

EN BANC

[A.M. No. P-07-2392 (Formerly OCA IPI No. 07-2579-P), February 25, 2009]

ROSALINDA C. AGUILAR, COMPLAINANT, VS. RONBERTO B. VALINO, DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 70, PASIG CITY, RESPONDENT.

RESOLUTION

PER CURIAM:

Rosalinda C. Aguilar (complainant) charged Ronberto B. Valino (respondent), Deputy Sheriff IV of the Regional Trial Court (RTC), Branch 70 of Pasig City, of grave misconduct and dishonesty.

In a letter to the Court dated March 12, 2007, complainant averred: A decision was rendered by the Court of Appeals (CA), ordering her to pay Victoria Lee (Lee) P866,828.90.^[1] On February 13, 2007, she filed an Urgent Verified Omnibus Motion seeking to enjoin the public auction to be conducted by respondent the following day on her real properties.^[2] The motion was set for hearing on February 14, 2007. On said date, Judge Lorifel Lacap Pahimna (Judge Pahimna) issued an Order directing respondent to stop the scheduled auction until further orders from the court. Pertinent portions of the Order read:

Yesterday, the court verbally instructed the Sheriff of this branch, Ronberto B. Valino, through the court interpreter to report for work today at 8:00 o'clock in the morning to answer some clarificatory questions pertaining to the writ of execution dated November 27, 2006. It couldn't conduct immediate query yesterday because he left the office after lunch and did not return for work that same day.

For reasons initially unknown to this court, a representative just hand[ed] over this morning a copy of the Sheriff's Report dated February 12, 2007 but Mr. Valino himself failed to report to this court as instructed. Later, the court was informed that Mr. Valino will proceed to the auction venue.

Accordingly, Sheriff Ronberto B. Valino is hereby directed to show cause within seventy-two (72) hours from notice why he should not be cited in contempt and administratively charged for insubordination for failure to comply with the verbal order of the court before he proceeds to the auction venue.

Further, he is directed to explain within the same period why he has not complied with Section 14, Rule 39 of the Rules of Court, relative to submission of a periodic report on the writ of execution.

Considering the pendency of an Urgent Omnibus Motion and the need to thresh out some issues in said motion and for failure of the Branch Sheriff to appear as verbally directed by the Court, the Court hereby orders the Sheriff to STOP the scheduled auction sale of the property at 10:00 o'clock in the morning today until further orders from the Court and the resolution on the pending incident.^[3]

Judge Pahimna then instructed Process Server Sonny B. Reyes (Reyes) to serve a copy of the Order to respondent and to verify whether or not an auction sale would be conducted. Reyes arrived around 9:55 in the morning at the auction venue where he met Court Stenographer Liza Galvez (Galvez) of Branch 73, who was also instructed by Judge Pahimna to look for respondent. Reyes waited until 12:30 in the afternoon, but respondent did not arrive and no auction was held that day between 9:55 in the morning and 12:30 in the afternoon. To complainant's surprise, however, a Certificate of Sale was issued by respondent in favor of a certain Hector Lee Yu over the two parcels of land, in the amount of P6,680,500.00, during an alleged auction sale held on February 14, 2007 at 10:00 a.m. in front of the Municipal Building of Pateros.^[4]

In his Comment dated April 23, 2007, respondent denied the charges against him and claimed that: he was not aware of the Urgent Verified Omnibus Motion filed by complainant which was set for hearing for February 14, 2007; he had to go home at around noon of February 13 because of stomach pain; in the afternoon and evening of that day, he did not receive any instruction from any staff of Branch 70; in the morning of February 14, he proceeded directly to Pateros City Hall where the auction was to be conducted; there he met Lee and at 10:00 o'clock in the morning the auction took place with the son of Lee as the only bidder who offered a written bid on the property. Respondent further claimed that the accusations were purely intended to harass him, because he did not succumb to complainant's attempt to bribe him in consideration of his deferring the auction sale. He also denied the allegations of Reyes and Galvez and questioned the interest in the case of Judge Pahimna, who issued the order dated February 14, 2007 in haste, without due process and without requiring the complainant to post a bond as required by the Rules of Court. He further averred that he had been a sheriff for 16 years and was never accused of any wrongdoing in the performance of his duties.^[5]

On October 15, 2007, the Court issued a Resolution redocketing the instant case as a regular administrative matter and referred the same to the Executive Judge of RTC, Pasig City for investigation, report and recommendation.^[6]

In her Compliance dated February 1, 2008, Executive Judge Amelia C. Manalastas found respondent guilty of grave misconduct and recommended that he be suspended and admonished. She noted that during the hearing, she gave respondent the opportunity to confront the witnesses against him; however, respondent did not make any comment and offered only bare denials in the face of complainant's positive documentary and testimonial evidence.^[7]

In the Resolution dated March 19, 2008, the Court referred the case to the Office of the Court Administrator (OCA) for its evaluation, report and recommendation.^[8]

The OCA in its Report^[9] dated August 29, 2008, then held that:

[r]espondent's introduction in evidence of the falsified Certificate of Sale purporting that an auction sale was actually conducted, although in fact it was not, shows an intent to disregard flagrantly the law and constitutes grave misconduct that corrodes respect for the courts. The same likewise indicates a predisposition to lie and deceive and amounts to dishonesty. x x x^[10]

The OCA gave weight to the finding of the investigating judge that complainant's witnesses were more credible. All of complainant's seven witnesses categorically denied the conduct of public auction at 10 o'clock in the morning of February 14, 2007 in front of the Municipal Hall of Pateros, while respondent and his witness could hardly articulate in detail how the auction was carried out. Complainant's witnesses did not have any ill motive in testifying against respondent, while respondent's lone witness was a driver of the defendant in the civil case.^[11] Finding respondent guilty of grave misconduct, the OCA recommended his dismissal from the service with forfeiture of all benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government including government-owned and controlled corporations.^[12]

The Court finds the report and recommendation of the OCA to be proper.

It is basic that in administrative proceedings, the burden of proving, by substantial evidence, the truthfulness of the allegations on the complaint rests on the complainant.^[13] Only substantial evidence, or that amount of relevant evidence which a reasonable mind might accept as adequate to support a conclusion, is required.^[14] In this case, the Court finds that complainant was able to satisfactorily discharge such burden.

Complainant, with her seven witnesses who were all court employees, was able to show that no auction actually took place on February 14, 2007 at the Pateros Municipal Hall, as purported by respondent.

Reyes, affirming the contents of his Process Server's Return, testified before the Investigating Judge that: he arrived at the Pateros Municipal Hall before 10:00 o'clock in the morning and there met Galvez who said that she had not seen respondent; they asked the guard if there was an auction scheduled for 10:00 o'clock in the morning, and the latter answered in the negative; they also found out that there was no notice for an auction at the time posted in the area; he waited at the lobby until 12 noon and, upon failing to see respondent or any party, Reyes called Judge Pahimna to ask if he could already leave the place.^[15]

Galvez also testified that Judge Pahimna called her at 9:40 in the morning, instructing her to go to the entrance of the Municipal Hall of Pateros; that she asked the Building Custodian and the policeman stationed at the hall if a certain Sheriff Valino approached them regarding an auction sale to be held that 10:00 o'clock in the morning, to which they answered in the negative; then she received another call from Judge Pahimna telling her to meet Reyes.^[16]

Building Custodian Ben Hernandez (Hernandez) likewise testified that on February 14, he was at his desk in front of the lobby from 8:00 o'clock in the morning to 12:00 noon, and there was no auction conducted; he had not seen respondent

before, and it was only during the investigation that he saw respondent for the first time.^[17]

To these, respondent merely claimed that the reason Reyes did not see him was probably because there were so many people at the municipal hall at that time, as there was a job fair,^[18] and that he saw Hernandez that day, but Hernandez' table was far from the entrance and near the stairs.^[19] Reyes insisted, however, that he knew respondent and would have found him even in a crowd.^[20] While Hernandez maintained that it was impossible for him not to see if an auction was conducted at that place, since he was alert to the goings-on in said place and if there were people gathered, since it was his job to be aware of such activities as building custodian.^[21]

Rolando Alejandro, (Alejandro) a Collector at the Treasurer's Office, affirmed his affidavit dated March 7, 2007 before the Investigating Judge and testified that although he signed as a witness to the auction sale which purportedly took place at 10 o'clock in the morning of February 14, 2007 at the main entrance of the Municipal Hall of Pateros, the truth was that he was never a witness to such auction, as he was in fact absent that day as reflected in his Daily Time Record.^[22] He explained that on February 15 or 16, 2007 at around 2 o'clock to 3 o'clock in the afternoon, a woman approached him at their office and asked him to sign a document, which he signed not knowing what it was all about. When asked by Galvez on March 5, 2007, it was only then that he realized that he was made to sign a document as a witness to an auction sale.^[23]

When asked by the Investigating Judge why he signed the document not knowing what it was about, he answered that at the time the woman approached him, he was in a hurry as he was on his way to the comfort room to relieve himself.^[24] Alejandro also testified that he did not know respondent or was not even familiar with his name; and that it was the first time, during the investigation, that he saw him.^[25] He claimed further that the woman who asked him to sign the document went back to him after he executed his March 7 affidavit and asked him to affirm that he really witnessed the auction sale in exchange for P10,000.00, a P500 cell phone load and an authority to handle one of her computer shops, which he declined.^[26]

When the Investigating Judge asked respondent what he could say to Alejandro's testimony, respondent's only response, however, was:

SHERIFF VALINO:
No comment.

COURT:
Mr. Valino *hindi mo sya tatanungin, hindi mo sya iko-confront?*

SHERIFF VALINO:
Hindi na po.^[27]

Court Interpreter Rachel de Guzman also testified that she texted respondent in the afternoon of February 13, 2007 to report for work before 8:00 o'clock the following

morning, to which the latter agreed.^[28] Branch Clerk of Court Atty. Ma. Cielo Paz Alba-Celera also testified that upon instruction of Judge Pahimna, she tried to contact respondent on February 14 several times through his cellular phone, but it was turned off. She also tried to call him days after the auction, but he did not report for work on February 15, 16, 19 and 20. And while he reported for work on February 21, he left the office at 11:30 in the morning without informing her.^[29] Court Stenographer Portia S. Paguntalan stated that she finished typing Judge Pahimna's order directing respondent to stop the scheduled auction on or about 9:30 in the morning and immediately gave the same to Judge Pahimna for her signature.^[30]

Respondent for his part merely denied the allegations of the witnesses and was adamant in his claim that an auction actually took place at the time and place stated on the certificate of sale.

When asked by the Investigating Judge, however, why he did not report for one week after the alleged auction sale, respondent only said that he had a flu.^[31] The Investigating Judge also noted that respondent did not give complainant a computation of how much she was supposed to pay before the auction.^[32] And when the Investigating Judge asked respondent why he sold the property at P6 million when the amount payable, as ruled by the CA, was only P866,000.00 plus interest, respondent only said that he based his computation on the decision of the trial court. He admitted, though, that he was aware of the CA Decision, rendered almost a year before the auction, modifying that of the RTC.^[33]

Respondent presented his witness, Rainer V. Galsim (Galsim), electrician and driver of Lee, who said that he accompanied Lee and her son Hector, while he (Galsim) stayed at a distance. When asked about the details of the auction sale, Galsim could only testify, however, as follows:

COURT:

x x x bakit nyo nalaman na auction sale yung nakita ninyo?

MR. GALSIM:

Sinabi lang po sa akin.

COURT:

Sino ang nagsabi sayo?

MR. GALSIM:

Si Ma'am Victoria po.

COURT:

Ano ho bang nakita ninyo?

MR. GALSIM:

Basta narinig ko...doon ko po nakita si Sheriff po nung pagdating namin tapos nagtatanong x x x.

x x x x

COURT: