

THIRD DIVISION

[A.M. No. P-99-1317, August 01, 2000]

**ARMANDO M. CANLAS AND RUBY C. DUNGCA, COMPLAINANTS,
VS. SHERIFF CLAUDE B. BALASBAS, REGIONAL TRIAL COURT OF
ANGELES CITY (BRANCH 59), RESPONDENT.**

DECISION

PANGANIBAN, J.:

Section 9 of Rule 141 requires that the sheriff's estimate of expenses in the execution of a writ should be approved by the judge. The approved estimated amount shall be deposited with the clerk of court who, as ex officio sheriff, shall then disburse the same to the assigned sheriff. Hence, a sheriff who receives from the parties an amount that is not included in the approved estimate and is not deposited with the clerk of court is guilty of violating the said provision.

The Case

Armando M. Canlas and Ruby C. Dungca filed a sworn Complaint^[1] dated January 18, 1998, accusing Sheriff Claude B. Balasbas, Regional Trial Court of Angeles City, of gross misconduct and dereliction of duty in connection with the execution of two Writs of Attachments.

On May 6, 1998, Court Administrator Alfredo L. Benipayo directed respondent to file a comment. In his May 28, 1998 Comment,^[2] respondent denied any wrongdoing.

Subsequently, the Court referred the case to Executive Judge Eliezer Delos Santos for investigation, report and recommendation.

The Facts

In his Report/Recommendation dated August 27, 1999, the investigating judge made the following factual findings:^[3]

"On June 30 and July 18, 1998, Branch 61 of the Regional Trial Court of Angeles City issued two writs of attachment in Civil Cases Nos. 8651 and 8659 respectively. Both writs of attachment were assigned to respondent Sheriff Claude Balasbas for implementation.

In compliance with the Writ of Attachment issued in Civil Case No. 8651, respondent levied on attachment real and personal properties of the defendant on July 1 and July 3, 1997 as follows:

- 1) Levy on attachment over a parcel of land in Angeles City (Exh. 'C' and Exh. '3')
- 2) Levy on attachment over a parcel of land in Mabalacat, Pampanga (Exh. 'D' and Exh. '4')

3) Levy on attachment over two motor vehicles (Exh. 'B' and Exh. '2')

4) Garnishment of deposits with the Landbank of the Philippines, Angeles City branch (Exh. 'E' and Exh. 'E-1' and Exh. '5' and '5-a')

A Sheriff Report dated July 7, 1997 (Exh. 'F' and Exh. '6') was accordingly submitted in Court.

In compliance with the Writ of Attachment issued on July 18, 1997 in Civil Case No. 8659, respondent sheriff levied on attachment the real properties of the defendant located at Angeles City (Exh. 'T' and Exh. '9') and over a parcel of land in Mabalacat, Pampanga (Exh. '5' and Exh. '10') on July 18 and 22, 1997 (Exh. 'K' and Exh. '11') respectively.

A Sheriff Report was accordingly submitted in court to show compliance with the said Writ.

It is the contention of complainant Armando Canlas that before implementing the writ, respondent Sheriff told them that he needed at least P2,000.00 for his gasoline allowance. The said amount was given by the complainant personally to the respondent in front of Mr. Rubio, complainant's neighbor and respondent's kumpadre. On July 2, 1997, respondent Sheriff again allegedly asked for an additional amount of P3,000.00 as sheriff's fee thru Mr. Rubio who in turn allegedly gave the amount to the respondent.

On the other hand, complainant Ruby Dungca alleges that respondent originally asked from her a sheriff's fee of P5,000.00 but the said amount was later reduced to P2,500 upon her request. Later respondent thru Mr. Rubio asked for an additional amount of P5,000.00 which she gave to Mr. Rubio. Mr. Rubio testified that he gave the said amount to the respondent.

Both complainants aver that although they were able to pinpoint to Sheriff Balasbas the whereabouts of the two cars owned by defendant Dolores Cruz, the latter failed to take possession of them. Hence on July 6, 1997, they decided to see respondent to inquire from him about the development of the case, specifically regarding the two aforementioned cars. The respondent told them that he already had talked to Mrs. Marie Balboa Gomez, a sister of defendant Dolores Cruz, who promised to surrender the cars the following week. On July 12, 1997, complainants again went to respondent's house to inform him where the cars could be found but the latter replied that the necessary papers were not with him at that time as he had left them at his desk in the office. On July 26, 1997, complainant Armando Canlas looked for the cars and found the Mitsubishi Galant car in the possession of Mr. Bon Jovi Maniti. He hurriedly went to respondent's house and relayed the information to him only to be informed by the latter that the papers were at his office.

Respondent stressed that at the very outset he had faithfully complied with the directives embodied in the Writ of Attachment dated 30 June