

NATIONAL BUREAU OF INVESTIGATION AND SANTIAGO N. SALVADOR, COMPLAINANTS, VS. RODOLFO G. TULIAO, SHERIFF IV OF THE RTC OF CAUAYAN, ISABELA, BRANCH 20, RESPONDENT.

A.M. No. P-96-1184. March 24, 1997

Ponente: PANGANIBAN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c288ae016d40/>

PANGANIBAN, J.:

Sheriffs play an important role in the administration of justice. They form an integral part thereof because they are called upon to serve court writs, execute all processes, and carry into effect the orders of the court with due care and utmost diligence.[1] As agents of the law, high standards are expected of them. In the present case, respondent sheriff failed to live up to these standards.

A complaint against Respondent Deputy Provincial Sheriff Rodolfo G. Tuliao of the Regional Trial Court of Cauayan, Isabela, Branch 20 was filed by Santiago N. Salvador before the Tuguegarao Sub-Office (TUGSO) of the National Bureau of Investigation (“NBI”).[2] An investigation was conducted by Agent-in-Charge Franklin Javier and Agent Raul A. Ancheta. On November 24, 1994, complainant gave his statement[3] to Agent Paul Gino Rivera. Invoking his right to remain silent, respondent sheriff refused to “submit himself to custodial investigation” before Agent Javier. Instead, he submitted a Compliance[4] dated July 22, 1995 and an Answer[5] dated August 4, 1995.

After the investigation, Agents Javier and Ancheta recommended, inter alia, the filing of an administrative case with the Office of the Court Administrator.[6] Atty. Gerarda G. Galang, Chief of the NBI Legal and Evaluation Division, concurred with said recommendation.[7] On November 13, 1995, Director Mariano M. Mison of the NBI transmitted to this Court a copy of the evaluation with the recommendation that appropriate action be taken against respondent.[8]

Hence, this administrative complaint now before us.

The Facts

Complainant Salvador bought a passenger jeep from Lito G. Ignacio to be paid in monthly installments of P7,000.00 with a down payment of P50,000.00. After remitting the down payment, complainant diligently paid all monthly amortizations until March 1994 when, in the absence of Ignacio, the complainant was forced to pay to an unnamed brother of the seller the amounts due for the months of April and May 1994. However, the brother failed to remit said amount to the seller; thus, the latter filed with the Regional Trial Court of Cauayan, Isabela, Branch 20[9] a suit for collection, docketed as Civil Case No. 20-757, entitled Pisces Motor Works, Represented by Lito D. Ignacio vs. Santiago Salvador.

Subsequently, an order was issued by the RTC directing respondent sheriff to attach the passenger jeep. Complainant, through counsel, filed a motion to discharge attachment upon filing of a counterbond for the release of the vehicle in his favor. Due to some defects in the aforementioned motion, a second motion with counterbond

was filed. On July 13, 1994, the trial court issued an order, the decretal portion of which reads, to wit:[10]

“WHEREFORE, and in view of the foregoing, the counterbond of the defendant, is hereby approved. The Sheriff is hereby ordered to release to the defendant the attached vehicle bearing Motor No. 6D-57-51813 with Plate No. UV BBR-127.”

Respondent refused to comply with the said order. Instead, he released the passenger jeep to Ignacio after the latter had executed a receipt therefor together with an undertaking that he would produce the jeep whenever required by the court. Respondent justified such release by saying that the court had no storage building that would protect the jeep from damage or loss.[11]

Despite the pendency of a motion for contempt[12] filed by complainant against respondent, the case was dismissed[13] on August 31, 1994 because jurisdiction over the case had been transferred to the municipal trial court as mandated by Republic Act No. 7691 which expanded said court’s jurisdiction.

After receipt of respondent’s Comment dated April 20, 1996, the Court referred the case to the Office of the Court Administrator for evaluation, report and recommendation. In a memorandum to the Chief Justice dated August 29, 1996, Acting Court Administrator Reynaldo L. Suarez recommended a finding of guilt and suspension of respondent for six (6) months without pay.[14]

Issue

The main issue in this case is whether respondent sheriff is administratively liable for failing to release the property under custodia legis to the complainant in accordance with the order of the regional trial court.

Respondent sheriff contends that his act of not taking into his official custody the attached property was not unlawful but was in fact reasonable because the court had no facility for its storage. That it could no longer be returned to complainant’s possession in accordance with the court’s order was not his fault but that of the attaching creditor who had violated his obligation to produce the same whenever required by the court. He offers “to pay a fine in the discretion of the Honorable Court as he has not benefited any pecuniary interest (sic).”[15]

The Court’s Ruling

Respondent’s contentions are without merit. We agree with the Court Administrator that respondent should be held administratively liable.

First Issue: Manner of Attachment

This Court finds respondent sheriff’s manner of attachment irregular and his reason therefor totally unacceptable.

Rule 57 of the Rules of Court provides:

“Sec. 5. Manner of attaching property.-- The officer executing the order shall without delay attach, to await judgment and execution in the action, all the properties of the party against whom the order is issued in the province, x x x.

xxx xxx xxx

Sec. 7. Attachment of real and personal property; recording thereof.--Properties shall be attached by the officer executing the order in the following manner:

xxx xxx xxx

(c) Personal property capable of manual delivery, by taking and safely keeping it in his capacity, after issuing the corresponding receipt therefor;

xxx xxx xxx

Clearly, respondent's act of leaving the passenger jeep in the possession and control of the creditor did not satisfy the foregoing requirements of the Rules; neither did it conform to the plainly worded RTC order. The note in the receipt that imposed on Ignacio the obligation to produce the same whenever required by the court was no compliance either, because it did not establish that the property was in respondent sheriff's substantial presence and possession. Respondent fell short of his obligation to take and safely keep the attached property "in his capacity." He cannot feign ignorance of this duty as he himself correctly cited an early decision of this Court explaining a sheriff's duty in attachment, as follows:[16]

"x x x A verbal declaration of seizure or service of a writ of attachment is not sufficient. There must be an actual taking of possession and placing of the attached property under the control of the officer or someone representing him. (Hollister vs. Goodale, 8 Conn., 332, 21 Am. Dec., 674; Jones vs. Howard, 99 Ga., 451, 59 Am. St. Rep., 231.)

We believe that x x x to constitute a valid levy of an attachment, the officer levying it must take actual possession of the property attached as far as x x x practicable (under the circumstances). He must put himself in (a) position to, and must assert and, in fact, enforce a dominion over the property adverse to and exclusive of the attachment debtor, and such property must be in his substantial presence and possession. (Corniff vs. Cook, 95 Ga., 61, 51 Am. St. Rep., 55, 61.) Of course, this does not mean that the attaching officer may not, under an arrangement satisfactory to himself, put anyone in possession of the property for the purpose of guarding it, but he can not in this way relieve himself from liability to the parties interested in said attachment."

That Ignacio was able to move the passenger jeep to an unknown location is further proof that respondent sheriff had not taken and safely kept it in his substantial presence, possession and control.

His claim that the regional trial court did not have any storage facility to house said property is no justification. He could have deposited it in a bonded warehouse.[17]

Contrary to respondent sheriff's contention, compelling the attaching creditor to release the property in question was not in order, because the proper remedy provided by the Rules of Court was for the party whose property had been attached to apply for the discharge of the attachment by filing a counterbond.[18] The effect of this remedy is the delivery of possession of the attached property to the party giving the counterbond. The attaching creditor was not authorized to have possession of the attached property, contrary to the insistence of respondent sheriff.

Second Issue: Liability of a Sheriff

A court employee should keep in mind that he is an integral part of that organ of the government that is involved in the sacred task of administering justice. His conduct and behavior should perforce be circumscribed with the heavy burden of responsibility and must at all times be characterized by propriety and decorum.[19]

Section 4(c) of Republic Act No. 6713 requires of every public official and employee justness and sincerity in the discharge and execution of official duties. It exacts from him at all times respect for the rights of others and proscribes him from dispensing or extending undue favors on account of his office.

The Court in *Chan vs. Castillo* held:[20]

"Every officer or employee in the judiciary is duty bound to obey the orders and processes of the court without the least delay (*Pascual vs. Duncan*, 216 SCRA 786 [1992]), x x x."

Leaving the attached property in the possession of the attaching creditor makes a farce of the attachment. This is not compliance with the issuing court's order. When a writ is placed in the hands of a sheriff, it is his duty, in the

absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate.[21] He is supposed to execute the order of the court strictly to the letter.[22] If he fails to comply, he is liable to the person in whose favor the process or writ runs.[23]

Respondent's pretense of having acted in utmost good faith for the preservation of the attached property is hardly credible because there was no reason for his having acted thus. In sum, he is unable to satisfactorily explain why he failed to take such movable in his control.

By acceding to the request of Ignacio, respondent sheriff actually extended an undue favor which prejudiced the complainant as well as the orderly administration of justice. He exceeded his powers which were limited to the faithful execution of the court's orders and service of its processes.[24] His prerogatives did not give him any discretion to determine who among the parties was entitled to possession of the attached property.

That he exerted efforts in going to the creditor's residence in Tuguegarao, Cagayan to obtain possession of the attached property was an act of compliance with the writ of attachment. This action, belated as it was, did not mitigate his liability. Much less did it exculpate him from penalty.

IN VIEW OF THE FOREGOING, respondent sheriff is hereby found administratively liable as charged and is **SUSPENDED** for six (6) months without pay with a warning that the commission of the same or similar acts in the future shall be dealt with more severely by this Court.

SO ORDERED.

Narvasa, C.J., (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Wenceslao vs. Madrazo, 247 SCRA 696, 702-703, August 28, 1995.

[2] Rollo, pp. 14-15.

[3] Ibid., pp. 19-25.

[4] Ibid., pp. 103-110.

[5] Ibid., pp. 117-124.

[6] Ibid., pp. 7-13.

[7] Ibid., pp. 2-5.

[8] Rollo, p. 1.

[9] Presided by Judge Henedino P. Eduarte.

[10] Rollo, p. 83.

[11] Receipt, Rollo, p. 97.

[12] Rollo, p. 92.

[13] Ibid., p. 95.

[14] Ibid., p. 192.

[15] Comment, p. 5; Rollo, p. 186.

[16] Walker vs. McMicking, 14 Phil 668, 673, December 23, 1909.

[17] Sebastian vs. Valino, 224 SCRA 256, 259, July 5, 1993.

[18] Section 12, Rule 57 of the Rules of Court.

[19] Rivera vs. Cagujas, 229 SCRA 145, 150, January 7, 1994.

[20] 238 SCRA 359, 361, November 25, 1994.

[21] Villareal vs. Rarama, 247 SCRA 493, 501, August 23, 1995; Balantes vs. Ocampo III, 242 SCRA 327, 331, March 14, 1995.

[22] Eduarte vs. Ramos, 238 SCRA 36, 40, November 9, 1994 and Wenceslao vs. Madrazo, supra, p. 704.

[23] Elipe vs. Fabre, 241 SCRA 249, 253, February 13, 1995.

[24] Wenceslao vs. Madrazo, supra, p. 704.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.