ATTY. ALEXANDER L. BANSIL, COMPLAINANT, VS. NELSON DE LEON, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 8, MANILA, RESPONDENT.

A.M. NO. P-05-2035 (FORMERLY OCA IPI NO. 04-1976-P). July 31, 2006

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative case is one for gross inefficiency, gross negligence, dereliction of duty, and gross ignorance of the law against Nelson de Leon, Sheriff III, Metropolitan Trial Court (MeTC), Branch 8, Manila, relative to Civil Case No. 161959-CV for ejectment entitled "Pilar Monroy Sandico v. Perla Bansil-Abuzo, et al." The charges are contained in the Complaint-Affidavit[1] filed by Atty. Alexander Bansil, one of the defendants therein.

The said case was decided in favor of the plaintiff on August 16, 1999.[2] Pending the appeal of the decision in the Regional Trial Court (RTC), the MeTC issued an Order[3] granting the motion of plaintiffs for execution pending appeal. Respondent Sheriff served the Notice to Vacate[4] and the Notice of Levy and Sale on Execution of Personal Properties.[5] According to the complainant, some of the properties included in the notices were under consignment from third persons. Complainant then filed a third-party claim[6] in behalf of these claimants, but respondent did not release the consigned goods. The respondent then issued a Notice of Sale at Public Auction,[7] setting the auction sale at 10:00 a.m. of December 3, 1999 at the MeTC compound.

According to the complainant, no public auction sale was conducted on the scheduled date. To support this allegation, he submitted the affidavit[8] of his wife, Betty Bansil, who was there to verify the conduct of the sale at public auction. Complainant also pointed out that the respondent did not submit a report to the MeTC on the purported sale, and that the RTC had not even been aware that an execution sale had already been conducted. Four years after the purported sale, the RTC issued an Order[9] dated April 23, 2003, worded as follows:

> This is by way of clarification or modification of the Order, dated April 11, 2003, directing the issuance of [a] writ of execution pursuant to Section 21, Rule 70 of the 1997 Rules of Civil Procedure. The record shows that in this appealed case, the [c]ourt of origin already issued the writ of execution, dated November 8, 1999 x x x and proceedings held thereon by Sheriff Nelson de Leon as shown by the notice to vacate, dated November 12, 1999, and notice of levy and sale on execution of personal property, dated November 12, 1999 x x x. Harmonizing said Section 21, Rule 70 with Section 14, Rule 39 of the same Rules, Sheriff Nelson de Leon of the Metropolitan Trial Court, Branch 8, should be required to make his returns or periodic reports to the [c]ourt issuing the writ of execution which is the [c]ourt of origin setting forth the whole of the proceedings taken and copies thereof promptly furnished the parties.[10]

According to the complainant, respondent still failed to submit his report on the proceedings taken. He only submitted a "Sheriff's Partial Return"[11] almost five years after the purported sale. The complainant insists that the report is unofficial and of doubtful origin because of its very late filing. Moreover, the documents attached to the return were not officially filed in court and do not form part of the record of the case. The complainant also

noted that the date of the alleged auction sale is different from the dates in the notices they previously received; in fact, they do not know the persons whose signatures appear in the notice which respondent claims to have served on the defendants.

In his Comment, the respondent denied the charges against him. He claimed that he did not conduct the auction sale on December 3, 1999 because complainant filed a Motion to Enjoin the Auction Sale on December 1, 1999. He again issued a Notice of Sale with copies served on the defendants on January 25, 2000. There being no third-party claim except the one signed by the complainant, he conducted the auction sale on February 1, 2000 as stated in the last Notice of Sale. The sale proceeded as scheduled, with the plaintiff emerging as the highest bidder. However, respondent offered no excuse for his failure to make periodic reports, "due to [his] honest belief that the case would be settled amicably and that plaintiff's only desire was to repossess the premises." He begged the "kind understanding" of the Court and promised not to commit the same mistakes.

The parties merely reiterated their allegations in the succeeding pleadings that they filed.

Pursuant to the recommendation of the Office of the Court Administrator, the case was referred to Executive Judge Antonio M. Eugenio, Jr., RTC, Quezon City, for investigation, report and recommendation.[12]

In his Report dated April 19, 2006, the Executive Judge opined that respondent's years of service as a Sheriff ought to have made him aware of the requirement of filing periodic reports under Section 14, Rule 39[13] of the Rules of Court. It was pointed out that respondent tried to justify his four-year delay in filing the Sheriff's return on his belief that "the parties would eventually settle their differences." According to the Executive Judge, "the intervening years from the time the writ of execution was issued and served, to the time respondent had to submit the requisite report, spell dereliction of duty in bold letters and for which respondent must suffer the corresponding penalty." Thus, the Executive Judge stated that respondent should be held administratively liable for his actuations, and recommended that he be meted a penalty of one (1) month suspension without pay.

The Court agrees that respondent is administratively liable.

The duties of the sheriff relative to the making of a return of the writ of execution were enumerated in Arevalo v. Loria:[14]

> It is mandatory for a sheriff to make a return of the writ of execution to the clerk or judge issuing it. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason or reasons therefor. The officer is likewise tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until judgment is satisfied in full or its effectivity expires.[15]

Thus, respondent Sheriff's failure to make a return of the writ of execution constitutes simple neglect of duty, which has been defined as the failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference.[16] Civil Service Commission (CSC) Memorandum Circular No. 19 classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.[17]

It must be stressed that sheriffs play an important role in the administration of justice, and as agents of the law, high standards are expected of them.[18] Being ranking officers of the court and agents of the law, they must discharge their duties with great care and diligence.[19] They should at all times show a high degree of professionalism in the performance of their duties as officers of the court.[20] Being at the grassroots of our judicial machinery, sheriffs are in close contact with the litigants; hence, their conduct should all the more maintain the prestige and the integrity of the Court.[21] It cannot be overstressed that the image of a court of

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justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee.[22] As such, the Court will not tolerate or condone any conduct of judicial agents or employees which tend to or actually diminish the faith of the people in the Judiciary.[23]

CONSIDERING THE FOREGOING, respondent Nelson de Leon is found GUILTY of simple misconduct, and is SUSPENDED for One (1) Month and One (1) Day. He is STERNLY WARNED that a repetition of the same or similar offense shall be dealt with even more severely.

SO ORDERED.

Panganiban, C.J., (Chairperson), Ynares-Santiago, Austria-Martinez, and Chico-Nazario, JJ., concur.

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[1] Rollo, pp. 1-7.

[2] Id. at 8-12.

[3] Id. at 13-14.

[4] Id. at 15.

[5] Id. at 16.

[6] Id. at 17-20.

[7] Id. at 21.

[8] Id. at 23.

[9] Id. at 24-26.

[10] Id. at 24.

[11] Id. at 38-39.

[12] Id. at 101-102.

[13] The provision reads:

Sec. 14. Return of writ of execution. - The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.
[14] 450 Phil. 48 (2003).

[15] Id. at 58.

[16] Philippine Retirement Authority v. Rupa, 415 Phil. 713, 721 (2001).

[17] Cañete v. Manlosa, 459 Phil. 224, 230 (2003).

[18] Llamado v. Ravelo, A.M. No. P-92-747, October 16, 1997, 280 SCRA 597, 606-607; Ignacio v. Payumo, 398 Phil. 51, 55 (2000).

[19] Magat v. Pimentel, 399 Phil. 728, 736 (2000).

[20] Andal v. Tonga, A.M. No. P-02-1581, October 28, 2003, 414 SCRA 524, 531.

[21] Cabanatan v. Molina, 421 Phil. 664, 674 (2001).

[22] Layosa v. Salamanca, 455 Phil. 28, 37-38 (2003).

[23] Philippine Bank of Communications v. Torio, A.M. No. P-98-1260, January 14, 1998, 284 SCRA 67, 77-78.

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