

THE COURT ADMINISTRATOR, COMPLAINANT, VS. SANCHO G. GAPASIN, RESPONDENT.

Adm. Mat. No. P-2486. September 15, 1987

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PER CURIAM:

Sancho G. Gapasin, Deputy Sheriff of the Court of First Instance, Branch IV, Bauang, La Union, was charged with "grave abuse of authority, insubordination and conduct prejudicial to the best interest of the service" under an administrative complaint dated June 18, 1981. The complaint was referred to Hon. Angel A. Daquigan, Acting Presiding Judge of said Court for investigation, report and recommendation. In his answer to what he described as "the unfounded administrative complaint of the Honorable Administrator of the Supreme Court," Gapasin did nothing more than to invoke Section 19, Article IV of the "New Constitution of the Philippines", dealing with the rights of an accused in a criminal prosecution, in as much as, according to him, he had a "pending Criminal Case at the Sandiganbayan Court ** for: Violation of Republic Act No. 3019, Sub-paragraph (e)". Hearings were thereafter had on the charges before Judge Daquigan, the respondent Gapasin being represented at all said hearings by counsel, Atty. Ponciano Arnobit. Gapasin testified in his own behalf. He also presented the testimony of his wife, and that of a police officer. He submitted, too, documentary proofs, inclusive of the medical report of Dr. Rosa Tibayan, the Head of the Psychiatry Department of the Baguio General Hospital, and the record of her testimony before the Sandiganbayan.

Judge Daquigan found that the evidence clearly and convincingly established the charges against respondent Gapasin, the "defense put up by the respondent ** (being) not only nil, but untenable and unmeritorious." According to His Honor, the evidence showed that respondent Sheriff Gapasin had been commissioned to enforce a writ of execution issued by the Municipal Court of Naguilian, La Union in Civil Case No. 300 entitled, "Alejandro Casilla vs. Tranquilino Soriano"; that in the company of several persons, Gapasin had levied on and taken actual custody of two (2) pregnant carabaos in implementation of the writ despite the protestations of the possessor that the animals did not belong to the judgment debtor; that he had thereafter loaded the carabaos on a pick-up and brought them to the residence of one of his companions, a Pedro Castaneda, to whom, on the same day, he sold and delivered the carabaos in consideration of the price of P3,300.00, which was paid to him the following day; that the carabaos in fact belonged to a Mr. Rivera Camacho, and a Mr. Alfredo Cales, and had an aggregate value of P11,000.00; that the sale was consummated by respondent sheriff privately and not by public auction, and without any notice to any party whatever; that Gapasin turned over to the judgment creditor only the amount of P3,000.00, appropriating P300.00 for himself; and that at the time he carried out the execution in the manner just described, there was a standing administrative order issued by CFI Executive Judge Romeo N. Firme dated October 17, 1977, prohibiting him from exercising the duties of a deputy sheriff. The evidence further shows, indeed it is admitted by respondent Gapasin, that on the basis of these acts, he was prosecuted in the Sandiganbayan for a violation of the Anti-Graft and Corrupt Practices Act, convicted thereof, and sentenced to suffer imprisonment of at least four (4) years, with the accessory penalty of perpetual disqualification from public office, but without any declaration of forfeiture of benefits due him under the law.

A review of the record convinces us of the correctness of the findings of the Investigating Judge, as well as his

recommendation for the "dismissal of respondent Sancho G. Gapasin from the service with special perpetual disqualification from public office but without forfeiture of whatever benefits due him under the law by reason of his service." The non-forfeiture of benefits is justified by the fact that respondent may have acted under some mental or psychiatric aberration, as indicated by the above mentioned report of Dr. Tibayan, who had occasion to examine Gapasin.

WHEREFORE, the Court APPROVES the report and recommendation of the Investigating Judge and ORDERS THE DISMISSAL from the service of respondent Sancho G. Gapasin as Deputy Sheriff, without forfeiture of whatever benefits may be due him under the law by reason of his past services.

Teehankee, C.J., Yap, Fernan, Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, and Cortes, JJ., concur.

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