

FLORENTINA DEANG, COMPLAINANT, VS. SHERIFFS ALLEN FRANCISCO S. SICAT AND DANIEL V. PANGAN, MUNICIPAL TRIAL COURT IN CITIES, ANGELES CITY, RESPONDENTS.*A.M. No. P-00-1423. December 10, 2004*

Ponente: YNARES-SATIAGO, J.

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In a Complaint-Affidavit dated August 14, 1998,[1] complainant Florentina Deang charged Judge Abelardo H. Santos of the Municipal Trial Court in Cities (MTCC) of Angeles City, Branch 1, with Gross Ignorance of the Law and Conduct Unbecoming of a Judge, and respondents Allen Francisco S. Sicat and Daniel V. Pangan, both Sheriff III of the MTCC of Angeles City, Branch 1, with Grave Misconduct. The charges all arose from Civil Case No. 97-3311 entitled Santos-Yllana Realty Corporation v. Florentina Deang, et al. for Ejectment with Damages.

Records show that complainant was the lessee of a stall in the Santos-Yllana Shopping Center which is owned by the Santos-Yllana Corporation (the Corporation). On August 11, 1997, the Corporation filed a case for Ejectment against the Spouses Deang before the Angeles City MTCC for non-payment of stall rentals.[2] The case was raffled to the court presided by Judge Abelardo H. Santos. On October 16, 1997, counsel for the Corporation filed a Manifestation with Motion to Approve Compromise Agreement alleging that the complainant executed a written proposal on how to meet her obligations, which proposal the Corporation approved through its counsel. It was likewise alleged that complainant promised in the proposal to pay the unpaid balance of her obligation on or before October 31, 1997, with the understanding that should she fail to do so, she will surrender and vacate the leased premises on November 1, 1997.[3]

On October 29, 1997, Judge Santos rendered judgment on the basis of the alleged Compromise Agreement executed by the parties, approving the agreement and rendering judgment according to its terms and conditions.[4] On January 16, 1998, the Corporation filed a Motion for the Issuance of a Writ of Execution. On February 2, 1998, complainant filed her Comment with Motion to Terminate the Case where she moved for the denial of the Motion for Execution on the ground that she has already completed paying her obligation. As proof, complainant attached receipts issued by the Corporation evidencing her payments.[5]

Notwithstanding this, however, Judge Santos issued an Order[6] dated February 20, 1998 finding that complainant still had unpaid obligation in the amount of P1,551.20 and granted the Motion for Issuance of Writ of Execution filed by the Corporation. The Writ of Execution was issued on February 23, 1998.[7] Complainant's counsel alleged that they received the Corporation's Reply only on the same day. They filed an Urgent Ex-Parte Motion for Reconsideration and to Quash Writ of Execution on February 25, 1998.

While the Writ was addressed to respondent Pangan, it was respondent Sicat who enforced the February 23, 1998 Writ and padlocked complainant's stall on February 27, 1998 upon the verbal instructions of Judge Santos. Complainant claims that respondent Sicat is a sheriff of the Regional Trial Court of Angeles City and not of the

MTC. However, on account of the pending Motion for Reconsideration filed by complainant, Judge Santos ordered the stall re-opened.

On June 3, 1998, Judge Santos denied the motion for reconsideration and ordered that the Writ of Execution be implemented.[8] Respondent Pangan enforced the Writ on June 5, 1998. Complainant averred that respondent Pangan's means of enforcing the writ was tainted with bad faith and malice considering that respondent Pangan earlier befriended complainant and offered to help her with the case. On June 5, 1998, respondent Pangan called her and told her to immediately close her stall and come to the courthouse. When complainant did as she was told, respondent Pangan and Sicat, together with a representative of the Corporation arrived, counter padlocked and nailed complainant's stall.

According to complainant, she pleaded with the Corporation to allow her to open her stall so that she could resume running her business. The Corporation allegedly agreed to do so if complainant will pay P15,000.00 representing the unpaid rentals. When complainant was ready to pay, the Corporation raised the amount to include the expenses allegedly incurred by Sheriff Sicat until the amount reached P50,000.00.

Complainant filed a petition for certiorari and prohibition with prayer for injunction and restraining order before the Regional Trial Court of Angeles City for the declaration of nullity of Judge Santos' order. Said case was filed on June 8, 1998 and was docketed as Civil Case No. 9070 entitled Deang v. Santos-Yllana, et al. On August 14, 1998, complainant filed her Complaint-Affidavit against Judge Santos and respondents Sicat and Pangan. She argued that the writ of execution was null and void because she has already paid all the rental arrearages, even including the attorney's fees of Corporation's counsel. She also alleged that she incurred actual damages since she had merchandise, documents, checks and other important items pertinent to her business detained inside the locked stall.

On November 9, 1998, then Court Administrator Alfredo Benipayo referred the complaint to Judge Santos and respondents Sicat and Pangan for their respective Answers. Respondent Sicat stated in his Answer that he is a sheriff assigned to the Office of the Clerk of Court of the MTCC of Angeles City. As such, he has no specific branch designation and upon order of any of the judges of the MTCC of Angeles City, he can implement writs and other processes of the courts. He claims that Judge Santos verbally instructed him to enforce the writ. When he arrived, complainant pleaded with him not close the stall. He told her that he must implement the writ and advised her to see the manager of the Corporation. Later the same day, upon learning that the representative of the Corporation had agreed on the terms proposed by complainant, Sicat re-opened the stall. Thus, Sicat denies any knowledge of the detention of complainant's goods since the stall was re-opened on the same day. Sicat also denies having asked or demanded money from the Corporation for the enforcement of the writ.

Respondent Pangan claimed that he acted in good faith in implementing the February 23, 1998 Writ of Execution on June 5, 1998 after complainant's motion for reconsideration was denied. He averred that the writ expressly provided for the collection of the back rentals, attorney's fees and litigation expenses, or a levy may be caused upon the goods and chattels of the defendants, except those exempt from execution. Thus, he acted within the bounds of his authority when he detained complainant's goods inside the stall since these were not exempt from execution. He added that to do otherwise would have been a dereliction of his duty to enforce the subject writ.[9]

In a Resolution dated September 6, 2000,[10] the Court dismissed the complaint insofar as Judge Abelardo Santos considering that in a Resolution dated May 26, 1999, Judge Santos was dismissed from the service for acts unbecoming a judge.[11] In the same resolution, the Court referred the case against respondents Sicat and Pangan to the Executive Judge of the MTCC of Angeles City.

On February 5, 2001, Executive Judge Aida E. Layug submitted her Report and Recommendation. As to

respondent Pangan, the investigating judge reported:

In implementing the Writ of Execution, Pangan disregarded the right of the complainant to withdraw her belongings inside the stall, consisting of clothing materials. He tricked the complainant when he called her over the phone to tell her to come and see him. He made sure that in closing the stall he would not encounter difficulties. The clothing materials that were detained inside could no longer be sold that resulted to damages to the complainant.

Pursuant to rules promulgated by the Civil Service, Pangan is guilty of oppression when he tricked the complainant to come and see him and when he detained the items inside the stall which resulted to damages, (Sec. 23-n).

He was further incompetent and insufficient in the performance of his duties, (Sec. 23-p).

...

For being oppressive, incompetent and inefficient in the performance of his duties, respondent Pangan is recommended suspended without pay from six (6) months and one (1) day to one (1) year.[12]

During the investigation, complainant presented before the investigating judge a schedule of Legal Fees Paid by Santos-Yllana Realty Corporation Re: Florentina Deang's Case. It shows among others the fees paid to respondent Sicat on various dates amounting to P5,300.00. It was earlier alleged in the complaint that respondent Sicat demanded this amount from the Corporation, which the latter in turn demanded from complainant. Executive Judge Layug stated in her report:

The undersigned is not convinced that the above amounts were not demanded and received by Sicat. In both his Answer and testimony, Sicat stated that the manager of Santos-Yllana is not dumb to give him the above amounts. He further stated that the accusation was made in retaliation to the closure of the stall.

The schedule (Exh. C) shows that even prior to the issuance and implementation of the Writ of Execution, Sicat was paid by Santos-Yllana the total amount of P3,300.00. For implementing the Writ on February 26, 1998, he was paid another P2,000.00. The other entries in the schedule show the expenses paid to the lawyers.

Writer therefore has no reason to doubt the integrity of the entries appearing in Exh. C.

The solicitations made by respondent Sicat on various occasions is improper and in violation of Rule XIV, Section 23(k) of the Civil Service Rules which provides:

SEC. 23 (k) Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value which in the course of his official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of his office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature. 1[st] Offense – Dismissal.

Pursuant to the aforequoted rule, Sheriff Allen Francisco Sicat is recommended dismiss[ed] from service.[13]

After noting the report and recommendation of Executive Judge Layug, the Court resolved to refer the case to the Office of the Court Administrator. On September 26, 2002, Deputy Court Administrator Jose P. Perez submitted his Memorandum, stating:

We partly agree with the finding of the Investigating Judge.

In the performance of his duty, respondent Sicat is deemed to know what should be done in the execution of the assailed writ. He is supposed to be guided by a set of laws and rules. Corollary, he cannot just simply

follow the alleged instructions of Judge Santos and use them as a refuge from administrative liability. He should have known that the verbal instructions of Judge Santos were not sufficient and that what he needed was a written order.

On the other hand, we cannot adopt the finding that respondent Sicat demanded and received sums of money from the complainant....

A cursory examination of Exhibit "C", however, reveals a glaring discrepancy in the entries. It is obvious that the first four (4) entries therein, representing payments of the alleged legal fees to respondent Sicat, were made sometime in 1995 and 1996 long before Civil Case No. 97-3311 was filed against the complainant on August 11, 1997. We find this absurd.

And even assuming that there is no such absurdity, the list cannot be made the sole basis for dismissal of respondent Sicat. It was not even signed by the alleged manager of the plaintiff Corporation nor was it attested to by the said manager in the investigation of the instant case. Clearly, before it can be given weight and merit, it must be presented in court and testified to by the manager who allegedly gave the money to respondent Sicat in exchange for the execution of the [writ]. Evidently, this was not done in the instant case.

On the other hand, respondent Pangan erred in implementing the writ for the second time because had he been careful in the performance of his duty he should have examined the records of the case and found out that the same had been implemented by respondent Sicat as in fact a return on the writ was already made by the latter.

Similarly, he also acted maliciously in denying the complainant at least three (3) working days to peaceably vacate the stall conformably to Section 10, Rule 39, of the Rules of Court.

IN VIEW OF THE FOREGOING, the undersigned respectfully submit to this Honorable Court our recommendations that both respondents be SUSPENDED for a period of SIX (6) MONTHS without pay and be sternly WARNED that a repetition of the same or similar act shall be dealt with more severely.[14]

We agree with the report and recommendation of the Deputy Court Administrator.

The issue for resolution is not the validity or nullity of the Writ of Execution issued by then Judge Santos. Complainant's action arose from the alleged irregularities and grave misconduct which attended the respondents' implementation of said writ in accordance with their sworn duties.

Sheriffs are ministerial officers. They are agents of the law and not agents of the parties, neither of the creditor nor of the purchaser at a sale conducted by him.[15] As such, sheriffs and deputy sheriffs must discharge their duties with due care and utmost diligence because in serving the court's writs and processes and in implementing the orders of the court, they cannot afford to err without affecting the efficiency of the process of the administration of justice. Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them.[16]

Both respondent sheriffs were remiss in their respective duties as officers of the court. Respondent Sicat implemented a writ of execution which was addressed to Sheriff Pangan. He insists that his actions were based on the alleged verbal instructions of Judge Santos. However, had he been prudent in the performance of his duties, he should have known that the judge's verbal instructions were not enough and that a written order was needed. Likewise, his testimony also proves that while Sheriff Pangan may have been unavailable to implement the writ on February 26, 1998, respondent Sicat does not know for certain whether Sheriff Pangan was likewise unable to serve the writ on the following day February 27, 1998. Per his testimony, respondent Sicat never bothered to ascertain the whereabouts of Sheriff Pangan on either of those dates.[17] Respondent Sicat also admitted under oath that he did not give complainant a Notice to Vacate her stall prior to implementing the writ nor did he make an inventory of the items in the stall upon actual closure.[18]

Respondent Pangan committed a similar infraction. He admits that in the implementation of a writ of execution they are guided by the Rules of Court which requires them to prepare a Notice to Vacate. Respondent avers that the requirement is “for preparation and humanitarian reason[s]”, that is, to notify the defendant and to prepare her so that she will have time to prepare to vacate. Under normal circumstances, a defendant is given five (5) days to vacate and thereafter, the writ shall be implemented. By his own admission, respondent failed to prepare such a notice in the case of complainant. He likewise failed to inquire whether or not there were still goods inside the stall.[19]

Respondents Sicat and Pangan, having been sheriffs for 11 years and 10 years respectively, ought to know the provisions Rule 39 of the Rules of Court, specifically:

Sec. 10. Execution of judgments for specific act. –

...

(c) Delivery or restitution of real property. – The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. (Emphasis supplied)

While the authority of a sheriff is broad, it is not boundless. He must be circumspect and proper in his behavior in the enforcement of judgments and judicial orders. He is required to perform the duties of his office without needless severity or oppression, as he is an agent of the law.[20] Respondents acted in a manner prejudicial to complainant’s rights. As a result, complainant suffered damages and the reputation of the judicial system is sullied by the isolated acts of a few.

Respondents’ office requires competence and efficiency to insure the public’s confidence in the administration of justice. The men and women who work in the judiciary must always act with propriety for the image of a court of justice is mirrored in the conduct of its personnel. Respondents should know that their actuations reflect adversely on the integrity and efficiency of the judiciary. The conduct of all those involved in the administration of justice – from the judge to the lowliest clerk – is circumscribed with the heavy burden of responsibility, accountability, integrity, uprightness and honesty.[21]

We have emphasized, time and again, the heavy burden and responsibility which the court officials and employees are mandated to observe, in view of their exalted positions as keepers of the public faith. Any impression of impropriety, misdeed or negligence in the performance of official functions must be avoided.[22] Public office is a public trust. All public officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty and efficiency.[23]

While respondents were charged with grave misconduct, however, they are guilty only of misconduct, which is any unlawful conduct on the part of a person concerned in the administration of justice prejudicial to the rights of parties or to the right determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. Civil Service Commission (CSC) Memorandum Circular No. 19 classifies misconduct 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.

WHEREFORE, premises considered, respondents Allen Francisco S. Sicat and Daniel V. Pangan, both Sheriff III of the MTCC of Angeles City, Branch 1, are found GUILTY of misconduct. Both are hereby SUSPENDED for a

period of six (6) months without pay, with a STERN WARNING that a repetition of the same or similar acts in the future will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 2-10.

[2] Id., pp. 12-17.

[3] Id., pp. 21-23.

[4] Id., pp. 19-20.

[5] Id., pp. 26-37.

[6] Id., p. 38.

[7] Id., pp. 90-91.

[8] Id., pp. 52-53.

[9] Id., pp. 86-88.

[10] Id., p. 102.

[11] Memorandum of Court Administrator Alfredo Benipayo dated August 4, 2000, Id., pp. 99-101.

[12] Id., p. 399.

[13] Id., pp. 400-401.

[14] Memorandum, pp. 4-5.

[15] *Sismaet v. Sabas*, A.M. No. P-03-1680, 27 May 2004.

[16] *Abalde v. Roque*, A.M. No. P-02-1643, 1 April 2003, 400 SCRA 210, 215, citing *Ignacio v. Payumo*, A.M. No. P-00-1396, 24 October 2000, 344 SCRA 169, 172.

[17] TSN, ALLEN FRANCISCO SICAT, 9 November 2000, Rollo, pp. 172-173.

[18] Id., pp. 178-179.

[19] TSN, DANIEL PANGAN, 30 October 2000, Rollo, pp. 146-151.

[20] *Castelo v. Florendo*, A.M. No. P-96-1179, 10 October 2003, 413 SCRA 219, 231.

[21] *Aquino, Jr. v. Miranda*, A.M. No. P-01-1453, 27 May 2004.

[22] *Obañana, Jr. v. Ricafort*, A.M. No. MTJ-04-1545, 27 May 2004, citing *Angeles v. Eduarte*, A.M. No. P-03-1710, 28 August 2003, 410 SCRA 40, 45.

[23] *Fernandez, Jr. v. Gatan*, A.M. No. P-03-1720, 28 May 2004; see also *Padua v. Paz*, A.M. No. P-00-1445, 30 April 2003, 402 SCRA 21.

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