

PRIMO SAN PEDRO, COMPLAINANT, VS. ATTY. FLOR F. RESURRECCION, PROVINCIAL SHERIFF OF MALOLOS, BULACAN, RESPONDENT.

Adm. Matter No. P-888. April 16, 1982

Ponente: GUERRERO, J.

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GUERRERO, J.:

This is an administrative complaint filed by complainant, Primo San Pedro, against respondent Provincial Sheriff, Atty. Flor F. Resurreccion of Malolos, Bulacan, for alleged "neglect of duty".

The records disclose that complainant on November 4, 1974 filed Civil Case No. 4558-M with the CFI of Bulacan, and correspondingly paid the sheriff's fees under Official Receipt Nos. 9094375, 9094376, and 9094377. Despite payment of the requisite sheriff's fees and corresponding summons having been issued to the defendant, the same was not served by the office of the Provincial Sheriff up to the filing of this administrative complaint on December 20, 1974.

In his comment,[1] respondent sheriff claims that the neglect of duty for not serving the summons was not his fault but the fault of Deputy Sheriff Renato Valerio, who was assigned to serve the summons to the defendant. He alleges that Mr. Valerio left the country for Canada in 1975 without obtaining clearance from his office and without making the necessary turnover of the pertinent court processes under his (Valerio) custody and responsibility including the summons issued in Civil Case No. 4558-M.

Executive Judge Roque Tamayo of the Court of First Instance of Bulacan to whom this case was referred for investigation, report and recommendation, scheduled twice a formal investigation. On those two occasions, complainant Primo San Pedro failed to appear despite due notice. Thus, the Executive Judge recommended dismissal of the complaint in view of complainant's lack of interest to prosecute his case.

The fact that complainant had lost interest in prosecuting the case does not warrant the dismissal of the instant case. The records alone provide a sufficient basis for the determination of respondent's administrative liability.

The tenor of respondent's comment is to impress this Court that since a deputy sheriff was assigned to serve the summons in Civil Case No. 4558-M, he is no longer responsible for the acts of his deputy.

Respondent Sheriff is in error. The duty to serve writs, execute all processes and carry into effect all orders issuing from the court is primarily assigned to the sheriffs. While this duty may be delegated by the sheriffs to their deputies, sheriffs are not relieved of responsibility from their duty to execute and serve promptly writs and other court processes. Hence, despite due delegation or assignment thereof, sheriffs still retain their responsibility and are duty-bound to supervise and see to it that these court processes are served and returned to the issuing court with reasonable celerity and promptness. In the instant case, if respondent sheriff was not negligent of his duty to exercise close and strict supervision over his deputy, the failure of the service of summons could have been avoided.

Besides, this Court is not unmindful that the same respondent, Flor Resurreccion, was already admonished in a previous resolution[2] "to exercise a closer and stricter supervision over the process-servers under him so as to avoid a repetition of delayed returns of service." Notwithstanding this previous admonition, respondent was again remiss in the performance of his official function which interfered with, impeded, or obstructed the processes of the Court resulting in a setback in the administration of justice.

WHEREFORE, IN VIEW OF THE FOREGOING, respondent Provincial Sheriff Flor F. Resurreccion is hereby suspended for a period of one (1) month without pay, with a stern warning that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Teehankee, Acting C.J., (Chairman), Makasiar, Fernandez, Melencio-Herrera, and Plana, JJ., concur.

[1] Rollo, p. 10.

[2] Martiniano de la Cruz vs. Provincial Sheriff of Bulacan, 54 SCRA 398.

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