



Republic of the Philippines
Supreme Court
 Manila

THIRD DIVISION

**LAMBAYONG TEACHERS
 AND EMPLOYEES
 COOPERATIVE, represented
 in this act by its Manager,
 GUDELIO S. VALEROSO,**

Complainant,

- versus -

A.M. No. P-06-2246
[Formerly OCA I.P.I. No. 05-2287-P]

Present:

VELASCO, JR., *J.*, *Chairperson*,
 PERALTA,
 MENDOZA,
 REYES,* and
 PERLAS-BERNABE, *JJ.*

CARLOS P. DIAZ,
 in his capacity as Sheriff IV,
 Regional Trial Court,
 Branch 20, Tacurong City,
 Respondent.

Promulgated:

11 July 2012

Macapion

X ----- X

DECISION

MENDOZA, J.:

On September 14, 2005, Gudelio S. Valeroso (*complainant*) filed a complaint¹ for and in behalf of Lambayong District I Teachers and Employees Cooperative (*the Cooperative*) with the Office of the Court Administrator (*OCA*) against Carlos P. Diaz (*Sheriff Diaz*), Sheriff IV of the

* Designated Acting Member in lieu of Associate Justice Roberto A. Abad, per Special Order No. 1244 dated June 26, 2012.

¹ *Rollo*, pp. 1-4.

Regional Trial Court, Branch 20, Tacurong City, for dereliction of duty, inefficiency, grave abuse of authority, and dishonesty.

The case stemmed from three (3) civil cases for collection of sum of money, attorney's fees and damages filed by the Cooperative against three (3) of its members, namely, Rona M. Tacot (*Tacot*), Matabay T. Lucito (*Lucito*) and Jocelyn S. Constantinopla (*Constantinopla*), before the Municipal Trial Court in Cities, Tacurong, Sultan Kudarat (*MTCC*). After the trial, the MTCC rendered its judgment and subsequently issued three separate writs of execution on December 3, 2003, which were given to Sheriff Diaz for implementation.

Complainant alleged that Sheriff Diaz committed irregularities in the implementation of the writs of execution. Sheriff Diaz was said to have delayed the execution of the writs and it was only after they had inquired from the court that he actually executed them by garnishing the salary checks of Lucito and Constantinopla. Complainant further alleged that Sheriff Diaz failed to render an accounting on the garnished amounts and that out of the ₱16,695.17 worth of cash and checks, only ₱8,347.93 was remitted to the Cooperative.

In response,² Sheriff Diaz denied the allegations and stated that when he received the three writs on February 19, 2004, he immediately prepared the Sheriff's Notice and instructed Atty. Marilou S. Timbol (*Atty. Timbol*), the Cooperative's counsel, to pay the amount of ₱1,500.00 to defray the necessary expenses in the implementation of the writs. He explained that it was only on March 19, 2004, when all the writs were personally served on the judgment debtors because they were not in their offices or in their respective houses every time he attempted to serve them the notices.

² Id. at 17-18 and Respondent's Judicial Affidavit, id. at 154-157.

Sheriff Diaz further alleged that when the judgment debtors failed to comply with the notice, he served the Notice of Garnishment regarding the salaries of the judgment debtors and their co-makers on their employer, the Department of Education (*DepEd*); that DepEd, however, did not withhold their salaries but only furnished him with machine copies of their paychecks for the month of May 2004; that he went to the complainant and told him about DepEd's refusal to withhold the salaries of the judgment debtors and their co-makers; and that the complainant advised him to collect only from the judgment debtors and exempt the co-makers from liability.

Sheriff Diaz also denied that he appropriated the cash and checks he garnished. Regarding Tacot, he claimed that he turned over to complainant the following: LBP Check in the amount of ₱14,016.50, DBP Check in the amount of ₱4,847.06 and cash amounting to ₱136.96 or a total amount of ₱19,000.56. Then, he remitted the whole amount to the Cooperative through its treasurer, Melinda Agcambot (*Agcambot*), but the latter handed back to him the ₱136.96 cash for merienda and tricycle fare. Thus, only ₱18,863.56 was credited to the account of Tacot. Sheriff Diaz further claimed that by January 26, 2007, he then remitted the total amount of ₱58,276.45 to the Cooperative and submitted the Sheriff's Final Report and the Notice of Lifting of Levy/Attachment to the MTCC stating therein that the judgment against Tacot had been fully satisfied.

With regard to the case of Lucito, Sheriff Diaz stated that he had turned over to the Cooperative his (Lucito's) March 2005 salary; that on May 3, 2005, he garnished the paycheck of Lucito for the month of April 2005 in the amount of ₱3,907.06; that he gave the said check to their OIC-Clerk of Court, Pelagio Hilario, Jr. (*Hilario*), who returned the check to Lucito after the latter had paid the legal fees; that he also garnished ₱1,000.00 cash from Lucito's June 2005 salary but returned the same after

Lucito begged for its return; and that he submitted his report to the MTCC stating that the writ was not satisfied and that Lucito had no visible properties that could be levied or garnished.

Lastly, in the case of Constantinopla, Sheriff Diaz related that on May 3, 2005, he garnished the paycheck of Constantinopla in the amount of ₱3,440.67 and left the check with Hilario; that without his knowledge, Constantinopla followed and begged Hilario for the return of the check; that Hilario returned the check after Constantinopla had paid the legal fees; and that he remitted the total amount of ₱34,447.83 to the cooperative as of February 2007.

Upon the recommendation³ of the OCA, the Court, in its Resolution,⁴ dated September 18, 2006, referred the case to the Executive Judge of the Regional Trial Court, Tacurong City, for investigation, report and recommendation.

On March 18, 2011, the Investigating Judge found the charges for dereliction of duty, inefficiency and dishonesty unsubstantiated. He, however, found Diaz liable for grave abuse of discretion and recommended that the appropriate penalty be meted against him for accepting the amount of ₱1,500.00 for his expenses in the execution of the writs in violation of Section 10, Rule 141 of the Rules of Court.⁵

On March 14, 2012, the OCA, in its Memorandum,⁶ adopted the recommendation of the Investigating Judge, dismissing the charges for dereliction of duty, inefficiency and dishonesty. It, however, found Sheriff Diaz guilty of simple misconduct and recommended that he be fined an amount equivalent to his three (3) months salary.

³ *Rollo*, pp. 79-82.

⁴ *Id.* at 83.

⁵ *Id.* at 234-244.

⁶ *Id.* at 305-315.

The Court finds the recommendation of the OCA in order.

Sheriff Diaz disregarded the procedure for the execution of judgments as mandated by Section 10, Rule 141 of the Rules of Court, which explicitly provides that:

Section 10. x x x x

With regard to the Sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the Sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the Clerk of Court and ex-officio Sheriff, who shall distribute the same to the Deputy Sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the Deputy Sheriff assigned with his return, and the Sheriff's expenses shall be taxed as costs against the judgment debtor. [Emphasis supplied]

From the foregoing, a sheriff is mandated to make an estimate of the expenses which shall be approved by the court. It is only after the approval of the court that an interested party shall deposit the amount with the clerk of court. Upon the return of the writ, the sheriff must submit a liquidation and return to the interested party any unspent amount.

In the case at bench, Sheriff Diaz's act of receiving ₱1,500.00 from Atty. Timbol, and ₱136.96 from Agcambot, for the expenses to be incurred in the execution of the writs, without first making an estimate and securing prior approval from the MTCC, as well as his failure to render accounting after its execution, are clear violations of the rule. Even if conceding that the sum demanded by Sheriff Diaz is reasonable, this does not justify his

deviation from the procedure laid down by the rule.⁷ Neither the acquiescence nor consent of the complainant, before or after the implementation of the writ will absolve him from liability.⁸ The mere act of receiving the money without the prior approval of the court and without him issuing a receipt therefor has been considered as a misconduct in office.⁹

Sheriffs are reminded that they are not allowed to receive any voluntary payments from parties in the course of the performance of their duties. Corollarily, a sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps. Even assuming that such payments were indeed given and received in good faith, such fact alone would not dispel the suspicion that such payments were made for less than noble purposes.¹⁰

Sheriffs and their deputies are the front-line representatives of the justice system, and if, through their lack of care and diligence in the implementation of judicial writs, they lose the trust reposed on them, they inevitably diminish the faith of the people in the Judiciary.¹¹ It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee. As such, the Court will not tolerate or condone any conduct of judicial agents or employees which would tend to or actually diminish the faith of the people in the Judiciary.¹²

⁷ *Danao v. Franco, Jr.*, 440 Phil. 181, 185-186 (2002).

⁸ *Judge Banalag, Jr. v. Osito*, 437 Phil. 452, 458 (2002).

⁹ *Letter of Atty. Socorro M. Villamer-Basilio, Clerk of Court V, RTC, Branch 4, Legaspi City*, 517 Phil. 643, 647 (2006).

¹⁰ *Tan v. Paredes*, 502 Phil. 305, 313 (2005).

¹¹ *Musngi v. Pascasio*, A.M. No. P-08-2454, May 7, 2008, 554 SCRA 1, 11.

¹² *Villarico v. Javier*, 491 Phil. 405, 412 (2005).

Ordinarily, Sheriff Diaz's wanton disregard of Section 10, Rule 141 of the Rules of Court, as amended, which amounts to simple misconduct¹³ is punishable with suspension for one (1) month and one (1) day to six months, for the first offense.¹⁴ Considering, however, that the sheriff has been previously suspended for one (1) month and one (1) day for Simple Neglect in A.M. No. P-07-2332,¹⁵ the penalty of fine equivalent to three (3) months salary is in order. Sheriff Diaz, in fact, has been dismissed from the service on December 12, 2011, for grave misconduct in A.M. No. P-07-2300.¹⁶

WHEREFORE, respondent Sheriff Carlos P. Diaz is found **GUILTY** of simple misconduct and is hereby **FINED** in the amount equivalent to his salary for three months. Let a copy of this decision be attached to his personal records.

SO ORDERED.


JOSE CATRAL MENDOZA
Associate Justice

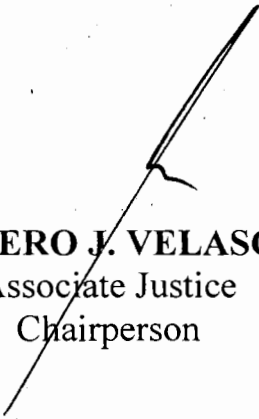
¹³ *Letter of Atty. Socorro M. Villamer-Basilio, Clerk of Court V, RTC, Branch 4, Legaspi City*, supra note 9.

¹⁴ Section 52 (B) (1), Rule IV of the Uniform Rules on Administrative Cases in the Civil Service.

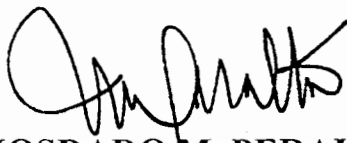
¹⁵ *Jorge v. Diaz*, September 4, 2009, 598 SCRA 188.

¹⁶ *Pasok v. Diaz*, A.M. No. P-07-2300, December 12, 2011.


WE CONCUR:




PRESBITERO J. VELASCO, JR.
Associate Justice
Chairperson



DIOSDADO M. PERALTA
Associate Justice



BIENVENIDO L. REYES
Associate Justice



ESTELA M. PERLAS-BERNABE
Associate Justice