

OFELIA C. CASEÑARES, COMPLAINANT, VS. ARCHIMEDES D. ALMEIDA, JR., RESPONDENT.

A.M. No. P-00-1359 (Formerly A.M. No. OCA IPI 97-288-P). February 02, 2000

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

In a sworn letter-complaint dated November 28, 1996, Ofelia C. Caseñares charged Archimedes D. Almeida, Jr., Deputy Sheriff of the Metropolitan Trial Court, Navotas, Metro Manila, with "graft and corrupt practices and grave misconduct."

The letter-complaint alleged:

- That on April 11, 1996, at about 10:00 AM, I was accompanied by PERLITA J. RONQUILLO in going to the Municipal Hall of Navotas, Metro Manila to seek for an (sic) advice from Mr. Roman Gatbalete, an employee of the Metropolitan Trial Court, Navotas, Metro Manila regarding my problem on (sic) my house being occupied by Mr. Marcelo Aragon, Jr., who did not comply [with] the "KASUNDUANG PAG-AAYOS" executed between us before the Barangay Office;
- Thereat, we were able to talk to Mr. Roman Gatbalete, and instead he referred us to Mr. Jun Alme[i]da, an alleged Sheriff of the said court;
- That I and Perlita J. Ronquillo were able to talk with Mr. Jun Alme[i]da who was also present at that time in the said office. Thus, I presented my problem to him. After presenting my problem to him on (sic) my house, Jun Alme[i]da asked from me the amount of TWO THOUSAND (P2,000.00) PESOS, since according to him, "SIGI AKO NA ANG BAHALA DOON AT PAPAALISIN NATIN ANG NAKATIRA DOON AT IPAPADLAK KO ANG BAHAY NA IYON." [1];
- That I told Jun Alme[i]da that I have only Five Hundred (P500.00) Pesos only (sic) in my possession. However, Jun Alme[i]da told me to give him the said money which I did, and I told him to (sic) give the balance later on;
- That after I handed the money to Jun [A]lme[i]da, he told me that he will be going to the questioned premises at 2:00 PM for ocular inspection, which he did. I met Jun Alme[i]da at my house (questioned premises) wherein, Jun Alme[i]da also saw Mr. Marcelo Aragon, Jr. Afterwards, Mr. Jun [A]lme[i]da told me as follows. "SIGI PUMUNTA KA NA LANG DOON SA OPISINA NGAYONG LUNES TUNGKOL SA ATING USAPAN." [2];
- That on April 15, 1996, I was again accompanied by Perlita J. Ronquillo in going to the Municipal Hall of Navotas, Metro Manila. Thereat, I and Perlita Ronquillo saw Jun Alme[i]da, and he told us to follow him in the courtroom. In the courtroom, Jun Alme[i]da told me in this manner, "O AKIN NA 'YONG KABUUHAN NA HINIHINGI KO SA IYO PARA MAGAWA NA IYON." [3] After that, I handed the ONE THOUSAND FIVE HUNDRED (P1,500.00) PESOS to Jun Alme[i]da, and then he let me sign a paper, which according to him, "ITO NA IYONG PAPEL NA IPAPASOK NATIN SA JUDGE PARA SESEREPIN NA SI MARCELO." [4]

- That however, I was greatly surprised after several days when I made a follow up of my case with Jun Alme[i]da, he would no longer entertain me, instead I saw Jun Alme[i]da having a lively talk with Mr. Marcelo Aragon and nothing happened in my case up to the present."[5]

In his Comment,[6] however, respondent Almeida stated that during the preliminary investigation of the case, both parties were able to reach an amicable settlement through the initiative of Public Prosecutor Bonifacio A. Sison. This was evidenced by the Sworn Affidavit of Desistance by respondent, which indicated that she was withdrawing her charges against respondent. Said affidavit further averred that she was no longer interested in pursuing the case as it was merely brought about by an outburst of anger caused by a misunderstanding between her and respondent.[7]

Respondent further stated that the miscommunication was due to the fact that he was not able to fully explain to the complainant the procedural aspect of securing a writ of execution. He further explained that all he wanted was to serve and assist all litigants that come to him for assistance. That, in his twenty (20) years in the service, it is his first time to be placed in such a situation.[8] In his Supplemental Comment, respondent reiterated that the administrative case as well as the one filed before the Office of the Ombudsman were "already settled in principle way back before he was in receipt (sic) of the resolution by this Honorable Court, during the preliminary investigation conducted by Public Prosecutor Bonifacio Sison of Malabon Public Prosecutor's Office." [9] He once again presented complainant's affidavit of desistance stating that it was a gesture to prove that she had erroneously filed the charge against respondent and that the settlement was undertaken of her own free act without any monetary consideration.[10]

The case was referred to Executive Judge Benjamin Aquino Jr., of the Regional Trial Court of Malabon, for investigation, report and recommendation.

Before the investigating Judge conducted the hearing, respondent submitted his Comment to the Office of the Executive Judge pursuant to the latter's Order to aid in the initial investigation. In that Comment, respondent further elaborated on the incident which transpired between him and complainant. He explained that when complainant approached him regarding her problem, he told her the procedure and the steps necessary to enable her to evict Mr. Aragon from her house. When complainant asked him how much she would spend for the eviction of Mr. Aragon, he responded that she would have to wait for the writ of execution after she filed her motion for the issuance of said writ. Thereafter, at the instance of complainant, he handed to Mr. Aragon a copy of the Motion requesting for a Writ of Execution as well as the court order setting the hearing date thereof. Consequently, Mr. Aragon voluntarily vacated the premises.[11]

On the basis of the records, the investigating Judge established that apart from facts previously found, the respondent only received the amount of five hundred pesos (P500.00) from the complainant and that this money was used to pay another person who prepared the Motion for Execution. Parenthetically, with regard to the amount received, complainant gave contradictory statements. She had claimed in her affidavit that she gave the balance of one thousand five hundred pesos (P1,500.00) to the respondent, but retracted this later on during the hearing, and averred that after giving P500.00, she no longer gave the balance of the amount requested. The reason behind complainant's complaint was her irritation at the length of time it took for the motion for execution to be ready. The person then sought to be evicted eventually left the premises voluntarily, but not as a result of a court order.[12]

The investigating Judge likewise found that although money was personally received by the respondent, no material gain accrued in his favor because the money was used to prepare the Writ of Execution. In finding that there was no bad faith or malice present in the acts of the respondent, the investigating Judge emphasized that respondent had explained to complainant the procedure in securing a writ of execution. According to the

investigating Judge's findings, since respondent made it clear from the beginning that no portion of the money would redound to his benefit, the element needed to establish that there was misconduct and abuse of authority by the respondent, is lacking in this case. The investigating Judge therefore recommended that respondent be absolved of the charges against him.[13]

However, the investigating Judge's report did not end there. He found that there was impropriety committed by respondent for which he should be reprimanded. The impropriety happened when respondent received money from complainant even if his intentions were to implement a valid court order. In this regard, the investigating Judge opined that respondent should have refrained from receiving money from the complaint because he had the alternative of referring complainant to a counsel who could have prepared the necessary document for enforcing the "Kasunduang Pag-aayos".

The investigating Judge's recommendation reads:

"x x x he should be exonerated of the charges against him for lack of substantial proof of misdoing, [nevertheless,] respondent should be reprimanded for having a hand in complainant's legal problem when he should not have done so- thus exposing himself to the suspicion that for a consideration legal problems could be expedited by a court personnel." [14]

In its Memorandum the Office of the Court Administrator (OCA), adopted the findings of the investigating Judge, but disagreed as to the finding that respondent was totally in good faith. The OCA stated that a mere reprimand is too light a sanction. A portion of its recommendation stated:

"There is no doubt that respondent demanded and actually received money from a litigant. His allegation that the money was intended for a third person who would prepare the necessary documents does not inspire belief for the giver could have handed the money directly to that person and not through a court personnel, particularly a sheriff, who by the very nature of his functions, must at all times act above suspicion (*Lepanto Consolidated Mining Company vs. Melgar*, 256 SCRA 600). The fact that respondent received money from a litigant, even if intended to be given to another person, is enough basis for sanctioning him for grave misconduct.

Respondent's allegation that the settlement of the case was not for monetary consideration but that it stemmed from complainant's free act and deed is of no consequence, granting that such is the truth. Complainant's desistance from the case does not necessarily stop the proceedings in an administrative complaint. The Affidavit of Desistance by complainant cannot divest this Court of its jurisdiction to investigate and ascertain the truth of the matter alleged in the complaint against respondent. (*Roque vs. Grimaldo*, 260 SCRA 1)." [15]

Clearly, in our view, respondent failed to observe faithfully his duty as a sheriff. The implementation or execution of a writ issued by the court is purely ministerial, but circumspection and unsullied integrity are indispensable in the effective performance of his duty. Volunteering assistance in the facilitation of executing an agreement via acquisition of the necessary writ is already impermissible. He cannot show undue interest or partiality to a party. He should have known better than to go beyond the line between merely assisting to execute and actively working to acquire a court order. Respondent should not have accepted money from the party- complainant. In the first place, therein involved was not the actual execution of a writ. Further, even granting *arguendo* that this were part of the execution process, respondent should have waited for the money to be officially disbursed to him if indeed due or required for expenses. He should not go on accepting, much less requesting for it from a party to the case beforehand. To restate what should be of common knowledge to court personnel:

"The rule requires the sheriff executing the writs or processes to estimate the expenses to be incurred and upon the approval of the estimated expenses the interested party has to deposit the amount with the Clerk of Court and the Ex-officio Sheriff. These expenses shall then be disbursed to the executing Sheriff subject to his

liquidation within the same period for rendering a return on the process or writ. Any unspent amount shall be refunded to the party who made the deposit. xxx ."[16]

As a sheriff, respondent is bound to discharge [his] duties with prudence, caution and attention which careful men usually exercise in the management of their affairs. The sheriff, [who is] an officer of the court upon whom the execution of a final judgment depends, must be circumspect and proper in his behavior.[17]

With regard to the withdrawal of the complaint, we agree with the Court Administrator that this does not have the legal effect of exonerating the respondent from administrative disciplinary action. A complaint for misconduct and similar charges against a judicial or other public officer or employee cannot just be withdrawn at any time by the simple expediency of the complaint suddenly claiming a change of mind.[18] To rule otherwise would subvert fair and prompt administration of justice as well as undermine the discipline of court personnel.

WHEREFORE, as recommended by the OCA, we find respondent Archimedes Almeida, Jr., guilty of misconduct and hereby impose on him a fine of three thousand pesos (P3,000.00) with a stern warning that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and De Leon, Jr., JJ., concur.

[1] Translated into English as follows: "Okay, leave the matter to me and we will evict the tenants in that place and I will padlock that house."

[2] Translated into English as follows: "Okay, just proceed to the office this Monday regarding our agreement."

[3] Translated into English as follows: "Give me the balance of what I asked you so that I can get it done."

[4] Translated into English as follows" "This is the paper that we will hand over to the Judge so that I can enforce the writ on Marcelo."

[5] Rollo, pp. 2-3.

[6] Id. at 13-14.

[7] Id. at 15.

[8] Id. at 14.

[9] Id. at 20.

[10] Ibid.

[11] Rollo, p. 13.

[12] REPORT, p. 2.

[13] Id. at 3.

[14] Id. at 4.

[15] MEMORANDUM, p. 3.

[16] Bercasio vs. Benito, 275 SCRA 405, 411 (1997); See Revised Section 9 Rule 141 (second paragraph; effective November 2, 1990), Rules of Court.

[17] Evangelista vs. Penserga, 242 SCRA 702, 709 (1995); citing Eduarte vs. Ramos, A.M. P-94-1069, November 9, 1994.

[18] See Estreller vs. Manatad, Jr., 268 SCRA 608, 616 (1997)

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