

CLEMENTE SY, COMPLAINANT, VS. JAIME B. YERRO, RESPONDENT.

A.M. No. CA-94-7-P. February 08, 1996

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PER CURIAM:

On January 7, 1994, an affidavit-complaint was filed by complainant Clemente Sy charging respondent Jaime B. Yerro, an employee of the Court of Appeals, with grave misconduct, usurpation of official function and violation of Civil Service Rules and Regulations.

The complaint arose from the implementation of a third alias writ of execution dated November 22, 1993 issued by the Regional Trial Court, Branch 16, Manila in Civil Case No. 143810, pursuant to a judgment ordering the eviction of tenants at the House International Building at Ongpin Street, Sta. Cruz, Manila. Complainant is a tenant of said building and the President of the House International Tenants Association.[1]

Complainant alleges that on November 25, 1993, respondent appeared at the House International Building representing himself as a sheriff of the Regional Trial Court that issued the writ of execution. There, he posted notices of the said writ and served copies thereof on the tenants in said building. In the service of the writ, he purportedly kicked the doors of each unit, hurled invectives at the tenants and shouted "Mga putang ina ninyo!" and threatened them with forcible closure of their units.[2]

On December 2, 1993, the day of actual implementation of the writ, complainant brought along his lawyer, Atty. Victoriano Yabut, to the House International Building. At around noon, they saw Sheriff Abel Sta. Ana of the Regional Trial Court, Branch 16, Manila, and his team implementing the writ of execution. They also saw respondent who, according to them, harassed the tenants of the building, gave orders and acted "like a team leader" overseeing their eviction and the levying on their properties. Recognizing respondent as an employee of the Court of Appeals, Atty. Yabut and complainant approached the sheriff who informed them that respondent introduced himself as a representative of the Manila Towers Development Corporation, the alleged owner of the House International Building and one of the prevailing parties to the case. On instructions of Atty. Yabut, complainant took photographs of respondent.[3]

When Atty. Yabut confronted him, respondent admitted that he was an employee of The Court of Appeals but that he was on leave from the office that day. Atty. Yabut insisted that he had no business interfering with the implementation of the writ of execution, but respondent claimed he was the representative of the Manila Towers Development Corporation and was a relative of Atty. Antonino San Juan, counsel for said corporation. Respondent turned his back and continued harassing the tenants that day.

The events that transpired were witnessed by Sheriff Sta. Ana and the members of his team which included Patrolman Manolo Ricafort of the Western Police District, Barangay Captain Aida Magluyan and Barangay Secretary Fermina Valdez.[4]

On verification with the Court of Appeals, complainant learned that respondent was indeed a regular employee of said court with the position of Records Officer I assigned at the Criminal Cases Section of the Judicial Records Division. Respondent was officially absent on November 25, 1993 and on sick leave from December 2 to 3,

1993.[5]

In his Comment, respondent denied all allegations and claimed that it was complainant and his lawyer who instead harassed Sheriff Sta. Ana and "created scenes" to forestall the eviction and levy. Respondent alleged that he was at the ninth floor of the building awaiting the arrival of Atty. San Juan with whom he had a previous appointment.

Dominador Tamisen, a former employee of the Court of Appeals, arrived and informed respondent that Atty. San Juan requested him (Tamisen) to witness the implementation of the alias writ of execution. At this time, the eviction started and Tamisen invited respondent to wait for Atty. San Juan at the second floor of the building. Respondent proceeded to the said floor and found the sheriff and his team implementing the writ.[6] For no apparent reason however, Atty. Yabut approached respondent, berated and verbally abused him and even instructed complainant to take photographs of him (respondent) in the building.

In a Resolution dated January 18, 1995, we referred the complaint to the Clerk of Court of the Court of Appeals for investigation, report and recommendation. The parties and their respective witnesses were heard before the investigating officer who submitted her report on November 16, 1995. The investigating officer found respondent "guilty as charged" and that:

"x x x His conduct was evidently prejudicial to government service, a grave misconduct in violation of Presidential Decree No. 807 and Executive Order No. 292 as well as existing Civil Service rules and regulations.

WHEREFORE, it is hereby recommended that Yerro be suspended for a period of one (1) year, with a warning that a subsequent commission of a similar offense will warrant his dismissal from office."[7]

We agree with the findings of the investigating officer but hold to dismiss the respondent.

Respondent admits that he was at the House International Building when the alias writ of execution was being posted on November 25, 1993 and implemented on December 2, 1993. His claim that he was a mere silent observer awaiting the arrival of Atty. San Juan is self-serving and belied by the testimonies of complainant, Atty. Yabut and Patrolman Ricafort. Respondent had been seen and positively identified actively assisting Sheriff Sta. Ana posting the notices of eviction and actually evicting the tenants himself.[8] The testimonies of these witnesses are supported by the photographs of respondent showing him with a flashlight in hand walking around the building with the sheriffs team.[9] Clearly, respondent's denials cannot prevail over his positive identification.[10]

Although respondent admitted that he was at the said building on November 25 and December 2, he however denies his presence thereat on December 1, 1993 where he was allegedly at the Court of Appeals. To support his claim, he presented his time card indicating his entry at 7:50 A.M. and his departure at 6:38 P.M.[11]

The time card merely indicates the fact that respondent was at the Court of Appeals at the exact time stated therein, i.e., 7:50 A.M. and 6:38 P.M. It does not conclusively prove respondent's claim that he was physically present at his office the whole day of December 1, 1993. The Court of Appeals is not very far from Sta. Cruz, Manila and can be traversed by motor vehicle in a matter of minutes.

Even granting that he was at the Court of Appeals the whole day of December 1, 1993, the undisputed fact remains that respondent was seen at the House International Building engaging in the acts complained of on November 25 and December 2, 1993.

Respondent claims that Sheriff Sta. Ana's Partial Report shows the actual events that transpired in the

implementation of the writ. This report does not mention anything about him. As a document, it is clothed with the presumption of regularity and since it was not objected to by complainant, it must be upheld.

A Sheriffs Report is an official statement by him of his acts under the writs and processes issued by the court in obedience to its directive and in conformity with law.[12] In particular, it details the facts showing whether a writ of execution or attachment has been fully or partially executed, and lists down the properties that have been attached, garnished or levied, if any.[13] It does not usually state the irregularities accompanying the manner of execution.

On the assumption that he indeed actively participated in the enforcement of the writ, respondent claims that he is not liable for any breach of duty because he was on leave from the office on November 25, 1993 until December 2, 1993.

Applying for a sick leave[14] for a prolonged period of time when in fact he was physically up and about at the House International Building performing another activity makes respondent liable for dishonesty.[15] Respondent cannot claim that the acts complained of were done outside his work as a court employee. He deliberately misrepresented himself as a sheriff and an officer of another court and his acts constitute not mere dishonesty but a clear case of intervention. This practice of interfering in the proceedings of another court should not be tolerated for it would involve, directly or indirectly, respondent's official position when his office, the Court of Appeals, might eventually be called upon in case another litigation cannot be avoided.[16]

Respondent must be reminded that he is an officer of the court. The conduct and behavior of everyone connected with the dispensation of justice from the presiding judge to the lowliest clerk must always be beyond reproach and circumscribed with the heavy burden of responsibility.[17] His conduct must be characterized by propriety and decorum, always adhering to the high ethical standards demanded of court personnel to preserve the court's good name and standing.[18]

IN VIEW WHEREOF, respondent Jaime B. Yerro, Records Officer I, Court of Appeals is hereby DISMISSED for dishonesty and grave misconduct prejudicial to the best interest of the service, with forfeiture of all retirement benefits and with prejudice to reemployment in any national or local office of the government, including government-owned or controlled corporations.

SO ORDERED.

Narvasa, C. J., Padilla, Re ga/ado, Davide, Jr., Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Francisco, Hermosisima, Jr., and Panganiban, if., concur.

[1] Records, TSN of April 24, 1995, p. 4.

[2] Complaint, pp. 1-2; Rollo, pp.4-5.

[3] Exhibits "C", "C-1" to "C-9"; Rollo, pp. 19-21.

[4] Complaint, p. 4; Rollo, p. 7. .

[5] Complaint, p. 5; Rollo, p. 8; Exhibit "G"; Rollo, p. 26.

[6] Comment, pp. 3-5; Rollo, pp. 59-63.

[7] Report and Recommendation of the Investigating Officer, p. 12; Rollo, p. 104.

[8] TSN of March 9, 1995, pp. 10-14; TSN of April 6, 1995, pp.6,9, 19-20,27,33-34,39,41, 46-48, 51- 55; TSN of April 24, 1995, p. 15.

[9] Exhibits "C," "C-1" to "C-9"; Rollo, pp. 19-21.

[10] People v. Bello, 237 SCRA 347 [1994]; people v. Vivar, 235 SCRA 238 [1994].

[11] "Exhibit "G-2," Rollo, p. 27.

[12] Manual for Clerks of Court, Chapter VIII, Section D, Nos. 2[x], 3[b], pp. 158, 159 [1991].

[13] Eduarte v. Ramos, 238 SCRA 36 [1994]; BA Finance Corporation v. Court of Appeals, 229 SCRA 566, 570 [1994].

[14] Exhibits "G", "G-1", "G-3", "G-4"; Rollo, pp. 26 and 28.

[15] Redo v. Acuna, 221 SCRA 70, 73-74 (1993).

[16] cf. Llanes v. Borja, 192 SCRA 288, 294 [1990].

[17] Lacuata v. Bautista, 235 SCRA 290 [1994]; Francisco v. Springael, 139 SCRA 107 [1985].

[18] paredes v. Padua, 222 SCRA 81 [1993]; de Chavez v. Lescano, 139 SCRA 103 [1985].

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