

REMIGIA SANGIL VDA. DE DIZON, VIRGINIA S. LAXAMANA AND JOSEFINA LAXAMANA-MONTAÑER, COMPLAINANTS, VS. JUDGE SALVADOR S. TENSUAN AND ROMMEL M. IGNACIO, SHERIFF IV, REGIONAL TRIAL ...

A.M. NO. RTJ-05-1943. August 09, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

In an Affidavit-Complaint dated August 24, 2000,[1] Remigia Sangil Vda. de Dizon, Virginia S. Laxamana and Josefina Laxamana-Montañer charged Judge Salvador S. Tensuan and Sheriff IV Rommel M. Ignacio, of the Regional Trial Court of Makati City, Branch 146, with Gross Ignorance of the Law, Gross Incompetence, Deceit, Partiality and Violation of Section 3 (e) and (f) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, relative to Civil Case No. 96-1187 entitled Spouses Rodolfo Talag and Leticia Talag and Wilfredo Talag v. Mariano Talag for Accounting, Injunction and Damages with Temporary Restraining Order and/or Preliminary Injunction and Appointment of a Special Administrator.

The established facts are as follows:

On April 4, 1997, the Court of Appeals rendered a decision in CA-G.R. SP No. 42446, the decretal portion of which reads:

WHEREFORE, in view of all the foregoing, the petition is hereby GRANTED. The assailed orders of the public respondent dated August 26, 1996 and October 16, 1996, in Civil Case No. 96-1187 are hereby SET ASIDE. Private respondent Mariano Talag and all persons acting under in his behalf and/or under his orders are hereby ordered to cease and desist from managing, operating, harvesting and/or selling the fish products and salt products from the Obando and Paombong fishponds pending the final resolution of Civil Case No. 1187.

SO ORDERED. (Emphasis and italics supplied)

Thereafter, Rodolfo Talag moved for execution which respondent judge granted. On January 19, 2000, Judge Tensuan issued and signed a writ of preliminary injunction[2] with the following tenor:

IT IS HEREBY ORDERED by the undersigned Judge of the Regional Trial Court, Makati, Metro Manila, that, until further orders, you, the said private respondent Mariano Talag and all your attorneys, representatives, agents or any other persons assisting you, refrain from to ceased (sic) and desist from their act of illegal take over of possession of subject premises.

Makati, Metro Manila. January 19, 2000. (Emphasis and italics supplied)

(Sgd.)

SALVADOR S. TENSUAN

Complainants aver that the preliminary injunction issued by respondent judge is drastically inconsistent with the dispositive portion of the decision in CA-G.R. SP No. 42446, and despite timely motions, he refused to recall and/or correct the same.

With regard to respondent sheriff, complainants alleged that he went to the fishpond at Sitio Bitas, Barangay Sta. Cruz, Paombong, Bulacan, together with Wilfredo Talag and several armed men, and served the writ to Nick Sevilla and Zaldy Cabigao, the caretakers of Jose San Juan, the lessee thereof, instead of serving the writ to defendant Mariano Talag against whom the same was issued. Respondent sheriff allegedly compelled the caretakers to receive the writ and forced them to leave the premises and thereafter placed Rodolfo and Wilfredo Talag in possession of the property under litigation.

In his Comment dated October 20, 2000,[3] respondent Judge Tensuan prayed for the outright dismissal of the complaint against him for utter lack of merit. He contended that when the Court of Appeals' decision in CA-G.R. SP No. 42446 became final, it became ministerial for the trial court to issue the writ of preliminary injunction. He further alleged that it was the Court of Appeals which directed the implementation of the decision.

Judge Tensuan branded as most unfair the allegation that he refused to resolve with dispatch complainants' motions. He asserted that under Section 4, Rule 15 of the Revised Rules of Civil Procedure, every written motion shall be set for hearing by the applicant except those which the court may act upon without prejudicing the rights of the adverse party. The other party must be afforded the chance to be heard and to react on the motion which may adversely affect his interest. As to the allegation that he was partial to plaintiffs, he averred that the claim is without basis.

Respondent judge denied that he conspired with the sheriff. He conceded that there was error in the entries in the writ, but passed the blame on the respondent sheriff who allegedly copied the prayer in the plaintiffs' motion for execution rather than the dispositive portion of the appellate court's decision. He asserted though that it was an honest mistake because writs of this nature are in pre-printed forms with blanks to be filled up by the sheriff by copying the entries from the records of the case.

In his Comment dated October 23, 2000,[4] respondent sheriff likewise prayed for the dismissal of the complaint for lack of merit. He admitted that he prepared the assailed writ of preliminary injunction and served the same to Nick Sevilla and Zaldy Cabigao who admitted to be the caretakers of defendant Mariano Talag. He asserted that he cannot be faulted for enforcing the writ against the caretakers since they were referred in the Court of Appeals' decision as the persons acting in behalf of Mariano Talag. He denied placing Wilfredo Talag in possession of the fishponds, and stressed that whatever acts committed by Wilfredo beyond what is ordered in the subject writ should be answered by the latter personally.

Based on the pleadings submitted by the parties, the Office of the Court Administrator (OCA) recommended that the case be re-docketed as a regular administrative matter and that both respondents be reprimanded for the preparation and signing of the questioned writ of preliminary injunction with a strong warning that a commission of same and similar violations shall be dealt with more severely.

Judge Tensuan, however, died during the pendency of the proceedings; thus, on January 16, 2002,[5] the Court resolved to dismiss the case against him. In a Resolution dated May 29, 2002,[6] the Court referred the case to the Executive Judge of the Regional Trial Court of Makati City for investigation, report and recommendation and reiterated the dismissal of the complaint against Judge Tensuan owing to his demise.

After a formal hearing, Makati City Regional Trial Court Executive Judge Sixto Marella, Jr. in a Report and Recommendation dated March 14, 2005 found that -

a)

Respondent sheriff caused the preparation of the pro-forma Writ of Preliminary Injunction using as basis the prayer of plaintiffs' Motion for Execution in Civil Case No. 96-1187.

b)

The dispositive portion of the subject Writ of Preliminary Injunction differs in substance with the tenor of the decision of the Court of Appeals, the dispositive portion of which was sought to be enforced.[7]

and recommended that respondent sheriff be reprimanded and warned that a repetition of the same or similar infraction in the future shall be dealt with more severely. The OCA agreed with the findings and recommendation of the Executive Judge.

Sheriffs and deputy sheriffs, being ranking officers of the court and agents of the law, must discharge their duties with great care and diligence. In serving and implementing court writs, as well as processes and orders of the court, they cannot afford to err without affecting adversely the proper dispensation of justice.[8] Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them.[9] They should always hold inviolate and invigorate the tenet that a public office is a public trust.[10]

Sheriffs, as public officers are repositories of public trust and are under obligation to perform the duties of their office honestly, faithfully and to the best of their ability. They are bound to use reasonable skill and diligence in the performance of their official duties particularly where the rights of individuals may be jeopardized by their neglect.[11] It must be borne in mind that the conduct required of court personnel must be beyond reproach and must always be free from suspicion that may taint the judiciary.[12] It is therefore incumbent upon every member of the judiciary family to work hand in hand in restoring and upholding, rather than destroying the integrity of the courts to which they belong.[13]

The Court agrees that respondent sheriff cannot be faulted with grave misconduct in implementing the writ of preliminary injunction. When a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable promptness to execute it in accordance with its mandate.[14] He is to execute the order of the court strictly to the letter.[15] In fact, in the absence of instructions or a restraining order, he is bound to serve the writ with dispatch.[16]

Respondent sheriff, however, is hardly faultless. In fact, he admitted having prepared the draft of the writ of preliminary injunction, where he adopted the prayer of the plaintiff and not the decretal portion of the Court of Appeals' judgment. He, however, professed good faith and claimed that the draft he prepared was reviewed by the person in charge of civil cases and the Branch Clerk of Court who submitted the same to Judge Tensuan for final review and approval.

The 2002 Manual for Clerks of Court[17] enumerates the general functions and duties of Sheriff IV, thus:

2.2.4. Sheriff IV

2.2.4.1

serves and/or executes writs and processes addressed and/or assigned to him by the Court and prepares and submits returns of his proceedings;

2.2.4.2.

keeps custody of attached properties or goods;

2.2.4.3

maintains his own record books on writs of execution, writs of attachment, writs of replevin, writs of injunction, and all other processes executed by him; and

2.2.4.4.

performs such other duties as may be assigned by the Executive Judge, Presiding Judge and/or Branch Clerk of Court. (Emphasis supplied)

Clearly, the preparation of the writs is not among his duties as this devolves upon the Judge. However, it appears that respondent judge instructed respondent sheriff to prepare the writ. In fact, respondent judge admitted that he knew it was the sheriff who typed the entries in the writ and any mistake therein was merely inadvertent and not intentional. The writ was reviewed by the clerk in charge of the civil cases and by the Branch Clerk of Court before it was approved and signed by Judge Tensuan.

The sheriff is a court officer whose duties form an integral part of the administration of justice, and he and his deputies may be properly disciplined by this Tribunal, in the exercise of its administrative supervision over the judicial branch of the government, for actions committed in violation of the Rules of Court which impedes and detracts from a fair and just administration of justice.[18]

In the instant case, the respondent sheriff was careless when he merely copied the prayer in plaintiff's motion for execution rather than the decretal portion of the appellate court's decision. While there may have been no evidence that his acts were tainted with bad faith, he nevertheless failed to discharge his duties knowledgeably and competently.

The degree of respondent sheriff's culpability makes him liable for simple neglect of duty. Neglect of duty is defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference. Under the Uniform Rules on Administrative Cases in the Civil Service, simple neglect of duty is a less grave offense and carries with it the penalty of suspension from work for one (1) month and one (1) day to six (6) months, for the first offense and dismissal, for the second.[19]

This being respondent sheriff's first offense, the proper imposable penalty is suspension for three (3) months. WHEREFORE, respondent Sheriff IV Rommel M. Ignacio, Regional Trial Court of Makati City, Branch 146, is found GUILTY of Simple Neglect of Duty and is ordered SUSPENDED for three (3) months from receipt of this decision, with WARNING that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Rollo, Vol. 1, p. 1.

[2] Id. at 17.

[3] Id. at 42-49.

[4] Id. at 63-65.

[5] Id. at 189-190.

[6] Id. at 202-204.

- [7] Rollo, Vol. 2, pp. 178-179.
- [8] Magat v. Pimentel, A.M. No. RTJ-00-1531, 28 November 2000, 346 SCRA 153, 159.
- [9] Llamado v. Ravelo, 345 Phil. 842, 853 [1997].
- [10] Ventura v. Concepcion, A.M. No. P-00-1431, 27 November 2000, 346 SCRA 14, 18.
- [11] Spouses Pecson v. Sicat, Jr., 358 Phil. 606, 616 [1998].
- [12] Abanil v. Ramos, Jr., A.M. No. P-98-1270, 27 November 2000, 346 SCRA 20, 24.
- [13] Atty. Contreras v. Mirando, 345 Phil. 854, 858 [1997].
- [14] Bernabe v. Eguia, A.M. No. P-03-1742, 18 September 2003, 411 SCRA 259, 268.
- [15] Spouses Pecson v. Sicat, Jr., supra at 615.
- [16] Portes v. Deputy Prov. Sheriff Tepace, 334 Phil. 839, 846 [1997].
- [17] Vol. I, p. 205.
- [18] Re: Danilo Cunanan, A.M. No. 91-8-374-OMB, 28 November 1994, 238 SCRA 421, 425.
- [19] Villaceran v. Beltejar, A.M. No. P-05-1934, 11 April 2005.

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