

ADELIO C. CRUZ, COMPLAINANT, VS. QUITERIO L. DALISAY, DEPUTY SHERIFF, RTC, MANILA, RESPONDENT.

A.M. No. R-181-P. July 31, 1987

Ponente: FERNAN, J.

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FERNAN, J.:

In a sworn complaint dated July 23, 1984, Adelio C. Cruz charged Quiterio L. Dalisay, Senior Deputy Sheriff of Manila, with "malfeasance in office, corrupt practices and serious irregularities" allegedly committed as follows:

1. Respondent sheriff attached and/or levied the money belonging to complainant Cruz when he was not himself the judgment debtor in the final judgment of NLRC NCR Case No. 8-12389-91 sought to be enforced but rather the company known as "Quali-trans Limousine Service, Inc.", a duly registered corporation; and,
2. Respondent likewise caused the service of the alias writ of execution upon complainant who is a resident of Pasay City, despite knowledge that his territorial jurisdiction covers Manila only and does not extend to Pasay City.

In his Comments, respondent Dalisay explained that when he garnished complainant's cash deposit at the Philtrust bank, he was merely performing a ministerial duty. While it is true that said writ was addressed to Qualitrans Limousine Service, Inc., yet it is also a fact that complainant had executed an affidavit before the Pasay City assistant fiscal stating that he is the owner/president of said corporation and, because of that declaration, the counsel for the plaintiff in the labor case advised him to serve notice of garnishment on the Philtrust bank.

On November 12, 1984, this case was referred to the Executive Judge of the Regional Trial Court of Manila for investigation, report and recommendation.

Prior to the termination of the proceedings, however, complainant executed an affidavit of desistance stating that he is no longer interested in prosecuting the case against respondent Dalisay and that it was just a "misunderstanding" between them. Upon respondent's motion, the Executive Judge issued an order dated May 29, 1986 recommending the dismissal of the case.

It has been held that the desistance of complainant does not preclude the taking of disciplinary action against respondent. Neither does it dissuade the Court from imposing the appropriate corrective sanction. One who holds a public position, especially an office directly connected with the administration of justice and the execution of judgments, must at all times be free from the appearance of impropriety.[1]

We hold that respondent's actuation in enforcing a judgment against complainant who is not the judgment debtor in the case calls for disciplinary action. Considering the ministerial nature of his duty in enforcing writs of execution, what is incumbent upon him is to ensure that only that portion of a decision ordained or decreed in the dispositive part should be the subject of execution.[2] No more, no less. That the title of the case specifically names complainant as one of the respondents is of no moment as execution must conform to that directed in the

dispositive portion and not in the title of the case.

The tenor of the NLRC judgment and the implementing writ is clear enough. It directed Qualitrans Limousine Service, Inc. to reinstate the discharged employees and pay them full backwages. Respondent, however, chose to "pierce the veil of corporate entity" usurping a power belonging to the court and assumed improvidently that since the complainant is the owner/president of Qualitrans Limousine Service, Inc., they are one and the same. It is a well-settled doctrine both in law and in equity that as a legal entity, a corporation has a personality distinct and separate from its individual stockholders or members. The mere fact that one is president of a corporation does not render the property he owns or possesses the property of the corporation, since the president, as individual, and the corporation are separate entities.[3]

Anent the charge that respondent exceeded his territorial jurisdiction, suffice it to say that the writ of execution sought to be implemented was dated July 9, 1984, or prior to the issuance of Administrative Circular No. 12 which restrains a sheriff from enforcing a court writ outside his territorial jurisdiction without first notifying in writing and seeking the assistance of the sheriff of the place where execution shall take place.

Accordingly, we find Respondent Deputy Sheriff Quiterio L. Dalisay NEGLIGENT in the enforcement of the writ of execution in NLRC NCR Case No. 8-12389-91, and a fine equivalent to three [3] months salary is hereby imposed with a stern warning that the commission of the same or similar offense in the future will merit a heavier penalty. Let a copy of this Resolution be filed in the personal record of the respondent.

SO ORDERED.

Gutierrez, Jr., Feliciano, Bidin, and Cortes, JJ., concur.

[1] Antonio vs. Diaz, Adm. Matter No. P-1568, December 28, 1979, 94 SCRA 890, 893

[2] Pelejo vs. Court of Appeals, G.R. No. 60800, August 31, 1982, 116 SCRA 406

[3] Sulo ng Bayan, Inc. vs. Araneta, Inc., No. L-31061, August 17, 1976, 72 SCRA 347, 354-355

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