

GREGORIO CUNANAN, COMPLAINANT, VS. HENRY TUAZON, DEPUTY SHERIFF, RTC, BRANCH 57, ANGELES CITY, RAFAEL ROSARIO, DEPUTY SHERIFF, RTC, BRANCH 59, ANGELES CITY, RESPONDENTS.

A.M. No. P-93-776. October 07, 1994

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/fc3b0328cc7f/>

PER CURIAM:

In a verified complaint[1] dated December 8, 1992, Gregorio Cunanan charges Deputy Sheriffs Henry Tuazon and Rafael Rosario, Regional Trial Court of Angeles City, Branch 57 and 59, respectively, for serious misconduct and serious irregularity in the performance of official duties, in connection with the execution of the decision based on a compromise agreement rendered in Civil Case 6567 entitled "Gregorio Cunanan v. Elpidio Lakandula" by the RTC, Branch 57, Angeles City.

Specifically, complainant alleges that Deputy Sheriff Henry Tuazon of RTC, Angeles City, Branch 57, assisted by Deputy Sheriff Rafael Rosario of RTC, Angeles City, Branch 59, levied on a real property of defendant Elpidio Lakandula situated in Cubao, Quezon City pursuant to a writ of execution issued on January 10, 1992 of the final and executory decision of June 5, 1991; that despite complainant and counsel's repeated demands (final demand made on November 24, 1992), to cause the sheriff's sale of the levied property after several assurances from respondents sheriffs that they would issue a notice of sheriff's sale, his counsel was informed that respondent Tuazon was about to cancel the levy made on the property prompting them to make representations with the Register of Deeds to deny the cancellation of the levy; that from the documents furnished them, it turned out, however, that the notice of levy on execution was cancelled by respondent Tuazon on August 18, 1992 under Entry No. 1350 without the knowledge of the plaintiff, herein complainant, and the RTC of Angeles City, Branch 57 and by virtue of said cancellation, as per Entry No. 2561, the property was sold by defendant Lakandula to Republic Broadcasting System (RBS) for P10.5 million on August 24, 1992 and title thereto was consolidated in the latter's name on August 26, 1992; that upon scrutiny of the records of Civil Case 6567, complainant's counsel found out that there was no sheriff's return or report on the action taken on the writ of execution; that eight (8) days after the cancellation of the levy, or on August 26, 1992 (also the date when the levied property was registered in the name of RBS), respondent Tuazon issued another notice of levy on execution on the said property either to mislead the complainant that the levy was filed late and is already moot and academic, or as a rectification of the action taken on August 18, 1992.

Complainant claims that respondents committed acts, not only unbecoming a court employee, but also committed fraud and misrepresentation injurious and prejudicial to him. He points out that after receiving several millions of pesos from the RBS-GMA 7 out of the negotiated sale, defendant Lakandula has not paid a single centavo on the judgment debt in Civil Case No. 6567.

Respondents were required to comment on the complaint but the resolution[2] of this Court dated February 3, 1993 mailed to Deputy Sheriff Tuazon was returned unserved, from information furnished by Lorenzo M. San Andres, Officer in Charge of the RTC of Angeles City, Branch 57 in his letter[3] dated March 3, 1993, allegedly because respondent's wife refused to receive the same and that respondent himself was on leave.

In his comment,[4] respondent Deputy Rafael Rosario denied participation in the non-reporting and non-return of the writ of execution to the court of origin and averred that he did not materially benefit from the registration of the notice of levy on execution, much less the cancellation thereof. He claims that his only participation was to assist Deputy Sheriff Tuazon in the preparation of the notice of levy on execution, approach the complainant for registration expenses in connection therewith and relayed information to complainant and counsel on the fact of registration on February 27, 1992.

In the resolution[5] of August 16, 1993, the Court dispensed with the comment of Deputy Sheriff Tuazon and referred the case to the Executive Judge of Angeles City for investigation, report and recommendation.

At the hearings conducted by Executive Judge Carlos D. Rustia of the RTC of Angeles City on October 1, 8 and 15, 1993, complainant, his counsel and witnesses, and respondent Deputy Sheriff Rosario appeared. Respondent Deputy Sheriff Tuazon, on the other hand, never appeared at any of the scheduled hearings.

The facts, as found by the investigating judge, are as follows:

Complainant Gregorio Cunanan, plaintiff in Civil Case No. 6567 before the RTC of Angeles City, Branch 57, obtained a judgment dated June 5, 1991 in his favor ordering defendant Elpidio Lakandula to pay herein complainant the amount of P430,000.00 on installment basis. Upon finality of the decision, a writ of execution was issued directing Deputy Sheriff Henry Tuazon to enforce the said writ of execution.

Deputy Sheriff Tuazon caused a levy on execution to be annotated in a real property of Elpidio Lakandula (TCT No. RT-57150) in the Registry of Deeds of Quezon City. Despite several requests by complainant to cause the execution sale of the levied property and assurances that he would do so, Deputy Sheriff Tuazon never scheduled the auction sale. In a communication dated November 24, 1992, complainant called the attention of Deputy Sheriffs Henry Tuazon and Rafael Rosario for their failure to schedule the sale with warning that if they fail to do so within five (5) days from receipt of his communication, legal steps would be taken against them.

It turned out, however, that Deputy Sheriff Tuazon, without notice to complainant nor obtaining authority from the Presiding Judge of RTC, Branch 57, requested the Register of Deeds of Quezon City to cancel the levy on execution in TCT No. RT-57150 by virtue of a certificate of full payment allegedly issued by complainant in favor of Elpidio M. Lakandula.[6] On August 18, 1992, the levy on execution was cancelled.

Thereafter, Elpidio M. Lakandula sold TCT No. RT-57150 to the Republic Broadcasting System, Inc. (RBS) which secured a new title, TCT No. 65620, in its name, thus cancelling TCT No. RT-57150 of Elpidio Lakandula.

The testimonies of Edgardo Panlilio, manager of Prudential Bank, Angeles City, and Ronilo B. Garcia, deposit bookkeeper of Interbank in Angeles city, revealed that a check was issued by Elpidio Lakandula in the amount of P494,000.00 drawn against his account at Interbank in Angeles City, which Deputy Sheriff Tuazon deposited in his (Tuazon) account with the Prudential Bank in Angeles City. The said check was subsequently dishonored.

Aggrieved, complainant filed the instant administrative complaint against Deputy Sheriffs Henry Tuazon and Rafael Rosario with this Court. He also filed another complaint against both respondents before the Office of the Special Prosecutor of the Ombudsman for violation of Section 3(a) and (b) of Republic Act No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act and Article 171, paragraphs (2) and (4) of the Revised Penal Code.

The investigating judge, on the basis of the evidence presented found in his Report and Recommendation[7] dated December 1, 1993, more than sufficient evidence that Henry Tuazon is guilty of serious misconduct and serious irregularity in the performance of his official duties as Deputy Sheriff of Branch 57 of the RTC of Angeles City

and recommended his dismissal from the service with prejudice to re-employment in any national or local government office or agency and forfeiture of all retirement benefits that may be due him.

In the case of Deputy Sheriff Rafael Rosario, the investigating judge found that no convincing evidence was presented by complainant to prove that Deputy Sheriff Rosario participated and/or conspired in the acts or omissions of Deputy Sheriff Henry Tuazon which led to the filing of the instant administrative complaint against them. Quoting the testimony of complainant, to wit: "Rafael Rosario is only the assisting sheriff and I found out that he has nothing to do with the cancellation of the levy on execution by Henry Tuazon," he recommended the exoneration of Deputy Sheriff Rafael Rosario.

The Court agrees with the findings and recommendation of the investigating judge.

In the case of *Moya v. Bassig*[8] which involves an administrative complaint against the Deputy Sheriff of the then CFI of Pasig, Branch XXI for his failure to sell at public auction personal properties levied by him under a writ of execution, the Court dismissed from the service said respondent deputy sheriff with forfeiture of all retirement benefits, emphatically stating, thus:

"It is undisputable that the most difficult phase of any proceeding is the execution of judgment. Hence, the officers charged with the delicate task of the enforcement and/or implementation of the same must, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the administration of justice; otherwise, the decisions, orders or other processes of the courts of justice and the like would be futile. Stated differently, the judgment if not executed would be just an empty victory on the part of the prevailing party."

Indeed, as found by the investigating judge, after causing the annotation of the levy on execution on the property of Elpidio M. Lakandula covered by TCT No. RT-57150 on February 26, 1992, he never took any step to conduct the auction sale of said levied property despite several requests by the complainant and his assurances to do so. The writ was issued to respondent Tuazon on January 10, 1992. Under Section 11 of Rule 39 of the Revised Rules of Court, respondent Deputy Sheriff Tuazon is duty-bound to make a return of the writ of execution on the clerk or judge issuing it not less than 10 days nor more than sixty (60) days after receipt. The duty of the sheriff under Section 11, Rule 39 is mandatory.[9]

Section 11, Rule 39 of the Rules of Court provides:

"SEC. 11. Return of writ of execution. - The writ of execution may be made returnable, to the clerk or judge of the court issuing it, at anytime not less than ten (10) nor more than sixty (60) days after its receipt by the officer who must set forth in writing on its back the whole of his proceedings by virtue thereof, and file it with the clerk or judge to be preserved with the other papers in the case. A certified copy of the record, in the execution book kept by the clerk, of an execution by virtue of which real property has been sold, or of the officer's return thereon, shall be evidence of the contents of the originals whenever they, or any part thereof, have been lost or destroyed."

In the instant case, respondent Deputy Sheriff Tuazon allowed the 60-day lifespan of the writ of execution to lapse without making a return of the writ to the judge or clerk issuing it when he is required to set forth in writing at the back thereof the whole of his proceedings by virtue of said writ. A finding that he was remiss in the performance of his duty is thus proper under the attendant circumstances. In *Custodio v. Fulinara*,[10] the Court dismissed from the service with prejudice to re-employment in any branch of the government the Deputy Provincial Sheriff of Zambales for failure to effect the immediate enforcement of the writ of execution referred to him by the complainant and to make a return of the writ and for collecting the amount of P500 allegedly for the expenses of publication of the auction sale which he did not return when the publication did not materialize.

While there may be cases[11] decided by this Court where a penalty less severe than dismissal from the service was imposed for failures to enforce with immediate dispatch the writ of execution and to make a return of the writ pursuant to Section 11, Rule 39 of the Rules of Court, the peculiar circumstances in the instant case which caused undue injury to the rights of complainant as a judgment creditor warrant the more severe penalty of dismissal from the service of respondent Deputy Sheriff Tuazon. In the case at bench, respondent Deputy Sheriff Tuazon, without notice to complainant and without obtaining authority from the Presiding Judge of RTC, Branch 57 of Angeles City, requested the Register of Deeds of Quezon City to cancel the annotation of the levy on execution on the levied property (TCT No. RT-57150). By virtue of the cancellation of the levy on execution on TCT No. RT-57150 on August 18, 1992, Elpidio Lakandula, judgment debtor in Civil Case No. 6567, was able to sell on August 24, 1992 the said real property to Republic Broadcasting System, Inc. to the prejudice of the herein complainant and to the unwarranted benefit of Elpidio Lakandula. Worse, respondent Tuazon issued another notice of levy on execution on the said real property on August 26, 1992 which obviously was intended to mislead complainant that the notice of levy was filed late or before the date of the negotiated sale of the levied property.

The misconduct of respondent Tuazon is further compounded by the ample evidence found by the investigating judge that he was offered monetary consideration by Elpidio M. Lakandula which he accepted. Exhibits "J", "K" and "N" show that a check was issued by Elpidio M. Lakandula in the amount of P494,000.00 which respondent Tuazon deposited in his personal account at the Prudential Bank of Angeles City Branch. It must be noted that the judgment debt of Elpidio M. Lakandula is only P430,000.00. The difference of P64,000 between Lakandula's judgment debt of P430,000 and the amount of P494,000 in the Interbank check was intended for the benefit of respondent Tuazon for his acts and omission which made possible the sale of the real property to RBS.

The attention of this Court has been called to the despicable practice of some officers charged with the execution of judgment of unjustly enriching themselves at the expense of the winning litigants who are eager to have the judgment satisfied and the losing parties who seek to delay the execution by all means. This is not only unjust enrichment but a grave disservice to the administration of justice.[12]

The Court has stressed time and again that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, from the presiding judge to the sheriff should be circumscribed with the heavy burden of responsibility. This is especially true of sheriffs. Their conduct at all times, must, not only be characterized with propriety and decorum, but must also be above suspicion. For every employee of the judiciary should be an example of integrity, uprightness and honesty.[13]

As an officer of the court, Deputy Sheriff Tuazon's obstinate refusal and continued failure to present his side of the charges against him despite proper notice, reveal his brazen disregard of the lawful processes and orders of the court.[14] Clearly, the acts of respondent Tuazon "disturb the ethics of public life and vitiate the integrity of the court personnel as well as the court itself." [15]

As earlier indicated, the Court agrees with the findings and conclusion of the investigating judge that no convincing evidence was presented by complainant to establish the fact that Deputy Sheriff Rafael Rosario participated and/or conspired with the acts or omissions of respondent Tuazon. The records reveal that indeed, he was only acting as an assisting sheriff in enforcing the writ of execution.

ACCORDINGLY, respondent Deputy Sheriff Henry Tuazon, RTC of Angeles City, Branch 57 is hereby DISMISSED from the service for serious misconduct and irregularity in the performance of his official duties, with forfeiture of all retirement benefits and with prejudice to re-employment in any branch of the government, including government-owned or controlled corporations.

The administrative charges against respondent Deputy Sheriff Rafael Rosario, RTC of Angeles City, Branch 59,

are hereby DISMISSED for lack of merit.

SO ORDERED.

Narvasa, C.J., Cruz, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno, Vitug, Kapunan, and Mendoza, JJ., concur.

Feliciano, J., on leave.

[1] Rollo, pp. 3-9.

[2] Rollo, p. 26.

[3] Ibid, pp. 33-35.

[4] Ibid, pp. 28-30.

[5] Rollo, p. 42.

[6] TSN, October 1, 1993, p. 14.

[7] Rollo, pp. 177-185.

[8] Adm. Matter No. 2796-P, August 7, 1985, 138 SCRA 49.

[9] Sibulo v. Ramirez, Adm. Matter No. R-494-P, September 17, 1987, 154 SCRA 101.

[10] Adm. Matter No. P-1669, December 27, 1979, 94 SCRA 808.

[11] Tolentino v. Borja, Adm. Matter No. R-146-P, March 14, 1986, 141 SCRA 525; Barola v. Abogatal, Adm. Matter No. P-1974, June 29, 1982, 114 SCRA 582.

[12] Lacuata v. Bautista, A.M. No. P-94-1005, August 12, 1994.

[13] Ferrer v. Gapasin, Jr., A.M. No. P-92-736, November 16, 1993, Llanes v. Borja, A.M. No. P-86-32, December 10, 1990, 192 SCRA 288.

[14] Records of the Supreme Court Administrative Services, Leave Section, show that Deputy Sheriff Henry Tuazon was on Absence Without Leave (AWOL) effective February 1, 1993. On May 24, 1993, his salaries were ordered withheld.

[15] Ganaden v. Bolasco, Adm. Matter No. P-124, May 16, 1975, 64 SCRA 50.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.