

THIRD DIVISION

[A.M. NO. P-10-2772 (Formerly A.M. OCA I.P.I NO. 07-2615-P), February 16, 2010]

DOMINGO PEÑA, JR., COMPLAINANT, VS. ACHILLES ANDREW V. REGALADO II, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, NAGA CITY, RESPONDENT.

DECISION

NACHURA, J.:

In a Letter^[1] dated April 2, 2007, complainant Domingo Peña, Jr. reported to the Office of the Court Administrator (OCA) the alleged unethical conduct of respondent Sheriff IV Achilles Regalado II in implementing the writ of execution issued in relation to *People v. Domingo Peña, Jr. and Domingo Francisco* (Criminal Case No. 1852 for Falsification of Public Documents). The judgment on execution ordered complainant and Domingo Francisco to each pay a fine of P5,000.00 and damages in the amount of P30,000.00 to private complainant, Flora Francisco. Complainant averred that respondent collected from him P13,000.00, P4,500.00 and P2,000.00 on September 6, 2006, November 29, 2006, and December 29, 2006, respectively, without issuing official receipts. He was merely issued handwritten acknowledgment receipts, which he attached to the complaint as Exhibits "A," "B," and "C."

In his Comment,^[2] respondent admitted that he received the said amounts from complainant, but claimed that he already delivered them to Mrs. Francisco, as evidenced by the acknowledgment receipts signed by the latter. According to respondent, complainant went to his office on September 6, 2006 and gave him P13,000.00. On the same day, he went to Francisco's house to give her the amount, but the latter was not around. Respondent allegedly went back to Francisco's house the following day and gave her the money. Later on, he collected the two succeeding payments at complainant's house and immediately gave the amounts collected to Francisco. Respondent claimed that the complaint was filed to harass and prevent him from further executing the judgment against complainant.

The Court referred the complaint to Judge Jaime E. Contreras, Executive Judge of the Regional Trial Court of Naga City, for investigation, report and recommendation.^[3]

During the hearing, complainant testified that he was not issued official receipts for the money he gave to respondent, only handwritten provisional receipts. He said he knew, however, that respondent already gave the money to Francisco. He then informed Judge Contreras that he was no longer interested in pursuing the case because of his health condition.^[4]

When interrogated, respondent confessed that he did not remit the money he collected from complainant to the Office of the Clerk of Court. He allegedly did so to

spare Francisco, who is already very old, the inconvenience of filing a motion to release the money. He pointed out that such procedure was practical, considering that Francisco's house is only adjacent to that of the complainant. He explained that he was not able to give the P13,000.00 to Francisco on the same day he collected it from complainant, because she was not around at that time; and so, he gave it to her the following day.^[5] He said that he has been a sheriff for 12 years already, and he had followed the same procedure in some of the cases assigned to him for execution.^[6]

Francisco confirmed that she received P13,000.00 from respondent on September 6, 2006, the date indicated in the provisional receipt. She, however, claimed that she did not receive P4,500.00 and P2,000.00, respectively, on November 29, 2006 and December 29, 2006, the dates indicated in the provisional receipts.^[7] Francisco said that she signed the two latter receipts on the assurance of respondent that he would come back with the said amounts.^[8]

The records reveal that, when respondent failed to return and give Francisco the amounts of P4,500.00 and P2,000.00, she wrote Judge Contreras a Letter dated June 20, 2007,^[9] complaining about respondent's failure to collect the balance of the judgment award after the lapse of two years. As a result, Judge Contreras required Francisco and respondent to appear before him, during which the judge advised respondent to just pay the balance of the amount collected. It was only after that conference that Francisco received the amounts of P4,500.00 and P2,000.00.^[10]

When confronted, respondent denied that it was only after the conference that he gave the money to Francisco, stating that the latter may have already forgotten what actually transpired, since it happened three years ago.^[11]

Judge Contreras disagreed. On the contrary, he found that Francisco was still mentally alert despite her age and, consequently, gave her testimony more credence. Judge Contreras also noted that this was the second offense for which respondent had been investigated, and the evidence was clear that in both cases^[12] respondent did not follow basic rules in implementing the writs of execution. He took into consideration respondent's admission that he has been doing such irregular acts or practices for the past 12 years in several cases assigned to him. He then recommended that respondent be suspended for 15 days from service without pay, with a stern warning that the repetition of the same or similar acts in the future shall be dealt with more severely.

In a Resolution dated September 2, 2009, the Court referred Judge Contreras' report to the OCA for evaluation, report and recommendation.

In a Memorandum dated January 7, 2010, the OCA found respondent guilty of grave misconduct and dishonesty and recommended that a more severe penalty be imposed upon him, thus:

1. That the instant administrative complaint, dated 2 April 2007, of Domingo Peña, be RE-DOCKETED as a regular administrative

matter;

2. That respondent Sheriff IV Achilles Andrew Regalado II, Regional Trial Court, OCC, Naga City, be found GUILTY of GRAVE MISCONDUCT and DISHONESTY; and
3. That he be meted the penalty of 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 and controlled corporation.

The Court likewise finds respondent administratively liable, but modifies the OCA's designation of the offense and the penalty imposed.

Despite complainant's manifest apathy towards the outcome of this administrative case, the Court is duty-bound to proceed with its investigation and resolution to determine whether respondent has, in fact, erred in his conduct. Complainant's lack of interest in pursuing the case will not exonerate respondent from any administrative action. It will not divest this Court of jurisdiction to determine the truth behind the complaint, as the need to maintain the faith and confidence of the people in the government and its agencies and instrumentalities should not be made to depend on the whims and caprices of the complainants who are, in a real sense, only witnesses therein.^[13]

Sheriffs are officers of the court who serve and execute writs addressed to them by the court, and who prepare and submit returns on their proceedings. As officers of the court, they must discharge their duties with great care and diligence. They have to perform faithfully and accurately what is incumbent upon them and show at all times a high degree of professionalism in the performance of their duties.^[14] Despite being exposed

to hazards that come with the implementation of the judgment, sheriffs must perform their duties by the book.^[15]

Section 9, Rule 39 of the Rules of Court lays down the procedure to be followed by the sheriff in implementing money judgments:

SEC. 9. Execution of judgments for money, how enforced. --

(a) Immediate payment on demand. -- The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court