment by respondent to the offended parties of the P950.00 realized from the auction sale of the side car of a motorcycle pursuant to the Writ of Execution in Criminal Case No. 2128 (People vs. Maguire), the Court notes that respondent has not rebutted the sworn Affidavits of the complainants in that case denying having received any centavo from him. In other words, we find the evidence on hand sufficient for the pronouncement of a verdict.

ACCORDINGLY, we find respondent Sheriff Ignacio Cabauatan guilty of serious dereliction in the performance of his official duties and of grave misconduct prejudicial to the best interests of the service and is hereby DISMISSED, with forfeiture of retirement benefits and with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations or instrumentalities.

This Resolution is immediately executory.

Let copy of this Resolution be attached to the personal record of respondent Deputy Sheriff.

**SO ORDERED.**

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

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