



Republic of the Philippines
Supreme Court
Manila

SECOND DIVISION

RHEA AIRENE P. KATAGUE,
RODOLFO E. KATAGUE, RONA
SALVACION K. DELA,
Complainants,

A.M. No. P-12-3067
[formerly A.M. OCA IPI No. 10-
3400-P]

- versus -

Present:

CARPIO, *J.*, Chairperson,
BRION,
PEREZ,
SERENO, and
REYES, *JJ.*

JERRY A. LEDESMA, Sheriff IV,
Regional Trial Court, Branch 48,
Bacolod City,
Respondent.

Promulgated:

JUL 04 2012

X ----- X

RESOLUTION

SERENO, *J.*:

At bench is an administrative case that involves respondent Jerry A. Ledesma (respondent), employed as Sheriff IV of the Regional Trial Court, Branch 48, Bacolod City. The Office of the Court Administrator (OCA) found him guilty of simple neglect of duty for his failure to submit periodic reports and to make a return of the Writ of Execution in accordance with the Rules of Court. The OCA recommends that he be reprimanded.

The administrative case arose from three (3) separate but related Verified Complaints filed by complainants Rhea Airene P. Katague, Rodolfo

E. Katague and Rona Salvacion K. Dela (complainants) on various dates¹ in their capacities as defendants in another related case entitled “Eustaquio Dela Torre v. Rodolfo Katague, et al.,” docketed as Civil Case No. 08-13303 (Civil Case), and pending before Regional Trial Court of Bacolod City, Branch 48 (RTC Branch 48). The various Complaints contained similar allegations charging respondent, employed as Sheriff IV in RTC Branch 48, with gross neglect in the performance of his official duties, inefficiency and incompetency, as well as violation of the Anti-graft and Corrupt Practices Act.

THE FACTS

Complainants alleged that on 17 December 2009, Presiding Judge Gorgonio J. Ybañez of RTC Branch 48 issued a Writ of Execution directed to the Provincial Sheriff of Negros Occidental ordering the latter to cause plaintiff therein, Eustaquio dela Torre (Dela Torre), to vacate the subject premises in connection with the Civil Case. Subsequently, respondent, employed as Sheriff IV of the said court, personally served a Notice to Vacate upon Dela Torre on 22 December 2009. The Writ of Execution was implemented after the five (5)-day grace period, and Dela Torre peacefully vacated the premises. However, pieces of equipment and other lumber products were left behind, as their removal would take approximately two (2) days to accomplish. Complainants claimed that contrary to the assurance of respondent that he would return the following day to remove the said effects, he failed to do so.

Complainants further alleged that respondent again committed himself to the accomplishment of the task on 09 January 2010; again, he failed to do so. On 08 January 2010, a Third-Party Intervention (Intervention) in the

¹ Complainant Rhea Airene P. Katague initially filed her Complaint dated 23 April 2010 against respondent for Gross Neglect in the Performance of His Official Duty, Inefficiency and Incompetency, with the Office of Administrative Services (OAS) of Court. On the other hand, complainants Rodolfo E. Katague and Rona Salvacion K. Dela initially filed their Complaints dated 04 May 2010 and 11 May 2010, respectively, against respondent for violation of the Anti-Graft and Corrupt Practices Act, with the Office of the Ombudsman (Visayas) [OMB] at Cebu City. In turn, the OAS and OMB indorsed the Complaints to the OCA.

Civil Case was filed by Riza L. Schlosser (Schlosser), who asserted a purported fifty-one percent (51%) share in the properties left behind by Dela Torre. Schlosser was the petitioner in a related liquidation proceeding entitled "*Riza L. Schlosser v. Eustaquio Dela Torre*," docketed as Civil Case No. 09-13439 (Liquidation Case), pending before the Regional Trial Court of Bacolod City, Branch 54 (RTC Branch 54).

Complainants (defendants in the Civil Case) opposed the Intervention of Schlosser. On 14 January 2010, during the hearing thereon, both parties reached a compromise and agreed to transfer the equipment and lumber products to a particular portion of the same compound until 28 February 2010 with the proper payment of rentals. Complainants alleged that respondent yet again failed to facilitate the said transfer.

On 29 January 2010, a Motion was filed by complainants to enforce the Writ of Execution in the Civil Case. Consequently, the trial court issued an Order directing the enforcement of the writ, but still to no avail. Complainants alleged that respondent's explanation, that police assistance was needed to facilitate the enforcement, was baseless. They even allegedly facilitated the accomplishment of three (3) out of the four (4) listed requirements in the writ in order to aid respondent in its implementation.

Subsequently, complainants yet again moved to have the writ implemented. Despite repeated requests, however, respondent allegedly still did not act upon the motion. Eventually, as stated earlier, the aggrieved complainants filed their respective Verified Complaints.

As required by the OCA, respondent filed three (3) Comments² pertaining to each of the three (3) Complaints. He alleged that he had done everything to comply with the trial court's orders and processes; and, if there was any delay in the execution process, it was never intentional, but caused by factors and circumstances beyond his control. He further explained that

² Comments dated 14 July 2010, 01 September 2010 and 26 July 2010 filed by respondent.

he had indeed issued a Notice to Vacate directed to Dela Torre, who was then no longer actually occupying the premises. Respondent alleged, though, that by virtue of the Liquidation Case, the remaining subject equipment and lumber stocks could not be removed from the premises, thus, admitting that he had indeed scheduled the removal on 09 January 2010, but he was unable to do so. He claimed that he had been informed by Atty. Lorenzo S. Alminaza, counsel for Schlosser, that the effects were already in *custodia legis* in relation to the Liquidation Case. Respondent likewise confirmed that Schlosser sought to intervene in the Civil Case, and that an agreement to transfer the effects was eventually reached between the parties. However, the transfer was not implemented, because Schlosser refused to cooperate, purportedly for safety reasons and for lack of adequate shelter in the premises where the proposed transfer was to be effected.

Accordingly, the trial court directed respondent to seek assistance from the Bacolod City Police Office to maintain the peace during the implementation of the writ. On 11 March 2010, respondent wrote a letter to Police Superintendent Celestino Guara (Guara) and sought Guara's assistance as instructed. Instead of acting upon it, Guara coursed it through Police Chief Inspector Noel E. Polines, who in turn indorsed it to the Legal Department of the PNP Regional Office at Iloilo City for review and to the Regional Director for final approval. The letter was not acted upon by the regional office despite respondent's follow-ups.

Thereafter, proceedings in the Liquidation Case ensued and an Order was issued by the trial court approving the liquidation of the properties of Schlosser and Dela Torre. These properties included the subject equipment and lumber stocks, which were then still inside the premises of the compound. Respondent explained that, with this development, he again made several manifestations and personal follow-ups with the Bacolod City Police regarding his request for police assistance, but to no avail. Eventually,

the police heeded his request. On 12 May 2010, he wasted no time and immediately implemented the Writ of Execution, by which the subject effects were removed from complainants' compound and delivered to the possession and custody of Schlosser. Upon completion of the execution proceedings, he issued a Sheriff's Return of Service.

As earlier stated, the OCA found respondent liable for simple neglect of duty. It ruled that he had failed to submit periodic reports as required by the Rules of Court, which prompted several follow-ups by complainants. Thus, it recommended the following:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court:

1. That the administrative complaint against Jerry A. Ledesma, Sheriff IV, Regional Trial Court, Branch 48, Bacolod City, be **RE-DOCKETED** as a regular administrative matter; and
2. That respondent Sheriff Jerry A. Ledesma be found liable for Simple Neglect of Duty; be **REPRIMANDED**; and be **STERNLY WARNED** that a commission of a similar act in the future will be dealt with more severely.

The Court's Ruling

The Court affirms the OCA's findings. We find respondent guilty of simple neglect of duty for his failure to make periodic reports on the status of the writ he was tasked to implement. We, however, modify the penalty imposed on him.

The manner in which a writ of execution is to be returned to the court, as well as the requisite reports to be made by the sheriff or officer, is explicitly outlined in Section 14, Rule 39 of the Rules of Court, quoted as follows:

Sec. 14. Return of writ of execution.-The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. **If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor.** Such writ shall

continue in effect during the period within which the judgment may be enforced by motion. **The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.** (Emphasis supplied)

In accordance with the above-cited rule, periodic reporting must be done by the sheriff regularly and consistently every thirty (30) days until the judgment is fully satisfied. It is mandatory for the sheriff to make a return of the writ of execution, so that the court and the litigants may be apprised of the proceedings undertaken in the enforcement of the writ. The return will enable the courts to take the necessary steps to ensure the speedy execution of decisions.³ The failure of a sheriff to make periodic reports on the status of a writ of execution warrants administrative liability.⁴

In the instant case, respondent was able to sufficiently explain the circumstances surrounding the delay in the implementation of the writ. He was justified in not pushing through with his plan of removing the subject effects, considering that the latter were in *custodia legis*, and that the Intervention of Schlosser was yet to be heard at that time. He complied with the instruction to seek police assistance and was not remiss in his responsibility to follow up his request. Indeed, the delay in the implementation of the writ was caused by circumstances beyond his control. However, this Court faults respondent for not submitting his periodic reports on the progress of his implementation of the writ. Obviously, such reports could have properly apprised complainants of the reasons behind the seeming delay in the execution of the writ and prevented them from speculating too much. These could have also appeased complainants and shown the efforts that respondent had undertaken in order to subvert any delay. Although he submitted his Sheriff's Return upon completion, it was clearly not the *periodic* report required of him as outlined in the Rules.

³ *Zamudio v. Auro*, A.M. No. P-04-1793, 08 December 2008, 573 SCRA 178.

⁴ *Dignum v. Diamba*, 522 Phil. 369 (2006).

In fine, respondent is guilty of simple neglect of duty, defined as “the failure of an employee to give one’s attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference.”⁵ As officers of the court, sheriffs are charged with the knowledge of what proper action to take in case there are questions on the writ needing to be clarified; they are charged as well with the knowledge of what they are bound to comply with.⁶ Sheriffs are expected to know the rules of procedure pertaining to their functions as officers of the court,⁷ relative to the implementation of writs of execution, and should at all times show a high degree of professionalism in the performance of their duties. Any act deviating from the procedure laid down by the Rules of Court is misconduct that warrants disciplinary action.⁸

With regard to the penalty to be imposed upon respondent, the Revised Rules on Administrative Cases (Rules) classify simple neglect of duty as a less grave offense and punish it with the penalty of suspension of one (1) month and one (1) day to six (6) months for the first offense and dismissal from the service for the second offense.⁹ We note that there was no mitigating circumstance presented that could be acknowledged in favor of respondent.

Therefore, pursuant to the above-mentioned Rules and due to the absence of any mitigating circumstance, we impose on him not the penalty of reprimand as recommended by the OCA, but the penalty of suspension for fifteen (15) days without pay.

WHEREFORE, this Court finds respondent Sheriff Jerry A. Ledesma **GUILTY** of Simple Neglect of Duty and is accordingly **SUSPENDED** for a period of fifteen (15) days without pay, with a **WARNING** that a repetition of the same or a similar act will be dealt with more severely.

⁵ *Reyes v. Cabusao*, 502 Phil. 1, 7 (2005).


⁶ *Stilgrove v. Sabas*, A.M. No. P-06-2257, 28 March 2008, 550 SCRA 28.

⁷ *Zarate v. Untalan*, 494 Phil. 208 (2005).

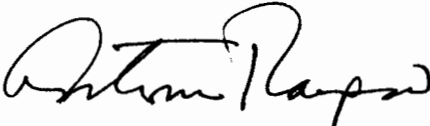
⁸ *OCA v. Tolosa*, A.M. No. P-09-2715, 13 June 2011, 651 SCRA 696.

⁹ Revised Rules on Administrative Cases, Sec. 46 D (1), Rule 10.

SO ORDERED.



MARIA LOURDES P. A. SERENO
Associate Justice

WE CONCUR:


ANTONIO T. CARPIO
Associate Justice
Chairperson


ARTURO D. BRION
Associate Justice


JOSE PORTUGAL PEREZ
Associate Justice


BIENVENIDO L. REYES
Associate Justice