

THE COURT ADMINISTRATOR, COMPLAINANT, VS. DANILO G. REYES, RESPONDENT.

Adm. Matter No. P-2781. April 27, 1984

Ponente: DE CASTRO, J.

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DE CASTRO, J.:

Pursuant to the resolution of the Court En Banc dated March 12, 1981, and on the basis of the letter dated February 15, 1982 of Presiding Justice Manuel R. Pamaran, Sandiganbayan, informing this Court of the filing of a Criminal Information[1] against Danilo Reyes, Deputy Sheriff of the Court of First Instance of Rizal, Branch XXI, Pasig, the Court Administrator charges respondent Reyes with Serious Misconduct for his failure to comply with the lower court's order to set the auction sale of the levied properties of one Romeo B. Castillo, defendant in Civil Case No. 31497, entitled, "Mila O. Tiongson vs. Romeo B. Castillo," for a Sum of Money With Prayer for a Writ of Preliminary Attachment.

Respondent in his comment, states that his noncompliance with the court's order was due to the fact that he had already returned the levied properties to the defendant for he believed that he overlevied upon defendant's properties and that he arrived at this conclusion when plaintiff's counsel told him that the Toyota Tamaraw was more than enough to satisfy the judgment debt. Another reason advanced by respondent for releasing the properties in custody was that plaintiff reneged on his promise to pay the storage fee in the bodega of a nearby restaurant since the Sheriff's Office has no bodega where he could keep the levied properties safely.

Acting Executive Judge Rizalina Bonifacio Vera, who investigated the incident, submits[2] that she finds no evidence to sustain the Administrative Charge against respondent as the latter would not have been able to comply with the Court's Order of July 10, 1981 because the properties levied upon were already released to defendant after a little over a week from the date of the levy on June 3, 1981. Judge Vera further averred that the act of respondent cannot possibly constitute serious misconduct as provided for by law specially in the light of the contention of respondent that the release of the properties was on account of the advice of Atty. Domingo, counsel for plaintiff Tiongson, who could have denied the claim of respondent but chose not to refute the same; and that the execution of plaintiff of an affidavit of desistance[3] on October 20, 1981 militates against finding respondent guilty of serious misconduct. The dismissal of the charge against Reyes was recommended by the Investigator.

Acting Court Administrator Arturo Buena agrees with the findings and recommendation of Judge Vera and in addition, he recommends that the payment of respondent's back salaries from the time he was suspended pendente lite by the Sandiganbayan on June 2, 1982 up to and during the pendency of this case, be authorized.

However, respondent acted improperly in releasing the properties to defendant without asking permission from the court, considering there was no undue injury caused to plaintiff, and that there was no unwarranted benefit of advantage given to defendant, such actuation by itself cannot possibly constitute serious misconduct since he appeared to have done the same not in bad faith. The report and recommendation of Judge Vera is too lenient.

ACCORDINGLY, the respondent Danilo G. Reyes deserves a warning, as he is hereby warned to be more

prudent in the discharge of his duties. However his back salaries during the period of his suspension may be authorized, since he was acquitted by the Sandiganbayan which ordered his suspension.

SO ORDERED.

Makasiar, (Chairman), Concepcion, Jr., Guerrero, and Escolin, JJ., concur.

Aquino and Abad Santos, JJ., no part.

[1] p. 2, Rollo.

[2] pp. 126-133, Rollo.

[3] p. 108, Rollo.

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