

**ROSALINDA C. AGUILAR, COMPLAINANT, VS. RONBERTO B. VALINO,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 70, PASIG
CITY, RESPONDENT.**

A.M. No. P-07-2392 (Formerly OCA IPI No. 07-2579-P). February 25, 2009

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PER CURIAM:

Rosalinda C. Aguilar (complainant) charged Ronberto B. Valino (respondent), Deputy Sheriff IV of the Regional Trial Court (RTC), Branch 70 of Pasig City, of grave misconduct and dishonesty.

In a letter to the Court dated March 12, 2007, complainant averred: A decision was rendered by the Court of Appeals (CA), ordering her to pay Victoria Lee (Lee) P866,828.90.[1] On February 13, 2007, she filed an Urgent Verified Omnibus Motion seeking to enjoin the public auction to be conducted by respondent the following day on her real properties.[2] The motion was set for hearing on February 14, 2007. On said date, Judge Lorifel Lacap Pahimna (Judge Pahimna) issued an Order directing respondent to stop the scheduled auction until further orders from the court. Pertinent portions of the Order read:

Yesterday, the court verbally instructed the Sheriff of this branch, Ronberto B. Valino, through the court interpreter to report for work today at 8:00 o'clock in the morning to answer some clarificatory questions pertaining to the writ of execution dated November 27, 2006. It couldn't conduct immediate query yesterday because he left the office after lunch and did not return for work that same day.

For reasons initially unknown to this court, a representative just hand[ed] over this morning a copy of the Sheriff's Report dated February 12, 2007 but Mr. Valino himself failed to report to this court as instructed. Later, the court was informed that Mr. Valino will proceed to the auction venue.

Accordingly, Sheriff Ronberto B. Valino is hereby directed to show cause within seventy-two (72) hours from notice why he should not be cited in contempt and administratively charged for insubordination for failure to comply with the verbal order of the court before he proceeds to the auction venue.

Further, he is directed to explain within the same period why he has not complied with Section 14, Rule 39 of the Rules of Court, relative to submission of a periodic report on the writ of execution.

Considering the pendency of an Urgent Omnibus Motion and the need to thresh out some issues in said motion and for failure of the Branch Sheriff to appear as verbally directed by the Court, the Court hereby orders the Sheriff to STOP the scheduled auction sale of the property at 10:00 o'clock in the morning today until further orders from the Court and the resolution on the pending incident.[3]

Judge Pahimna then instructed Process Server Sonny B. Reyes (Reyes) to serve a copy of the Order to respondent and to verify whether or not an auction sale would be conducted. Reyes arrived around 9:55 in the morning at the auction venue where he met Court Stenographer Liza Galvez (Galvez) of Branch 73, who was also instructed by Judge Pahimna to look for respondent. Reyes waited until 12:30 in the afternoon, but respondent did not arrive and no auction was held that day between 9:55 in the morning and 12:30 in the afternoon. To complainant's surprise, however, a Certificate of Sale was issued by respondent in favor of a certain Hector Lee Yu over the two

parcels of land, in the amount of P6,680,500.00, during an alleged auction sale held on February 14, 2007 at 10:00 a.m. in front of the Municipal Building of Pateros.[4]

In his Comment dated April 23, 2007, respondent denied the charges against him and claimed that: he was not aware of the Urgent Verified Omnibus Motion filed by complainant which was set for hearing for February 14, 2007; he had to go home at around noon of February 13 because of stomach pain; in the afternoon and evening of that day, he did not receive any instruction from any staff of Branch 70; in the morning of February 14, he proceeded directly to Pateros City Hall where the auction was to be conducted; there he met Lee and at 10:00 o'clock in the morning the auction took place with the son of Lee as the only bidder who offered a written bid on the property. Respondent further claimed that the accusations were purely intended to harass him, because he did not succumb to complainant's attempt to bribe him in consideration of his deferring the auction sale. He also denied the allegations of Reyes and Galvez and questioned the interest in the case of Judge Pahimna, who issued the order dated February 14, 2007 in haste, without due process and without requiring the complainant to post a bond as required by the Rules of Court. He further averred that he had been a sheriff for 16 years and was never accused of any wrongdoing in the performance of his duties.[5]

On October 15, 2007, the Court issued a Resolution redocketing the instant case as a regular administrative matter and referred the same to the Executive Judge of RTC, Pasig City for investigation, report and recommendation.[6]

In her Compliance dated February 1, 2008, Executive Judge Amelia C. Manalastas found respondent guilty of grave misconduct and recommended that he be suspended and admonished. She noted that during the hearing, she gave respondent the opportunity to confront the witnesses against him; however, respondent did not make any comment and offered only bare denials in the face of complainant's positive documentary and testimonial evidence.[7]

In the Resolution dated March 19, 2008, the Court referred the case to the Office of the Court Administrator (OCA) for its evaluation, report and recommendation.[8]

The OCA in its Report[9] dated August 29, 2008, then held that:

[r]espondent's introduction in evidence of the falsified Certificate of Sale purporting that an auction sale was actually conducted, although in fact it was not, shows an intent to disregard flagrantly the law and constitutes grave misconduct that corrodes respect for the courts. The same likewise indicates a predisposition to lie and deceive and amounts to dishonesty. x x x[10]

The OCA gave weight to the finding of the investigating judge that complainant's witnesses were more credible. All of complainant's seven witnesses categorically denied the conduct of public auction at 10 o'clock in the morning of February 14, 2007 in front of the Municipal Hall of Pateros, while respondent and his witness could hardly articulate in detail how the auction was carried out. Complainant's witnesses did not have any ill motive in testifying against respondent, while respondent's lone witness was a driver of the defendant in the civil case.[11] Finding respondent guilty of grave misconduct, the OCA recommended his dismissal from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government including government-owned and controlled corporations.[12]

The Court finds the report and recommendation of the OCA to be proper.

It is basic that in administrative proceedings, the burden of proving, by substantial evidence, the truthfulness of the allegations on the complaint rests on the complainant.[13] Only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion, is required.[14] In this case, the Court finds that complainant was able to satisfactorily discharge such burden.

Complainant, with her seven witnesses who were all court employees, was able to show that no auction actually took place on February 14, 2007 at the Pateros Municipal Hall, as purported by respondent.

Reyes, affirming the contents of his Process Server's Return, testified before the Investigating Judge that: he arrived at the Pateros Municipal Hall before 10:00 o'clock in the morning and there met Galvez who said that she had not seen respondent; they asked the guard if there was an auction scheduled for 10:00 o'clock in the morning, and the latter answered in the negative; they also found out that there was no notice for an auction at the time posted in the area; he waited at the lobby until 12 noon and, upon failing to see respondent or any party, Reyes called Judge Pahimna to ask if he could already leave the place.[15]

Galvez also testified that Judge Pahimna called her at 9:40 in the morning, instructing her to go to the entrance of the Municipal Hall of Pateros; that she asked the Building Custodian and the policeman stationed at the hall if a certain Sheriff Valino approached them regarding an auction sale to be held that 10:00 o'clock in the morning, to which they answered in the negative; then she received another call from Judge Pahimna telling her to meet Reyes.[16]

Building Custodian Ben Hernandez (Hernandez) likewise testified that on February 14, he was at his desk in front of the lobby from 8:00 o'clock in the morning to 12:00 noon, and there was no auction conducted; he had not seen respondent before, and it was only during the investigation that he saw respondent for the first time.[17]

To these, respondent merely claimed that the reason Reyes did not see him was probably because there were so many people at the municipal hall at that time, as there was a job fair,[18] and that he saw Hernandez that day, but Hernandez' table was far from the entrance and near the stairs.[19] Reyes insisted, however, that he knew respondent and would have found him even in a crowd.[20] While Hernandez maintained that it was impossible for him not to see if an auction was conducted at that place, since he was alert to the goings-on in said place and if there were people gathered, since it was his job to be aware of such activities as building custodian.[21]

Rolando Alejandro, (Alejandro) a Collector at the Treasurer's Office, affirmed his affidavit dated March 7, 2007 before the Investigating Judge and testified that although he signed as a witness to the auction sale which purportedly took place at 10 o'clock in the morning of February 14, 2007 at the main entrance of the Municipal Hall of Pateros, the truth was that he was never a witness to such auction, as he was in fact absent that day as reflected in his Daily Time Record.[22] He explained that on February 15 or 16, 2007 at around 2 o'clock to 3 o'clock in the afternoon, a woman approached him at their office and asked him to sign a document, which he signed not knowing what it was all about. When asked by Galvez on March 5, 2007, it was only then that he realized that he was made to sign a document as a witness to an auction sale.[23]

When asked by the Investigating Judge why he signed the document not knowing what it was about, he answered that at the time the woman approached him, he was in a hurry as he was on his way to the comfort room to relieve himself.[24] Alejandro also testified that he did not know respondent or was not even familiar with his name; and that it was the first time, during the investigation, that he saw him.[25] He claimed further that the woman who asked him to sign the document went back to him after he executed his March 7 affidavit and asked him to affirm that he really witnessed the auction sale in exchange for P10,000.00, a P500 cell phone load and an authority to handle one of her computer shops, which he declined.[26]

When the Investigating Judge asked respondent what he could say to Alejandro's testimony, respondent's only response, however, was:

SHERIFF VALINO:

No comment.

COURT:

Mr. Valino hindi mo sya tatanungin, hindi mo sya iko-confront?

SHERIFF VALINO:

Hindi na po.[27]

Court Interpreter Rachel de Guzman also testified that she texted respondent in the afternoon of February 13, 2007 to report for work before 8:00 o'clock the following morning, to which the latter agreed.[28] Branch Clerk of Court Atty. Ma. Cielo Paz Alba-Celera also testified that upon instruction of Judge Pahimna, she tried to contact respondent on February 14 several times through his cellular phone, but it was turned off. She also tried to call him days after the auction, but he did not report for work on February 15, 16, 19 and 20. And while he reported for work on February 21, he left the office at 11:30 in the morning without informing her.[29] Court Stenographer Portia S. Paguntalan stated that she finished typing Judge Pahimna's order directing respondent to stop the scheduled auction on or about 9:30 in the morning and immediately gave the same to Judge Pahimna for her signature.[30]

Respondent for his part merely denied the allegations of the witnesses and was adamant in his claim that an auction actually took place at the time and place stated on the certificate of sale.

When asked by the Investigating Judge, however, why he did not report for one week after the alleged auction sale, respondent only said that he had a flu.[31] The Investigating Judge also noted that respondent did not give complainant a computation of how much she was supposed to pay before the auction.[32] And when the Investigating Judge asked respondent why he sold the property at P6 million when the amount payable, as ruled by the CA, was only P866,000.00 plus interest, respondent only said that he based his computation on the decision of the trial court. He admitted, though, that he was aware of the CA Decision, rendered almost a year before the auction, modifying that of the RTC.[33]

Respondent presented his witness, Rainer V. Galsim (Galsim), electrician and driver of Lee, who said that he accompanied Lee and her son Hector, while he (Galsim) stayed at a distance. When asked about the details of the auction sale, Galsim could only testify, however, as follows:

COURT:

x x x bakit nyo nalaman na auction sale yung nakita ninyo?

MR. GALSIM:

Sinabi lang po sa akin.

COURT:

Sino ang nagsabi sayo?

MR. GALSIM:

Si Ma'am Victoria po.

COURT:

Ano ho bang nakita ninyo?

MR. GALSIM:

Basta narinig ko...doon ko po nakita si Sheriff po nung pagdating namin tapos nagtatanong x x x.

x x x x

COURT:

Nandoon kayo hanggang alas-diyes?

MR. GALSIM:

Opo pero doon sa may harapan ng building.

COURT:

Saan doon sa building na iyon?

MR. GALSIM:

Sa harapan po ng building.[34]

x x x x

COURT:

All these people who testified today, x x x Pito sila na nagsabi na hindi nakita si Sheriff Valino. Ikaw lang ang nagsasabi na nakita mo siya at nandoon ka ng 9:30 hanggang alas-diyes, totoo ba yan?

MR. GALSIM:

Opo, nandoon ho kami.

COURT:

Anong ginawa mo doon?

MR. GALSIM:

Kasama ko lang po si ano dahil nagpa-alalay lang po.

COURT:

Ano nga ang nakita mo? Ang tinatanong ko sa'yo ano ang nakita mo at paano yung ginawang auction sale. Sige nga, sabihin mo nga sa akin.

MR. GALSIM:

Basta narinig ko lang po yung auction sale na salita at saka no bidders.

COURT:

Anong narinig mo?

MR. GALSIM:

Auction sale... auction sale...

COURT:

Anong sinabi? Pano sinabi iyon?

MR. GALSIM:

Isinigaw po ni...sinabi ni...

COURT:

Isinigaw niya?

MR. GALSIM:

Not actually sigaw...

x x x x

COURT:

Sinu-sino kayo nung mag-auction sale? Paanong ginawa? Saan kayo nandoon? Nakaupo kayo? Nakatayo kayo? Nasa harap kayo ng building o nasaan kayo?

MR. GALSIM:

Nakatayo lang po.

COURT:

Nakatayo lang kayo, tapos? Paanong nangyari? Sige nga.

MR. GALSIM:

Nag-uusap po silang ganon tapos nagsalita po si Sheriff ng auction sale tapos...

COURT:

Yun lang ang sinabi niya, auction sale?

MR. GALSIM:

Yun lang po.

COURT:

Tapos?

MR. GALSIM:

Tapos nag-abot ng papel tapos wala na hindi ko na...

COURT:

Auction sale lang tapos no bidder, tapos tapos na?

MR. GALSIM:

Opo.

x x x x

COURT:

Yung bidder hindi nagsabi I'm bidding for so much? Ano pang nakita mo?

MR. GALSIM:

Wala na, iyon lang po.

COURT:

Ganun lang? Mukhang hindi ganon ang auction sale ginawaga.

MR. GALSIM:

Actually, hindi ko po talaga... Iyon lang po ang nakita ko, nagdrive lang po ako, kasama lang, so yun lang po ang nalalaman ko kung ano yung auction na sinasabi.[35]

Based on the foregoing, the Investigating Judge correctly concluded that the presumption that respondent regularly performed his official duties was rebutted by complainant's positive and unwavering documentary and testimonial evidence against him.[36]

As a rule, the evaluation by the Investigating Judge of the credibility of witnesses is accorded due respect, even finality, by this Court since the Judge was in a better position to pass judgment on the same, having personally heard them when they testified and observed their deportment and manner of testifying.[37] Considering that the conclusion of the Investigating Judge is supported by the records, the Court finds no reason to depart from said rule.

The OCA also correctly observed that complainant's witnesses are not party to nor do they have an interest in the case, still they pursued the case with tenacity, a fact which bolsters their credibility. Respondent, meanwhile, is a party to the case; and Galsim is employed by Lee who was supposed to have won in the auction sale.

The Court also notes that respondent admitted not giving complainant a copy of the computation of the amount they were supposed to pay Lee before the auction sale.[38] The Writ of Execution issued by the Branch Clerk of Court on November 27, 2006 also specifically mentions that the decision of the RTC on April 12, 2005, ordering complainant to pay Lee the amount of P2,366,829.00 as unpaid balance of her obligation plus P50,000.00 as attorney's fees, was appealed to the CA which modified the same and rendered a decision dated October 10, 2005 ordering complainant to pay Lee only the amount of P866,829.00 plus legal interest.[39] Still, respondent sold the property for P6,680,500.00.[40]

The procedure undertaken by respondent clearly ignored Sec. 9(a), Rule 39 of the Rules of Court on the procedure for execution of judgments for money, which states:

Sec. 9. Execution of judgments for money, how enforced. ---

(a) Immediate payment on demand. --- The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court that issued the writ.

x x x x

For the foregoing acts, respondent is clearly guilty of grave misconduct and dishonesty.

Misconduct, as defined, was an unacceptable behavior that transgresses the established rules of conduct for public officers. To be considered as grave and to warrant dismissal from the service, the misconduct must be grave, serious, important, weighty, momentous and not trifling. The misconduct must imply wrongful intention and not a mere error of judgment and must have a direct relation to and be connected with the performance of his official duties amounting either to maladministration or to willful, intentional neglect or failure to discharge the duties of

the office. There should also be reliable evidence showing that the judicial acts complained of were corrupt or inspired by an intention to violate the law.[41]

In this case, Judge Pahimna and the staff of Branch 70 exerted efforts to get in touch with respondent before the scheduled auction sale, in order to stop him from conducting the same, in view of issues that had to be threshed out first. Respondent, however, suddenly could not be reached and for several days thereafter was absent, allegedly because he had a flu. The excuse he put forth for his absence and unavailability was truly lame, and no other conclusion could be drawn other than that he had every intent of undertaking a corrupt and illegal scheme of presenting a fictitious auction, when none actually took place.

Respondent's acts also constitute dishonesty, which is defined as the disposition to lie, cheat, deceive, or defraud; unworthiness; lack of honesty, probity or integrity in principle; lack of fairness and straightforwardness; disposition to defraud, deceive or betray.[42] He insists that an auction took place on February 14, 2007 at 10:00 o'clock in the morning at the Pateros Municipal Hall, when many witnesses have claimed that none took place. The testimony of his lone witness as to how the auction transpired was also vague and paled in contrast to the consistent and direct testimony of complainant's witnesses.

Both grave misconduct and dishonesty are grave offenses which are punishable by dismissal even for the first offense.[43] It is also provided in the Uniform Rules on Administrative Cases in the Civil Service 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 or count, and the rest shall be considered as aggravating circumstances.[44] Thus, even though this is respondent's first offense in his 16 years of service in the judiciary, his dismissal from the service is in order.

The Court has always held that court personnel charged with the dispensation of justice, from the presiding judge to the lowliest clerk, bear a heavy responsibility in insuring that their conduct is always beyond reproach. The preservation of the integrity of the judicial process is of utmost importance; thus, all those occupying office in the judiciary should at all times be aware that they are accountable to the people. They must serve with utmost responsibility, integrity, loyalty, and efficiency and must always conduct themselves with the highest degree of propriety and decorum and take utmost care in avoiding incidents that degrade the judiciary and diminish the respect and regard for the courts.[45]

Sheriffs in particular are ranking officers of the court. They play an important part in the administration of justice. In view of their exalted position as keepers of the public faith, it is imperative that their conduct be geared towards maintaining the prestige and integrity of the court.[46] By the very nature of their functions, sheriffs are called upon to discharge their duties with due care and utmost diligence and, above all, to be above suspicion.[47]

As respondent failed in his duty to maintain the good name of the judiciary and as his behavior erodes the faith and confidence of our people in the administration of justice, he does not deserve to stay in the service any longer.

WHEREFORE, Ronberto B. Valino, Deputy Sheriff, Regional Trial Court, Branch 70, Pasig City is found GUILTY of grave misconduct and dishonesty, for which he is DISMISSED from the service with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Puno, C.J., Quisumbing, Carpio, Austria-Martinez, Corona, Carpio-Morales, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, and Peralta, JJ., concur.

Ynares-Santiago, and Tinga, JJ., on official leave.

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- [1] The RTC Branch 70 decision dated April 12, 2005 ordered her to pay Lee the amount of P2,366,829.20 plus P50,000.00 attorney's fees, which amount was reduced by the Court of Appeals however to P866,828.90 plus interest, upon appeal.
- [2] Covered by TCT Nos. 349195 and 340298.
- [3] Rollo, pp. 6-7.
- [4] Rollo, pp. 7-8.
- [5] Id. at 49-53.
- [6] Rollo, p. 54.
- [7] Id. at 155-156.
- [8] Id. at 158.
- [9] Through Court Administrator Jose P. Perez.
- [10] Rollo, p. 184.
- [11] Id. at 182-183.
- [12] Rollo, pp. 181, 184-185.
- [13] Badoles-Algodon v. Zaldivar, A.M. No. P-04-1818, August 3, 2006, 497 SCRA 446.
- [14] Aranda, Jr. v. Alvarez, A.M. No. P-04-1889, November 23, 2007, 538 SCRA 162.
- [15] Rollo, pp. 102-107.
- [16] Rollo, pp. 111-114.
- [17] Id. at 114-120.
- [18] Id. at 108-109.
- [19] Id. at 121.
- [20] Id. at 110.
- [21] Id. at 123.
- [22] Id. at 72, 91, 128, 131.
- [23] Rollo, p. 126, TSN, January 14, 2008.
- [24] Id. at 126, TSN, January 14, 2008.
- [25] Id. at 127.
- [26] Id. at 128-131
- [27] Id. at 132.
- [28] Rollo, pp. 75, 95-96, TSN of Rachel G. de Guzman.
- [29] Id. at 74, 96-98, TSN of Ma. Cielo Paz Alba-Celera.

[30] Id. at 76, 99-100.

[31] Id. at 133.

[32] Id. at 134-136.

[33] Id. at 137-140.

[34] Rollo, pp. 141-143.

[35] Rollo, pp. 144-147.

[36] Id. at 178.

[37] Melecio v. Tan, A.M. No. MTJ-04-1566, August 22, 2005, 467 SCRA 474; Meneses v. Zaragoza, A.M. No. P-04-1768, February 11, 2004, 422 SCRA 434.

[38] Rollo, p. 136, TSN February 14, 2008.

[39] Id. at 24-25.

[40] Id. at 9.

[41] Castelo v. Florendo, A.M. No. P-96-1179, October 10, 2003, 413 SCRA 219.

[42] Alabastro v. Moncado, Sr., A.M. No. P-04-1887, December 16, 2004, 447 SCRA 42; Re:Administrative Case for Dishonesty Against Elizabeth Ting, A.M. No. 2001-7-SC & No. 2001-8-SC, July 22, 2005, 464 SCRA 1.

[43] Sec. 52 (A) 1 & 3 of the Uniform Rules on Administrative Cases in the Civil Service.

[44] Sec. 55.

[45] Padua v. Paz, A.M. No. P-00-1445, April 30, 2003, 402 SCRA 21.

[46] Hofer v. Tan, A.M. No. P-05-1990, July 26, 2007, 528 SCRA 184.

[47] Geolingo v. Albayda, A.M. No. P-02-1660, January 31, 2006, 481 SCRA 324.

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