

AMELIA PASCUAL, COMPLAINANT, VS. JUAN C.GUEVARRA, RESPONDENT.*A.M. No. P-890. October 30, 1978*

Ponente: GUERRERO, J.

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Respondent Juan C. Guevarra, Deputy Sheriff of the City of Manila, is charged in the herein administrative complaint with grave abuse of authority in serving the writ of execution issued by Judge Donato M. Guevarra in Civil Case No. 203733. Complainant, Mrs. Amelia Pascual who is one of the defendants in said civil case, decried respondent's actuation in taking possession on March 8, 1973 of the personal properties listed in her affidavit and notwithstanding the order of Judge Guevarra dated March 10, 1973 staying all proceedings in connection with said case, copy of which was received by the Sheriff's Office of Manila on March 15, 1973, he proceeded to sell at public auction in the absence of the complainant on March 17, 1973 the properties at the very exceedingly low price of P2,300.00 while their acquisition cost excluding the display cabinet, was P5,707.00.[1]

In his comment, respondent contended that he performed his duties as Deputy Sheriff in accordance with the court order and pertinent provisions of the Rules of Court. He admitted that he sold the properties on March 17, 1973 but claimed that 15 minutes before the scheduled sale at public auction at 10:00 a.m. that day, he checked with Miss Rowena Vadel, the receiving clerk, to ascertain whether there was any order, third-party claim, motion, etc. regarding the case. Upon being informed that there was none, he advised her to communicate with him at the Sheriff's bodega should she receive any third-party claim or order relative to the case.[2]

The records in the City Court of Manila showing that the Sheriff's Office received the order of March 10, 1973 on March 15, 1973 is confirmed by the receiving clerk of the Sheriff's Office, yet the records in respondent's office indicate that he received from Miss Vadel on March 19, 1973 at 9:20 a.m., or two days after the sale the order of Judge Guevarra dated March 10, 1973 staying all proceedings in connection with the case.[3] It is also claimed by respondent that Miss Vadel informed him that she received the order only that morning of March 19, 1973.[4]

Considering that the office of the Sheriff is just a stone's throw from the City Court and that the order dated March 10, 1973 in the usual course of business would have been able to reach the Sheriff's Office in a day or so, as in fact it was received by a receiving clerk in the Sheriff's Office on March 15, 1973; assuming that said clerk in turn submitted the order to Miss Vadel, another receiving clerk, on March 19, 1973, and that Miss Vadel in turn delivered the order to the respondent Sheriff on the same date (March 19, 1973), there is certainly here too much "red tape" that has caused intolerable inefficiency and injustice, resulting, as in many other similar cases, in the erosion of the people's faith in the speedy and impartial administration of justice. The respondent should have exercised more diligence, effort and care in verifying the order of the court not only with the first receiving clerk in the Sheriff's Office but also with the City Court, inasmuch as he himself suggested to the complainant to file the corresponding motion.

It is noted that respondent returned the refraction unit to the complainant on March 13, 1973 by order of the Court

dated the same day, March 13, 1973, which respondent must have received on or before March 13, 1973. If this particular order of the Court was received by respondent on the same day it was issued, his claim that the earlier order of March 10, 1973 was not known nor received by him prior to the date of the actual sale on March 17, 1973, is self-serving and highly suspicious. His defense that he checked with the receiving clerk (Miss Vadel) who told him on March 17, 1973 that there was no third-party claim, order or motion is palpably dubious and doubtful.

It appears, however, that the respondent's name is not included in the plantilla of the Supreme Court nor is he paid from the national fund as per certification issued by the Deputy Clerk of Court and Administrative Officer of this Court. This is because the respondent is actually an employee of the City of Manila, having been appointed by the City Mayor and drawing salary from the coffers of the City.

This situation has been clarified by the Court en banc in the similar case of *Amolador vs. Felicidadario*, Adm. Matter No. P-60, July 31, 1978, wherein in not only withdrawing the authority for therein respondent to perform the functions of sheriff but also imposing a fine equivalent to three months' salary, the Court stated:

"In *Bagatsing vs. Herrera and Pulido*, L-34952, July 25, 1975, the Court, thru its Second Division, in a decision penned by Justice Ramon C. Aquino, held that an executive sheriff appointed by the City Mayor and receiving compensation out of city funds is a city employee subject to the Mayor's disciplinary jurisdiction and although such sheriff is a ministerial officer of the court, the power to investigate, suspend, discipline or remove him is lodged with the appointing power, and that the court may control the conduct of such sheriff only in the sense that if he refused to comply with the court's order, he may be charged in contempt of court and punished accordingly.

"Amplifying Our ruling in *Herrera*, We hold that respondent deputy sheriff as an officer of the court whose duties form an integral part of the administration of justice, may be properly punished, short of dismissal or suspension from office, by this Tribunal which exercises administrative supervision over the judicial branch of government, for any action committed in violation of the Rules of Court and which impedes and detracts from a fair and just administration of justice. Selling real property by virtue of a writ of execution of a judgment without due notice to the owner thereof or judgment debtor, violates Sec. 18, Rule 39, Rules of Court, and betrays a flagrant disregard of the elementary rules on due process."

Further amplification was made by Mr. Justice Teehankee in his separate opinion in said case, as follows:

"The offices of sheriffs and deputy sheriffs in the cities and provinces assist the Courts in the administration of justice and these public officers are called upon to serve their writs, execute all processes and carry into effect all orders.[5] They fall under the 'direct control, direction and supervision' of the Supreme Court, in whom 'administrative supervision over all courts and the personnel thereof' has been vested by the Constitution[6] and hence the power to appoint and remove sheriffs has likewise been transferred to the Supreme Court (from the Secretary of Justice[7]).

"A special class of so-called 'sheriffs', however, cropped up in cities such as Manila and Quezon City, where to assist the Clerk of Court (who is ex officio sheriff) such cities have provided for the position of 'executive sheriff and court liaison officer' (formerly designated as 'chief deputy sheriff and chief of division of the sheriff's office in Manila') and several positions of 'deputy sheriffs' (as in the case of respondent Vicente E.

Pulido in *Bagatsing vs. Herrera*[8]) whose salaries are totally drawn from funds appropriated by the city council and whose appointments are vested in the city mayor, as in the case of herein respondent.

"Now these so called 'sheriffs' are purely local officials and the power of appointment, suspension and removal is vested in the city mayors as may be provided in their charters or their ordinances providing for such positions. The matter of administration of justice is a matter of national, not local concern, as stressed by the Court in *Lacson vs. Villafranca*[9]. Hence, although they may be appointed as 'sheriffs' by the city mayor avowedly to assist the regular sheriffs of the courts duly appointed by the Supreme Court (formerly by the Secretary of Justice), such local 'sheriffs' may not exercise any of the functions of the regular sheriffs as provided in the Revised Administrative Code and in the Rules of Court without express written authority granted by this Court, which may be revoked at any time. The moment they are found guilty of wrongdoing, as in this case, or when the Court deems that there is reasonable ground to withdraw its confidence and authority, the authority granted by this Court to such local sheriffs to perform the functions of, and assist, the regular sheriffs under the supervision of the clerk of court as ex officio sheriff may be immediately revoked.

"Needless to say, while the power to remove them (i.e. local 'sheriffs' such as herein respondent) is vested in the mayor as the appointing authority, it would appear that the mayor would have no other recourse but to order their separation from the service, in consequence of this Court's removal of the authority granted them to discharge the functions of sheriff, since they can no longer discharge the tasks - to assist the regular sheriffs - for which they were appointed."

In the present case, We find that respondent Juan C. Guevarra was grossly negligent in the proper, correct and careful exercise of his official duties, and the Court accordingly revokes effective immediately the authority granted to respondent to perform the functions of, and assist, the regular sheriffs duly appointed as such by the Court (formerly by the Secretary of Justice).

PREMISES CONSIDERED, respondent Deputy Sheriff Juan C. Guevarra is hereby disauthorized and disallowed to continue discharging in any manner the functions of sheriff immediately upon receipt of this Resolution. Let copy hereof be circularized immediately among the courts of the Metro Manila area. Finally, let a copy hereof be furnished to His Honor, the City Mayor of Manila, for appropriate action in the premises.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Muñoz Palma, and Fernandez, JJ., concur.

[1] Affidavit of Complainant, Rollo, p. 2

[2] Comment of respondent, Rollo, p. 7

[3] Letter of complainant dated Jan. 27, 1975, Rollo, p. 10

[4] Comment of respondent, Rollo, p. 7

[5] Sec. 183, Revised Administrative Code.

[6] Sec. 6, Art. X, 1973 Constitution.

[7] Secs. 79 (d) and 186, Revised Administrative Code.

[8] 65 SCRA 434 (July 25, 1975).

[9] 4 SCRA 144 (1962); see also Sangalang vs. Vergara, 6 SCRA 295 (1962).

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