



**Republic of the Philippines
Supreme Court
Manila**

EN BANC

**OFFICE OF THE COURT
ADMINISTRATOR,**
Complainant,

**A.M. No. P-09-2690
[Formerly A.M. OCA IPI
No. 08-2889-P]**

Present:

-versus-

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
*BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
ABAD,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,
PERLAS-BERNABE, and
LEONEN, JJ.

**NOEL R. ONG, Deputy Sheriff,
Branch 49, and ALVIN A.
BUENCAMINO, Deputy Sheriff,
Branch 53 of the Metropolitan Trial
Court, Caloocan City,**
Respondents.

**Promulgated:
JULY 9, 2013**

X-----X

RESOLUTION

PER CURIAM:

Judge Glenda K. Cabello-Marin (referred here as Judge Marin) of
Branch 49, Metropolitan Trial Court, Caloocan City (referred here as MeTC)

* On leave.

referred¹ to the Office of the Court Administrator (referred here as OCA) the investigation of Deputy Sheriffs Noel R. Ong of Branch 49 (referred here as respondent Ong) and Alvin A. Buencamino of Branch 53 (referred here as respondent Buencamino), both of the Metropolitan Trial Court, Caloocan City, on their possible liability for the loss of a levied Isuzu Fuego.

On October 20, 2008, Judge Belen B. Ortiz (referred here as Judge Ortiz), then presiding judge of MeTC Branch 49, issued the Decision in Civil Case No. 27211 for unlawful detainer entitled *Virginia C. Bustamante v. Jinky C. Bustamante and Regina C. Bustamante*.² The court ordered the defendants to vacate the case's subject property and to pay the plaintiff arrears in rentals.³

During the case's execution stage, the court ordered respondent Ong as branch sheriff to levy upon defendants' personal property for public sale whose proceeds would be applied to the rental arrears.⁴ Sheriff Ong levied upon a 1999 Isuzu Fuego (referred here as the Isuzu Fuego) with plate number WGN-949 registered under defendant Regina Bustamante.⁵

On October 15, 2004, respondent Ong filed a Request for Inhibition praying that he be allowed to inhibit himself from further implementing the writ of execution.⁶ The trial court granted⁷ respondent Ong's request and appointed respondent Buencamino as implementing sheriff, subject to the conformity of Judge Edwin Ramizo (referred here as Judge Ramizo), presiding judge of MeTC Branch 53 where respondent Buencamino is branch sheriff.

Meanwhile, the parties to the unlawful detainer case agreed to compromise and settle the case amicably.⁸ Plaintiff Virginia Bustamante agreed to waive her claim on the levied Isuzu Fuego.⁹ Consequently, the defendants filed a Motion¹⁰ for the immediate release of the Isuzu Fuego to defendants.

On June 1, 2005, Judge Ortiz ordered¹¹ respondent Buencamino to submit his Report on the implementation of the writ of execution. In his Letter¹² dated June 3, 2005, respondent Buencamino explained that he did

¹ *Rollo*, pp. 6-13.

² *Id.* at 1.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.* at 2.

⁷ *Id.* at 14.

⁸ *Id.* at 53-54.

⁹ *Id.* at 54.

¹⁰ *Id.* at 50-52.

¹¹ *Id.* at 17.

¹² *Id.* at 22-24.

not implement the writ of execution considering that Judge Ramizo's conformity with his appointment as special sheriff had not been secured pursuant to Administrative Circular No. 12, series of 1985. He emphasized that respondent Ong, as branch sheriff, had custody over the levied Isuzu Fuego.

Respondent Ong also disclaimed custody over the Isuzu Fuego. In his Letter¹³ dated June 22, 2005, he alleged that he had immediately turned over to respondent Buencamino the keys to the Isuzu Fuego pursuant to the Order dated October 15, 2004. Since then, respondent Buencamino had access to the Isuzu Fuego and utilized the levied vehicle for personal use as evidenced by several entries in the log book of security guards guarding the court parking lot.¹⁴ He also disclosed that as early as January 29, 2005, the Isuzu Fuego had been reported carnapped.¹⁵ Respondent Ong pointed out that it was respondent Buencamino who reported the alleged carnapping of the Isuzu Fuego to the Caloocan City Police Station Anti-Carnapping Unit.¹⁶

The OCA referred¹⁷ the matter to Executive Judge Mariam G. Bien (referred here as Judge Bien) of the MeTC Caloocan City. Before Judge Bien was able to conduct her investigation, however, respondent Buencamino died on August 31, 2008.¹⁸

Judge Bien conducted a clarificatory hearing on November 14, 2008. In her Report¹⁹ dated January 13, 2009, Judge Bien found no effective designation or appointment of respondent Buencamino as special sheriff for the unlawful detainer case considering that Judge Ramizo's conformity had not been secured. Also, there was no proper turnover of the levied Isuzu Fuego to respondent Buencamino. However, what she found "revealing and disturbing" was the following: Respondent Ong had allowed respondent Buencamino to use the Isuzu Fuego for personal errands. The log book of security guards assigned at the court parking lot will reveal that respondent Buencamino had used the levied vehicle around six (6) times before the vehicle was reported lost in January 2005. Judge Bien likewise noted the belated manifestation of respondent Buencamino as to the alleged defect in his designation as special sheriff.

Judge Bien found that respondent Ong had used the subject vehicle for personal errands and that both sheriffs had custody over the subject vehicle they had both utilized the levied vehicle for their personal use. Thus, it cannot be ultimately determined who had actual or constructive custody over

¹³ Id. at 25-26.

¹⁴ Id. at 28-37.

¹⁵ Id. at 27.

¹⁶ Id.

¹⁷ Id. at 57.

¹⁸ Id. at 153.

¹⁹ Id. at 58-65.

the vehicle when its disappearance was reported.

Judge Bien recommended that the two sheriffs be reprimanded and ordered them to restore the value of the allegedly carnapped Isuzu Fuego.

In its Report²⁰ dated July 31, 2009, the OCA recommended the re-docketing of the case as a regular administrative matter. The OCA agreed with the findings of fact of Judge Bien but noted that her recommended sanctions were too lenient. Thus, the OCA recommended that the sheriffs be found guilty of dishonesty, grave misconduct, and gross neglect of duty. As for respondent Ong, the OCA recommended his dismissal from the service with forfeiture of all retirement benefits, except accrued leave credits, and with perpetual disqualification from re-employment in any government agency, including government-owned or controlled corporations. As for deceased respondent Buencamino, the OCA recommended the forfeiture of all his retirement benefits, except accrued leave credits.

The OCA explained that respondents were remiss in their obligation to safekeep the vehicle. Judge Bien found that respondents utilized the levied vehicle for their personal use. The Deputy Sheriffs' conduct "should not be countenanced."²¹ The OCA emphasized that respondents' misappropriation of the vehicle does not only deserve administrative sanctions but also criminal accountability.

The OCA maintained that the death of respondent Buencamino does not warrant the case dismissal against him as this Court has ruled in *Cabañero v. Judge Cañon* that "[d]eath of the respondent in an administrative case is not in itself a ground for the dismissal of the complaint."²²

The Court agrees.

Misconduct is "a transgression of some established and definite rule of action, a forbidden act, a dereliction from duty, unlawful behavior, wilful in character, improper or wrong behavior."²³ A misconduct is "grave" or "gross" if it is "out of all measure; beyond allowance; flagrant; shameful" or "such conduct as is not to be excused."²⁴

Respondent Ong's and Buencamino's acts constitute grave misconduct and gross neglect of duty. These are flagrant and shameful acts and should

²⁰ Id. at 138-146.

²¹ Id. at 144.

²² 417 Phil. 754 (2001).

²³ *Bascos v. Ramirez*, A.M. No. P-08-2418, December 4, 2012.

²⁴ Id. at 7.

not be countenanced.

Records show that both respondents used the levied Isuzu Fuego several times for their personal errands. Worse, the levied vehicle disappeared while under the respondents' safekeeping. They grossly neglected their duty to safely keep the levied property under their custody.²⁵

Respondents' acts warrant the penalty of dismissal as provided in Rule 10, Section 46 of the Revised Rules on Administrative Cases in the Civil Service.²⁶

As for respondent Buencamino, his death is not a ground for the dismissal of the Complaint against him. Respondent Buencamino's acts take away the public's faith in the judiciary, and these acts should be sanctioned despite his death.²⁷

Sheriffs are reminded that they are "repositories of public trust and are under obligation to perform the duties of their office honestly, faithfully, and to the best of their abilities."²⁸ Being "frontline officials of the justice system," sheriffs and deputy sheriffs "must always strive to maintain public trust in the performance of their duties."²⁹

WHEREFORE, respondent Noel R. Ong, Deputy Sheriff, Branch 49, and Alvin A. Buencamino, Deputy Sheriff, Branch 53, Metropolitan Trial Court of Caloocan City, are hereby found **GUILTY** of grave misconduct and gross neglect of duty. Respondent Noel R. Ong is ordered **DISMISSED** from the service, with forfeiture of all retirement benefits and privileges, except accrued leave credits, and with perpetual disqualification from re-employment in any government agency, including government-owned and -controlled corporations. On the other hand, respondent Alvin A. Buencamino is ordered to have **FORFEITED** all his retirement benefits, except his accrued leave credits.

²⁵ Civil Service Commission Rules of Civil Procedure, Rule 57, Sec. 7 (b) (1997).

²⁶ Civil Service Commission Revised Rules on Administrative Cases, Rule 10, Sec. 46 which provides the following:

Sec. 46. Classification of Offenses. – Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following grave offenses shall be punishable by dismissal from the service:

x x x

2. Gross Neglect of Duty;

3. Grave Misconduct

x x x


²⁷ *Cabañero v. Judge Cañon*, supra note 22, at 758.


²⁸ *Tomboc v. Sheriffs Velasco, Jr., Padao, and Bengua*, A.M. No. P-07-2322, April 23, 2010, 619 SCRA 42.


²⁹ *Grutas v. Madolaria*, A.M. No. P-06-2142, April 16, 2008, 551 SCRA 379.

SO ORDERED.

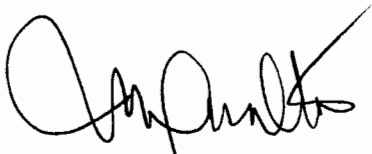

MARIA LOURDES P. A. SERENO
Chief Justice

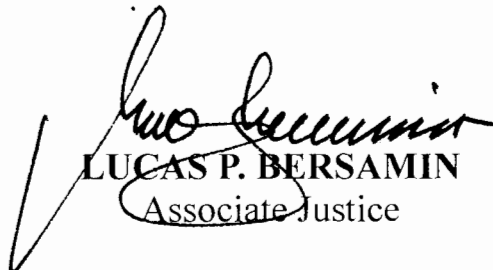

ANTONIO T. CARPIO
Associate Justice


PRESBITERO J. VELASCO, JR.
Associate Justice



TERESITA J. LEONARDO-DE CASTRO
Associate Justice

On Leave
ARTURO D. BRION
Associate Justice

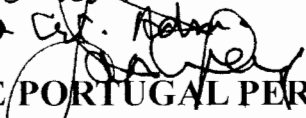

DIOSDADO M. PERALTA
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


MARIANO C. DEL CASTILLO
Associate Justice



ROBERTO A. ABAD
Associate Justice


MARTIN S. VILLARAMA, JR.
Associate Justice

No. 104. Acted on motion
of Mr. Justice

JOSE PORTUGAL PEREZ
Associate Justice


JOSE CATRAL MENDOZA
Associate Justice


BIENVENIDO L. REYES
Associate Justice


ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC MARIO VICTOR F. LEONEN
Associate Justice