

HORACIO M. PASCUAL, PETITIONER, VS. GERRY C. DUNCAN, RESPONDENT.

Adm. Case No. R-668-P. December 23, 1992

Ponente: GUTIERREZ, JR., J.

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GUTIERREZ, JR., J.:

This administrative matter refers to the charge of dereliction of duty brought by the complainant, Atty. Horacio Pascual, against Gerry C. Duncan, the deputy sheriff of the Regional Trial Court (RTC), Branch 49 of Manila.

The facts of the case are as follows:

In a sworn letter-complaint dated June 14, 1986, the complainant, counsel for the plaintiff in Civil Case No. 85-31770 entitled *Viron Garments Manufacturing Co., Inc., v. Sarra Traders, Inc.*, alleged that the respondent, for unknown reasons, failed to appear at the public auction which the respondent himself scheduled pursuant to a writ of execution for the sale of the listed properties of the defendant in the aforementioned case.

As a result of such letter-complaint, this Court, in its resolution dated November 10, 1986 (Rollo, p. 5) required the respondent to file an answer.

On June 10, 1987 and September 21, 1988, Atty. Bartolome Flores, head of the Documentation Unit, reiterated the order of this Court for the respondent to file an answer to the letter-complaint. (Rollo, pp. 6 and 9)

Almost two (2) years after he was ordered to do so, or on September 30, 1988, the respondent filed his answer (Rollo, pp. 10--12) where he claimed that at the time of the said auction, he was sick with influenza. To support his claim, the respondent presented a xerox copy of his approved application for leave and a xerox copy of his daily time record for the month of June 1986. (Rollo, pp. 13-14)

We find the respondent guilty of both dereliction of duty and contemptuous disregard of lawful orders of this Court.

We agree with the finding of the then Court Administrator, Meynardo A. Tiro, to wit:

“x x x there can be no question that respondent caused the undue delay in the enforcement or implementation of the judgment. Assuming arguendo that he was down with influenza on June 11, 1986, respondent should have at least informed the prevailing party or the court of his predicament so that the assignment of temporary replacement could be made.”

It would have been an easy matter for the respondent to inform either the prevailing party or the court that he could not be present at the public auction. From the documents that the respondent submitted, it can be gleaned that his sick leave started on June 10, a day before the scheduled auction. He had ample time to inform the interested parties of his non-appearance. Yet, he did not do so. This omission by the respondent was not explained at all in his answer.

In the case of *Francisco v. Berones*, 121 SCRA 221, 226-227 [1983], this Court ruled that the respondent deputy

sheriff was guilty of grave dereliction of duty when among others, he failed without valid cause to appear on the scheduled date of the auction sale which he himself had scheduled.

The importance of the duties of the officers charged with the enforcement of execution of judgment has been stressed by this Court in the case of *Moya v. Bassig*, 138 SCRA 49, 52-53 [1985], to quote:

xxx xxx xxx

“It is undisputable that the most difficult phase of any proceeding is the execution of judgment. Hence, the officers charged with the delicate task of the enforcement and/or implementation of the same must, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the administration of justice; otherwise, the decisions, orders or other processes of the courts of justice and the like would be futile. x x x”

The respondent’s lack of concern for his duty and responsibility is manifest not only from the abovementioned but also from the unexplained delay he incurred in filing his answer. Every officer or employee in the Judiciary is duty bound to obey the orders and processes of the Supreme Court without the least delay. The question asked and the explanation given are extremely simple. The answer could have been completed in a couple of hours or less. It took the respondent almost two (2) years to submit it. It seems that the respondent was not interested in clearing his name as soon as possible. It is noted that the respondent, in response to the June 10, 1987 letter, asked this Court to extend the filing of his answer until June 29, 1987. (Rollo, p. 7) However, it was only on September 30, 1988, after more than a year from that date and only after a third directive was issued ordering him to file his answer, that the respondent finally answered. This cavalier attitude cannot be countenanced.

WHEREFORE, the penalty of six (6) months suspension without pay, the period of which should not be charged to his accumulated leave, is hereby imposed on respondent Gerry C. Duncan, Deputy Sheriff of Regional Trial Court of Manila, Branch 49, for dereliction of duty and disobedience to lawful orders, with a warning that a repetition of the same or of acts calling for disciplinary action will be dealt with more severely.

Bidin, Davide, Jr., Romero, and Melo, JJ., concur.

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