

VIRGINIA L. APRIETO, COMPLAINANT, VS. NOEL C. LINDO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 83, QUEZON CITY, RESPONDENT.

A.M. No. P-07-2356. May 21, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an administrative complaint filed by Virginia L. Aprieto (Aprieto) against Noel C. Lindo (Sheriff Lindo), Sheriff IV of the Regional Trial Court (trial court), Branch 83, Quezon City, for Misrepresentation of Facts and Extortion, relative to Civil Case No. Q-02-47453, entitled "Virginia L. Aprieto, et al. v. Spouses Felix Mindajao and Balacuit, et al."

The Facts

In her Complaint dated 28 December 2006, Aprieto stated that the trial court rendered a decision in her favor with regard to an action for recovery of possession of land. The dispositive portion of the decision states:

WHEREFORE, judgment is hereby rendered in favor of plaintiffs Virginia L. Aprieto, Alejandro Aprieto, Susan Aprieto and Diana Aprieto and against defendant-spouses Felix Mindajao and Juanita Bala[c]uit and Pelagia Sabarillo ordering the latter and all persons claiming rights under them to vacate the premises occupied by them on Lot 6 of the subdivision plan (LRC) Psd-46690 covered by Transfer Certificate of Title No. 129492 located in Pasong Tamo, Quezon City and to surrender the possession thereof to the plaintiffs.

Defendants are likewise hereby ordered to remove or demolish the houses they constructed on the property of plaintiffs within fifteen (15) days from finality of this decision, otherwise, plaintiffs are hereby authorized to demolish said houses and whatever structures existing thereon at the expense of the defendants.

Defendants-spouses Felix Mindajao and Juanita Balacuit and defendant Pelagia Sabarillo are hereby further ordered to each pay the plaintiffs One Thousand Pesos (P1,000.00) per month as reasonable compensation for the use and occupation of the premises in question starting August 6, 2002 and every month thereafter until they vacate the premises in question and deliver the possession thereof to the plaintiffs.

The claims of the plaintiffs for moral and exemplary damages are hereby denied for being necessary consequences of litigation.

Defendants' counterclaim is hereby dismissed for lack of merit.

SO ORDERED.[1]

On 1 September 2006, a Writ of Execution was issued and Sheriff Lindo was ordered to enforce the writ.

Aprieto alleged that Sheriff Lindo compelled her to pay a total of P255,000 for sheriff fees and execution expenses covering the period from 14 September to 24 November 2006. Sheriff Lindo also engaged the services

of a geodetic engineer and security guards and charged Aprieto an additional P48,000. Prior to the execution, Aprieto repeatedly asked Sheriff Lindo for a breakdown of payments of fees but he never complied.

On 24 November 2006, Sheriff Lindo, Sheriff Nilo Cabang, and several policemen went to the house of Aprieto and informed her that the eviction had been completed and all the dwellings had been demolished. They invited Aprieto to go with them to inspect the property. Fearing that the squatters in the area might retaliate, Aprieto did not get out of the police car and trusted Sheriff Lindo and the others that they were able to secure the place and complete the demolition. Aprieto then paid the balance of P159,000 for execution expenses to Sheriff Lindo.

On 3 December 2006, Aprieto brought workers to the property to install a lot perimeter for fencing. However, to her dismay, she discovered that less than 30% of the property was cleared. She called up Sheriff Lindo and asked him why he collected the total balance of execution expenses when the demolition had not yet been completed. Sheriff Lindo allegedly replied by saying that he disliked making repeated collections.

On 4 December 2006, Aprieto wrote a confidential letter to Judge Ralph S. Lee (Judge Lee), the trial court Presiding Judge, about the exorbitant fees collected by Sheriff Lindo and inquired if such amount had been approved by the trial court. Judge Lee did not respond to this confidential letter.

On 15 December 2006, Sheriff Lindo informed Aprieto that another demolition work had been conducted and all the houses had been cleared. However, the boundary markers were not installed since the surveyor was already on break for the holidays and would not return until 18 January 2007.

Aprieto sought for a partial return of the money she paid to Sheriff Lindo because the expenses for execution of the writ were exorbitant.

Sheriff Lindo filed his Comment dated 19 February 2007. He acknowledged that he did receive a check from Aprieto on 17 October 2006. He added that he issued a receipt to cover the mobilization expenses needed for the implementation of the writ. He again gave a receipt for the P159,000 remaining balance after the inspection of the eviction and demolition on 24 October 2006.

Sheriff Lindo further explained that he went back to the property on the 6th and 7th of December 2006 to continue and finish the eviction and demolition of all structures. According to him, Aprieto allegedly refused to accept the turnover of possession until the property had been fenced. Aprieto also demanded a full accounting of all the expenses but Sheriff Lindo declined because the police did not issue receipts.

On 2 March 2007, Judge Lee also filed his Comment dated 27 February 2007. He admitted that he received the confidential letter of Aprieto on 4 December 2006. The next day, he called Sheriff Lindo to a conference to discuss the matter. Judge Lee stated that when asked about the letter and the acknowledgment receipts attached, Sheriff Lindo admitted having received such amounts but reasoned that the money was legitimately spent for execution of the writ and for the demolition expenses. He added that he would submit a list or breakdown of expenses immediately.

In the presence of the branch clerk of court and a legal researcher, Sheriff Lindo allegedly promised to complete the work in connection with Aprieto's case and to transfer and turnover the possession of the property at the soonest possible time. Judge Lee attached a copy of the Sheriff's Return dated 15 December 2006 allegedly submitted by Sheriff Lindo.

Judge Lee further stated that he did not reply to Aprieto's letter and just decided to wait for her to file an appropriate pleading or motion in court since he could not issue any order based on a confidential letter.

Aprieto filed a Reply dated 13 March 2007 to the Comment submitted by Sheriff Lindo. She asserted that she had

not been informed of the three dates of eviction mentioned by Sheriff Lindo, namely 24 October, 6 December and 7 December 2006. Aprieto clarified that the inspection of the demolition site occurred on 24 November 2006 and not 24 October 2006.

Aprieto stated further that she only recently learned about the Sheriff's Report dated 15 December 2006 and admitted that she did not accept the turnover of the property since no boundary markers were placed. Aprieto again demanded a full accounting and liquidation of the expenses.

Sheriff Lindo filed a Manifestation dated 14 March 2007. He agreed that the exact date of the first demolition and issuance of the check transpired on 24 November 2006 and not 24 October 2006. He reiterated that as stated in the Sheriff's Report, he was able to evict the occupants from the premises but Aprieto refused to receive the turnover of the property.

The OCA's Report and Recommendation

On 25 May 2007, the Office of the Court Administrator (OCA) submitted its Report, recommending that:

(1) the instant case be redocketed as a regular administrative matter; and

(2) respondent sheriff be suspended for four months.

The Court's Ruling

The Court agrees with the finding of the OCA that Sheriff Lindo is guilty of violation of existing rules of serious nature for disregarding Section 9, Rule 141 of the Rules of Court.

A sheriff, as an officer of the court, is expected to discharge his duties with great care and diligence. He is also expected to perform faithfully and accurately what is incumbent upon him and show at all times a high degree of professionalism in the performance of his duties.[2]

The deposit and payment of expenses incurred in enforcing writs are governed by Section 9, Rule 141 of the Rules of Court:

SEC. 9. Sheriffs and other persons serving processes. -

x x x x

(I) For money collected by him by order, execution, attachment, or any other process, judicial or extrajudicial, the following sums, to wit:

1. On the first four thousand (P4,000.00) pesos, five (5%) per centum;
2. On all sums in excess of four thousand (P4,000.00) pesos, two and one-half (2.5%) per centum

In addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary; incidental, or final, shall pay the sheriff's expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. (Emphasis supplied)

The rule clearly requires that the sheriff executing writs shall provide an estimate of the expenses to be incurred, and such estimated amount must be approved by the court. Upon approval, the interested party shall then deposit the amount with the clerk of court and ex-officio sheriff. The expenses shall be disbursed to the assigned deputy sheriff to execute the writ, subject to liquidation upon the return of the writ. Any amount unspent shall be returned to the interested party.

In this case, Sheriff Lindo failed to comply with the prescribed rule. His act of receiving an amount for expenses to be incurred in the execution of the writ, without having made an estimate and without securing prior approval of the court, is a violation of the prescribed rule. Sheriff Lindo should not have received from Aprieto any money without having submitted the expenses for approval of the court. He did not even advise Aprieto that he was not authorized to receive any amount from her and that the money for expenses should be deposited with the clerk of court.

The conduct and behavior of everyone connected with an office charged with the dispensation of justice is circumscribed with a heavy burden of responsibility.[3] A sheriff may be properly dismissed, fined or suspended from office by this Court for actions committed in violation of the Rules of Court that impede and detract from a fair and just administration of justice.[4]

Section 52, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service classifies the violation of rules of serious nature as a less grave offense with the corresponding penalty:

Section 52 Classification of Offenses. - Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

x x x

B. The following are less grave offenses with the corresponding penalties:

x x x

4. Violation of existing Civil Service Law and rules of serious nature

1st Offense - Suspension 1 mo. 1 day to 6 mos.

2nd Offense - Dismissal

x x x

Considering that this is Sheriff Lindo's first offense, we hold that the penalty of suspension from office for six months without pay is commensurate to Sheriff Lindo's infractions. We sternly warn Sheriff Lindo that a repetition of the same or similar offense would be dealt with more severely.

WHEREFORE, we find respondent GUILTY of violation of existing rules of serious nature. We SUSPEND respondent Noel C. Lindo, Sheriff IV, Regional Trial Court, Branch 83, Quezon City, for six months without pay, and sternly warn him that a repetition of the same or similar offense shall be dealt with more severely.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Leonardo-De Castro, and Bersamin, JJ., concur.

[1] Rollo, pp. 1-2.

[2] Villanueva-Fabella v. Lee, 464 Phil. 548 (2004).

[3] Letter of Atty. Socorro M. Villamer-Basilla, Clerk of Court V, Regional Trial Court, Branch 4, Legaspi City on the Alleged Improper Conduct of Manuel L. Arimado, Sheriff IV, A.M. No. P-06-2128, 16 February 2006, 482 SCRA 455.

[4] Hipolito v. Mergas, A.M. No. P-90-412, 11 March 1991, 195 SCRA 6.

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