

THIRD DIVISION

[A.M. No. P-14-3214 [Formerly OCA [I.P.I. No. 11-3747-P], September 14, 2015]

VICENTE RAUT-RAUT, REPRESENTED BY JOVENCIO RAUT-RAUT, COMPLAINANT, VS. ROMEO B. GAPUTAN, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 27, GINGOOG CITY, MISAMIS ORIENTAL, RESPONDENT.

DECISION

PERALTA, J.:

Before us is an administrative Complaint^[1] filed by Vicente Raut-Raut (*complainant*), represented by Jovencio Raut-Raut against Romeo B. Gaputan (*Gaputan*), Sheriff IV, Branch 27, Regional Trial Court, Gingoog City, Misamis Oriental for Abuse of Authority relative to Civil Case No. 515-M, entitled *Lolita U. Estabaya, et al. vs. Hilario Raut-Raut*.

The facts are as follows:

Complainant Raut-Raut is one of the heirs of the defendant in the above-mentioned civil case. On July 31, 2002, a Decision was rendered by Branch 27, RTC, Gingoog City, Misamis Oriental, in favor of the plaintiffs in the same case, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs, and directing defendant Hilario Raut-Raut to restore to the plaintiffs the possession and enjoyment of their shares of the properties left by their deceased father, Leopoldo Udarbe, which is one-half of the properties he has acquired from the third-party defendant Hendrieta Udarbe by virtue of the Deed of Absolute Sale of 5 August 1974 executed by said third-party defendant in his favour (page 291, rollo).

Defendant Hilario Raut-Raut is likewise ordered to pay to each of the plaintiffs the amount of P15,000.00 for the unrealized profits or harvest corresponding to their shares.^[2]

On November 12, 2003, the trial court issued a Writ of Execution^[3] ordering Gaputan to enforce the judgment in the subject case. Complainant lamented that Gaputan proceeded with the implementation of the writ of execution despite plaintiff Lolita Estabaya's failure to file a bond approved by the trial court.

Complainant further asserted that Gaputan did not follow the dispositive portion of the decision because he delivered one-half of the titled land of Vicente Raut-Raut who filed the third-party claim and not one-half of those subject of the sale.

Gaputan wrongfully executed the writ against the titled property of Vicente and Ruben Raut-Raut in Cuenco Estate, Tagpaco, Gingoog City, Misamis Oriental, which was previously awarded to them as farmer-beneficiary of the Department of Agrarian Reform's Comprehensive Agrarian Reform Program (CARP).

Moreover, complainant pointed that Gaputan filed the Sheriffs Return^[4] only on July 14, 2005, or almost two (2) years from his receipt of the writ of execution on November 12, 2003. He further insisted that the Amended Sheriffs Return dated April 24, 2009 is null and void as it was already barred by prescription. He explained that the decision can only be executed within live (5) years from its rendition, however, the Amended Sheriffs Return was made more than seven (7) years thereafter, thus, the same has no legal force and effect.

In a Resolution^[5] dated November 15, 2011, the Office of the Court Administrator (OCA) directed Gaputan to file his comment on the charges against him.

In his Comment^[6] dated December 12, 2011, Gaputan denied the allegations with regard to certain irregularities in the implementation of the Writ of Execution in Civil Case No. 515-M. Gaputan claimed that on November 17, 2013, he personally served a copy of the writ of execution upon defendant Hilario Raut-Raut at his residence in Barangay Tagpako, Gingoog City, Misamis Oriental. However, the implementation of the writ was never fully satisfied due to several circumstances which allegedly disrupted the enforcement of the writ, to wit: (1) Gaputan believed that half of the litigated property still needed to be delineated to ascertain the extent of the award to be delivered to Lolita U. Estabaya and her co-plaintiffs, which consisted of half of the improvements mentioned in the Deed of Absolute Sale dated August 5, 1974, pursuant to the July 31, 2002 Decision; (2) plaintiffs failed to raise the amount needed to defray the expenses for the survey of the property; (3) on April 25, 2004, Hilario Raut-Raut died; and, (4) on March 1, 2005, respondent received an Affidavit of Third-Party Claimant filed by complainant Raut-Raut, the son and successor-in-interest of Hilario Raut-Raut.

Nevertheless, Gaputan reported in his Amended Sheriffs Return^[7] dated April 24, 2009, that on February 28, 2006, he turned over to one of the plaintiffs, Lolita Estabaya, the other half of the litigated property pursuant to the court's decision.

Gaputan further explained that at the time he filed the subject Sheriffs Report on July 14, 2005, he actually thought that the filing of the Sheriffs Report which summarized all the incidents that transpired in the course of his attempt to execute the decision already constitute substantial compliance with his mandate to file a periodic sheriffs report.

In a Memorandum^[8] dated March 20, 2014, the OCA found Gaputan guilty of Simple Neglect of Duty. It, thus, recommended that the instant complaint be re-docketed as a regular administrative complaint and that respondent be fined in the amount of P2,000.00.

On June 25, 2014, the Court resolved to re-docket the instant administrative complaint against Gaputan as a regular administrative matter.

We agree with the findings and recommendation of the OCA except as to the