

LUZITA ALPECHE, COMPLAINANT, VS. EXPEDITO B. BATO, SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 1, DUMAGUETE CITY, RESPONDENT.

A.M. No. P-02-1592 (formerly OCA IPI No. 01-1069-P). October 16, 2003

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

In a complaint-affidavit[1] dated March 13, 2001 filed with the Office of the Court Administrator (OCA), complainant Luzita Alpeche alleged that she is the plaintiff in Civil Case No. 2000-150 filed with the Municipal Trial Court in Cities at Dumaguete City against spouses Rommel and Corazon Artuz for a sum of money. On October 9, 2000, the court rendered its Decision ordering the defendants to pay her P22,900.00 plus interest at 12% per annum, computed from March 1, 2000 until fully paid. Upon the finality of the Decision, the trial court issued a writ of execution dated February 6, 2001. It was implemented the following day, February 7, by sheriff Expedito Bato, respondent. On that same day, he was able to collect P28,504.00 from the defendants, as shown by a handwritten receipt[2] signed by him. However, he did not immediately turn over to complainant the amount.

Complainant further alleged that on February 12, 2001, respondent asked from her the sum of P3,200.00 "as expenses for the execution of Civil Case No. 2000-150." [3]

On February 27, 2001, complainant came to know that the defendants delivered to respondent the sum of P28,504.00 as early as February 7, or ten (10) days earlier. So she reported the matter to Presiding Judge Antonio T. Estoconing who immediately confronted respondent. The latter promised to produce the money on March 2, 2001.

On March 6, 2001, respondent delivered the sum of P28,740.00 to Clerk of Court Joseph V. Tumacole who, in turn, turned it over to complainant that same day. However, according to her, the sum of P28,740.00 was not enough because the expense for the execution (or P3,200.00 earlier received by respondent) and cost of suit were not included."

In his comment dated May 18, 2001, respondent denied complainant's allegations, contending that his failure to deliver immediately to her the amount awarded by the trial court was due to an error in his computation of the monetary award which he would present to defendant Rommel Artuz; that the P28,504.00 he collected did not include P818.35, the lawful fee already paid by complainant in advance directly to the City Sheriff's Office; and that the correct amount to be collected from the defendants should be P29,558.35, broken down as follows: principal sum - P22,900.00; interest at 12% per annum from March 1, 2000 to February 7, 2001 - P2,748.00; attorney's fees - P2,500.00; cost of suit - P585.00; and lawful fees - P818.35.

He admitted that while he held in abeyance the delivery of the money, however, he turned over the total amount of P29,558.35 to the Clerk of Court on March 6, 2001. He also returned to complainant the sum of P3,200.00 as shown by a receipt she signed.[4]

In his Report, Court Administrator Presbitero J. Velasco, Jr. made the following evaluation:

"While respondent claims that the amount of P29,558.35 was received by complainant on March 6, 2001 and the amount of P3,200.00 was returned to her on April 10, 2001, it cannot be denied that there was indeed delay in doing so. The statement of respondent that he held in abeyance the delivery of the amount of P28,504.00 because it was not the correct computation is suspicious. He avers that the correct computation should have been P29,558.35, but it is doubtful that it took one month for respondent to collect the difference of P1,054.35 from defendants Artuz. Moreover, records show that defendants paid the interest at 12% per annum from March 1, 2000 until February 7, 2001, but from the documents received by this office, it shows that the decision states that the legal interest of 12% per annum must be computed from March 1, 2000 until completely paid.

"Pursuant to Section 9(a), Rule 39 of the Rules of Court, the executing sheriff is mandated to 'xxx turn over all the amounts coming into his possession within the same day to the Clerk of Court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality xxx.' The delay of respondent sheriff in turning over the amount received by him leads one to suspect that he misappropriated the same for his personal use.

"Furthermore, the contention of respondent that he returned the amount of P3,200.00 for publication expenses to complainant on April 10, 2001 constitutes misconduct. It shows that there was bad faith on the part of respondent because he returned the money to complainant only after the latter filed her complaint to this office."

On June 3, 2002, we issued a Resolution directing the parties to manifest whether they are submitting the case for decision on the basis of the pleadings and records already filed.

Only respondent submitted the required manifestation.

Section 9 (a), Rule 39 of the 1997 Rules of Civil Procedure, as amended, provides:

"Sec. 9. Execution of judgments for money, how enforced. - (a) Immediate payment on demand. -

x x x.

"If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality."

Likewise, Section 14 of the same Rules states:

"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 proceedings taken, and shall be filed with the court and copies furnished the parties." (Underscoring supplied)

The above provisions are clear and need no further elucidation.

We agree with the Court Administrator that the delay in the turnover of the money engenders suspicion that respondent malversed or misappropriated the same. In fact, on February 27, 2001, or ten (10) days after he

received the amount of P28,504.00 from complainant, he could not present it to the Presiding Judge who confronted him about the delay.

Immediate turnover of the payment is mandatory under Section 9 of Rule 39 quoted above. The Rule does not allow respondent sheriff to withhold the collected amount. As held in *Biglete vs. Maputi, Jr.*,^[5] the nature of a sheriff's duty in the execution of a writ issued by a court is purely ministerial.^[6] As such, respondent sheriff has the duty to perform faithfully and accurately what is incumbent upon him.^[7]

Respondent did not only fail to turn over the money to the Clerk of Court or to deposit it to the nearest government depository bank of the court. He also failed to return the writ of execution immediately after he received the payment from the defendants. As shown by the records, the writ of execution was issued on February 6, 2001, received by him the following day, February 7, 2001, and executed on that same day. Twenty (20) days after, still he had not yet turned over the money to the Clerk of Court or deposited in the bank. When Presiding Judge Estoconing confronted him on February 27, 2001, he merely promised to produce the money on March 2, 2001. He was able to deliver it to the Clerk of Court only on March 6, 2001.

By the very nature of their duties, sheriffs perform a very sensitive function in the dispensation of justice. Accordingly, their conduct must, at all times, be above suspicion.^[8] Respondent here did not only fail to deliver the money judgment to the Clerk of Court on time, but likewise he asked P3,200.00 from complainant on the pretext that the amount would be spent for the "publication of the writ" even after its execution. And when respondent delivered the sum of P28,740.00 to the Clerk of Court on March 6, 2001, he did not return outright the sum of P3,200.00 which was not spent.

Respondent's explanation why he incurred delay in remitting the money to complainant is bereft of merit. Obviously, computing the amount awarded by the trial court to complainant would not even entail one hour.

Clearly, respondent's actuations prejudiced the service and tarnished the image not only of the trial court, but the entire judiciary as well.

It bears stressing that the behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the clerk of lowest rank, should be circumscribed with a high degree of responsibility.^[9] Their conduct must, at all times, not only be characterized by propriety and decorum, but must also be above suspicion.^[10] A sheriff, such as herein respondent, is an essential officer in the judicial system. He performs delicate functions essential to the prompt and proper administration of justice.^[11]

We find respondent guilty of conduct prejudicial to the best interest of the service. Under Section 52, A(20), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,^[12] such offense is punishable by suspension for six (6) months and one (1) day to one (1) year for the first offense, as in this case.

WHEREFORE, respondent Sheriff Expedito B. Bato is declared guilty of conduct prejudicial to the best interest of the service and is hereby **SUSPENDED FOR SIX (6) MONTHS** without pay with a stern warning that a repetition of the same offense shall be dealt with more severely.

SO ORDERED.

Puno, J., (Chairman), Panganiban, and Carpio Morales, JJ., concur.
Corona, J., on leave.

[1] Rollo at 7-8.

[2] Exhibit "A", Rollo at 4, 9.

[3] Exhibit "B", id. at 5, 10.

[4] Exhibit "3", Rollo at 17.

[5] A.M. No. P-00-1407, February 15, 2002, 377 SCRA 1, citing Benitez vs. Acosta, A.M. No. P-01-1473, March 27, 2001, 355 SCRA 380; Portes vs. Tepace, A.M. No. P-97-1235, Jan. 30, 1997, 267 SCRA 185.

[6] Rene Espina and CDBPI vs. Juan A. Gato, A.M. No. P-02-1580, April 9, 2003, citing Ducat vs. CA, 322 SCRA 695 (2000); Renato Miguel Garcia vs. Pershing T. Yared, A.M. No. P-01-1492, March 20, 2003.

[7] Biglete vs. Maputi, Jr., supra, citing Remollo vs. Garcia, A.M. No. P-98-1276, Sept. 25, 1998, 296 SCRA 77.

[8] Id., citing Castro vs. Bague, A.M. No. P-99-1346, June 20, 2001, 359 SCRA 28.

[9] Albior vs. Auguis, A.M. No. P-01-1472, June 26, 2003, citing Lloveras vs. Sanchez, A.M. No. P-93-817, January 18, 1994, 229 SCRA 302, 307.

[10] Solidbank Corporation vs. Capoon, Jr., A.M. No. P-98-1266, April 15, 1998, 289 SCRA 9.

[11] Albior vs. Auguis, supra, citing Juntilla vs. Branch Clerk of Court Calleja, 330 Phil. 850, 855 (1996); Angeles vs. Bantug, A.M. No. P-89-295, May 29, 1992, 209 SCRA 413, 422-423.

[12] Promulgated by the Civil Service Commission (CSC) through Resolution No. 99-1936 dated August 31, 1999 and implemented by CSC Memorandum Circular No. 19, series of 1999.

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