

ANTONIO T. RAMAS-UYPITCHING JR., COMPLAINANT, VS. VINCENT HORACE MAGALONA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 46, BACOLOD CITY, RESPONDENT.

AM. No. P-07-2379 (Formerly OCA I.P.I. No. 03-1742-P). November 17, 2010

Ponente: PERALTA, J.

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PERALTA, J.:

Before this Court is an administrative complaint,[1] dated July 1, 2003, filed by complainant Antonio T. Ramas-Uypitching, Jr., manager of Ramas-Uypitching Sons, Inc. (RUSI) Marketing, against Vincent Horace U. Magalona, Sheriff IV of the Regional Trial Court, Branch 46, Bacolod City, Negros Occidental, for grave misconduct and gross dishonesty, relative to the execution of judgment in Civil Case No. 4657, entitled Spouses Ireneo and Mariles Geronca v. Powroll Construction Co., Inc., et al., where respondent levied three (3) motorcycles belonging to RUSI Marketing even if said company was never a party to the said case and, consequently, the actuation of respondent created a bad image on the company and affected its business dealings with suppliers, customers, and the public.

In his Affidavit[2] dated July 3, 2003, which was appended to the complainant's complaint, Juan Jan Abrasaldo, branch manager of RUSI Marketing, alleged that after a decision had been rendered by the trial court in Civil Case No. 4657 in favor of therein plaintiffs, respondent, on January 28, 2003, served a copy of the alias writ of execution upon RUSI Marketing and proceeded to levy its three motorcycles. According to Abrasaldo, after he protested the levy on the ground that RUSI Marketing was not a party to the case, respondent left the premises, but later came back with a police officer, so he was constrained to surrender the motorcycles to respondent.

In his Comment dated October 16, 2006, respondent countered that he merely performed his duties and responsibilities as court sheriff, pursuant to the Alias Writ of Execution dated January 7, 2003, which was issued in connection with Civil Case No. 4657, directing the satisfaction of the judgment against the properties of all the stockholders of therein defendant Powroll Construction Co., Inc. (Powroll). He averred that the three motorcycles, registered and owned by RUSI Marketing, were levied because the stockholders[3] of therein defendant Powroll were also the same stockholders of RUSI Marketing, as reflected in the latter's company records. He added that as a result of the implementation of the alias writ of execution, both parties had an out of court settlement and, consequently, therein plaintiff's counsel informed the trial court that judgment had been fully satisfied.

Complainant, in his Rejoinder (should be Reply) to Comment, dated November 6, 2006, maintained that the Alias Writ of Execution was directed only against therein defendant Powroll and its stockholders and, therefore, respondent acted beyond the scope of his authority when he levied RUSI Marketing's three motorcycles on the pretext that the stockholders of therein defendant Powroll and RUSI Marketing were the same. He argued that RUSI Marketing was a distinct and separate entity from therein defendant Powroll and, therefore, beyond the coverage of the Alias Writ of Execution. He stated that Abrasaldo never revealed company records of its branches to third parties and that RUSI Marketing only kept operations records, not the stockholders' record. He also said

that the out of court settlement was a private matter between the parties in the civil case and, therefore, irrelevant to the issue of respondent's acting beyond the scope of his authority.

The Office of the Court Administrator (OCA) found respondent guilty of grave misconduct for acting beyond the scope of his authority when he implemented the writ of execution on RUSI Marketing, which was not a party to the case, and recommended that the complaint against respondent be redocketed as a regular administrative complaint and that respondent, being a first-time offender, be suspended from the service for one (1) year with a stern warning that a repetition of the same or similar act shall be dealt with more severely in the future.

The OCA's recommendation should be modified, in view of the supervening event that respondent was already dismissed from the service during the pendency of this case.[4]

Sheriffs play an important role in the administration of justice and they should always hold inviolate and invigorate the tenet that a public office is a public trust. Being in the grassroots of our judicial machinery, sheriffs and deputy sheriffs are in close contact with the litigants; hence, their conduct should all the more maintain the prestige and integrity of the court. By the very nature of their functions, sheriffs must conduct themselves with propriety and decorum, so as to be above suspicion.[5] As such, they 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 and, as agents of the law, high standards are expected of them.[6] Respondent was remiss in the performance of his duty as an officer of the court as he failed to abide by what was ordained in the alias writ.

The duty of a sheriff to execute a valid writ is ministerial and not discretionary. When a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. He is supposed to execute the order of the court strictly to the letter.[7] The Alias Writ of Execution,[8] dated January 7, 2003, relative to Civil Case No. 4657, directed the respondent to enforce the Decision dated October 23, 1996 of the Court of Appeals against the named stockholders of therein defendant Powroll. Prudence dictates that he should have determined with reasonable certainty the specific properties of therein defendant Powroll which may be the proper subject of the levy on execution.

A sheriff has no authority to levy on execution upon the property of any person other than that of the judgment debtor. If he does so, the writ of execution affords him no justification, for such act is not in obedience to the mandate of the writ.[9] A sheriff oversteps his authority when he disregards the distinct and separate personality of the corporation from that of an officer and stockholder of the corporation by levying on the property of the former in an action against the latter only. A corporation is clothed with a personality separate and distinct from that of its stockholders, and that it may not be held liable for the personal indebtedness of its stockholders.[10]

Sheriffs, as officers of the court and agents of the law, are bound to use prudence, due care and diligence in the discharge of their official duties. Where rights of individuals are jeopardized by their actions, they may be properly fined, suspended or dismissed from office by virtue of this Court's administrative supervision over the judicial branch of the government.[11]

In *Del Rosario v. Bascar, Jr.*,[12] therein respondent deputy sheriff, in the process of enforcing the writ of execution of a decision ordering specific performance and payment of a fine of P2,000.00, made an unreasonable and unnecessary levy on three parcels of land. He allocated unto himself the power of the court to pierce the veil of corporate entity and improvidently assuming that since therein complainant was the treasurer of the corporation, they are one and the same. In the absence of malice on his part and prejudice caused to third party, respondent's explanation that he merely wanted to protect the interest of the prevailing parties over the subject lots

in controversy was taken into account and, accordingly, he was merely fined in the amount of P5,000.00. In *Booc v. Bantuas*,^[13] the Court imposed a fine of P5,000.00 on therein respondent who, despite being apprised by therein Presiding Judge that the sale should involve only the shares of stock, proceeded to auction the property belonging to the corporation based on the rationale that the levy on the property was impelled partly by ignorance of Corporation Law and partly by mere overzealousness to comply with his duties and not by bad faith or blatant disregard of the trial court's order. In *Sibulo v. San Jose*,^[14] a fine of P5,000.00 was imposed on therein sheriff for gross neglect in the performance of his duties when he failed to implement the writ of execution with reasonable dispatch.

During the pendency of this case, herein respondent was found guilty, in *Geronca v. Magalona*,^[15] of dereliction of duty for failure to observe the proper procedure under Section 9, Rule 141 of the Rules of Court in the collection of fees for his expenses from the party requesting the execution of a writ and, also, of grave misconduct and dishonesty for unlawfully collecting the P10,000.00 execution fee, refusal to surrender the proceeds of the auction sale, and failure to turn over the motorcycle keys to therein complainant despite repeated demands. Accordingly, respondent was dismissed from the service with forfeiture of all his benefits, except accrued leave credits, and disqualified from reemployment in any government agency, including government-owned or controlled corporations.

Respondent's dismissal from the service does not preclude his being adjudged administratively liable herein. Such fact does not render the present case moot.^[16] Despite being dismissed from the service, the Court, in certain cases, imposed a fine, i.e., P20,000.00^[17] and P40,000.00,^[18] against the erring court employee to be deducted from one's accrued leave credits.

Prescinding from the foregoing, the Court finds respondent guilty of violating Section 9 (b),^[19] Rule 39 of the Rules of Court, considered a less grave offense, when, instead of faithfully implementing the alias writ upon the properties subject of the writ therein defendant Powroll and its stockholders, he arrogated upon himself the authority to levy the three motorcycles belonging to RUSI Marketing, which was not even a party to the case. While respondent's defense, that he enforced the alias writ upon RUSI Marketing on the pretext that its stockholders are also the stockholders of therein defendant Powroll, may be regarded as an act done in good faith, yet the same is not totally acceptable. It may seem that the list of stockholders of both companies are the same, but such fact did not give respondent the blanket authority to undertake the levy on the properties of RUSI Marketing as the said company was not named as a defendant in Civil Case No. 4657 and there was no judgment rendered against it by reason of the cause of action by therein plaintiff against therein defendant Powroll. Moreover, RUSI Marketing is a separate entity from that of its stockholders and, therefore, its properties do not necessarily include the properties of its stockholders.

Section 53, Rule IV of the Uniform Rules on Administrative Cases in the Civil Service,^[20] provides that in the determination of the penalties to be imposed, mitigating, aggravating, and alternative circumstances attendant to the commission of the offense shall be considered. Applying this rule, since respondent is no longer a first-time offender (per A.M. No. P-07-2398,^[21] where he was dismissed from the service), such fact is considered an aggravating circumstance which warrants an increase of the P5,000.00 fine supposedly to be imposed on respondent and, corollarily, considering the good faith of respondent, treated as mitigating circumstance, which attended the irregular implementation of the subject alias writ, a fine of P20,000.00 is deemed appropriate, to be deducted from his accrued leave credits, if any. Should his accrued leave credits be not sufficient, then he is required to pay the amount of the fine directly to the Court.

WHEREFORE, respondent Vincent Horace Magalona, Sheriff IV of the Regional Trial Court, Branch 46, Bacolod City, is found GUILTY of violation of Section 9(b), Rule 39 of the Rules of Court. In view of

respondent's previous dismissal from the service, a FINE of P20,000.00 is instead imposed on him, to be deducted from his accrued leave credits, if sufficient; otherwise, he is ORDERED to pay the amount of the fine directly to this Court.

The Employees Leave Division, Office of Administrative Services of the Office of the Court Administrator, is DIRECTED to compute respondent's accrued leave credits, if any, and deduct therefrom the amount representing the payment of the fine.

SO ORDERED.

Carpio, (Chairperson), Nachura, Abad, and Mendoza, JJ., concur.

[1] Rollo, p. 1.

[2] Id. at 2-3.

[3] Segundo S. Ramas-Uypitching, Ernesto R. Ramas-Uypitching, Willis R. Ramas-Uypitching, Roberto R. Ramas-Uypitching, Sylvia R. Ramas-Uypitching, and Gina Ramas-Uypitching.

[4] Per verification, although the present A.M. No. P-07-2379 against respondent (then his first administrative offense) was filed prior to A.M. No. P-07-2398 (Ireneo Geronca v. Vincent Horace U. Magalona), however, the latter case was decided earlier on February 13, 2008. Respondent's Motion for Partial Reconsideration dated October 24, 2008, in A.M. No. P-07-2398, was denied with finality in the Court's Resolution of November 25, 2008.

[5][]Caja v. Nanquil, 481 Phil. 488, 518 (2004).

[6] Teodosio v. Somosa, A.M. No. P-09-2610 (Formerly OCA IPI No. 09-3072-P), August 13, 2009, 595 SCRA 539, 556.

[7] Sismaet v. Sabas, 473 Phil. 230, 239-240 (2004).

[8] Rollo, pp. 4-6.

TO: The Ex-Officio Provincial Sheriff of Negros Occidental or any of his lawful Deputies:

GREETINGS:

WHEREAS, a Decision dated September 6, 1993 had been rendered in the above-entitled case, the dispositive portion of which reads as follows:

WHEREFORE, finding the preponderance of evidence to be in favor of the plaintiffs, this Court renders judgment against the defendants who are jointly and severally ordered to pay plaintiffs the following:

- 1) P40,000.00 -- representing for actual damages for the repair of the truck;
- 2) P42,000.00 -- representing unearned income of the truck from September 17, 1987 to December, 1987;
- 3) P20,000.00 -- representing moral damages;
- 4) P5,000.00 -- exemplary damages;
- 5) P2,000.00 -- representing attorney's fees and P400.00 for every Court appearance;

and to pay the costs.

Defendants' counterclaims against plaintiffs are hereby dismissed for lack of merit.

Furnish copies of this Decision to counsels on record.

SO ORDERED.

Bacolod City, Philippines, September 6, 1993.

(Sgd.) ANITA AMORA-DE CASTRO
Presiding Judge

WHEREAS, the Fifteenth Division of the Court of Appeals rendered a Decision in the above-entitled case, the dispositive portion of which reads as follows:

WHEREFORE, the Decision of the Court a quo is AFFIRMED with respect to the defendants Powroll Construction Co., Inc. and Virgilio Roche only, the case is DISMISSED as against defendant Segundo Ramas Uypitching.

No pronouncement as to costs.

SO ORDERED.

(Sgd.) SALOME A. MONTOYA
Associate Justice

WE CONCUR:

(Sgd.) GODARDO A. JACINTO (Sgd.) MAXIMIANO C. ASUNCION
Associate Justice Associate Justice

WHEREAS, an Order dated February 23, 1998 was issued in this case, the dispositive portion of which reads:

Let Writ of Execution be issued in this case.

SO ORDERED.

Bacolod City, Philippines, February 23, 1998.

(Sgd.) EMMA C. LABAYEN
Presiding Judge

WHEREAS, on December 20, 2002, this Court issued an Order, the dispositive portion of which reads:

ACCORDINGLY, the Clerk of Court is hereby ordered to issue as Alias Writ of Execution to enforce the Decision in this case which has long become final and executory and which has remained unsatisfied up to this date. As prayed for, let an Alias Writ of Execution be issued against the following stockholders of the defendant Corporation with unpaid subscriptions, to wit:

1. Segundo S. Ramas-Uypitching
2. Ernesto R. Ramas-Uypitching
3. Willis R. Ramas-Uypitching
4. Roberto R. Rams-Uypitching
5. Sylvia R. Ramas-Uypitching
6. Gina N. Ramas-Uypitching

SO ORDERED.

Bacolod City, Philippines, December 20, 2002.

(Sgd.) GEORGE S. PATRIARCA
Presiding Judge

NOW, THEREFORE, you are hereby commanded to execute the Decision of the Court of Appeals dated October 23, 1996, in the manner and form prescribed by law and that you make your return of service to this Court with your proceedings indorsed thereon, within sixty (60) days after its receipt by you.

WITNESS THE HONORABLE GEORGE S. PATRIARCA, Presiding Judge of this Court, this 7[th] day of January, 2003 in the City of Bacolod, Philippines.

(Sgd.) Atty. DIALINDA C. DOMINGUEZ
Clerk of Court V

[9] Villareal v. Rarama, 317 Phil. 589, 598 (1995).

[10] Booc v. Bantuas, 406 Phil. 740, 744 (2001).

[11] Metro Manila Transit Corp. v. Santiago, 489 Phil. 1, 10 (2005).

[12] A.M. No. P-88-255, March 3, 1992, 206 SCRA 678.

[13] Supra note 10.

[14] A.M. No. P-05-2088, November 11, 2005, 474 SCRA 464, 471.

[15] A.M. No. P-07-2398 (Formerly OCA IPI No. 03-1621-P), February 13, 2008, 545 SCRA 1. Therein complainant, also therein plaintiff and judgment obligee in Civil Case No. 4657, entitled Spouses Ireneo and Mariles Geronca v. Powroll Construction Co., et al., filed an administrative complaint against therein respondent (also herein respondent) for wrongful implementation of the writ of execution.

[16] Narag v. Manio, A.M. No. P-08-2579, June 22, 2009, 590 SCRA 206, 213; OCA v. Cunting, A.M. No. P-04-1917 (Formerly A.M. No. 04-10-297-MTCC), December 10, 2007, 539 SCRA 494, 511; Sibulo v. San Jose, supra note 14.

[17] Narag v. Manio, supra. The Court imposed a fine of P20,000.00 on therein court interpreter for dishonesty and misconduct in soliciting money from therein complainant and for conduct unbecoming a court employee in recommending a private attorney to a prospective litigant and, after receipt of money, failed to fulfil her promise to cause the preparation of the petition.

[18] OCA v. Cunting, supra note 12. Therein Clerk of Court was fined P40,000.00 for gross neglect of duty, dishonesty and grave misconduct due to failure to return the missing court funds despite repeated demands.

[19] SEC. 9 -- x x x x

(b) Satisfaction by levy. - If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment oblige, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

[20] Civil Service Resolution No. 991936 dated August 31, 1999, effective September 27, 1999.

[21] See note 15.

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