

THIRD DIVISION

[A.M. NO. P-06-2115 (FORMERLY OCA-IPI NO. 04-1897-P), February 23, 2006]

ANGELES MANGUBAT, COMPLAINANT, VS. JOEL FRANCIS C. CAMINO, SHERIFF III, MTCC, ISLAND GARDEN CITY OF SAMAL, DAVAO, RESPONDENT.

R E S O L U T I O N

TINGA, J.:

For resolution is an administrative case filed by Angeles Mangubat (Mangubat) against Joel Francis C. Camino (Camino), Sheriff III, Municipal Trial Court in Cities (MTCC), Island Garden City of Samal, Davao for gross misconduct, dishonesty, and violation of Republic Act No. 3019, also known as the Anti-Graft and Corrupt Practices Act.

Complainant Mangubat was convicted of slander in Criminal Case No. 854^[1] entitled "People of the Philippines v. Angeles Mangubat" and sentenced to suffer imprisonment of thirty (30) days of *arresto menor* and to pay private complainant therein, Eduardo Plaza (Plaza), the amount of P10,000.00 by way of moral damages.^[2] Subsequently, she was granted probation. On 16 December 2003, a writ of execution was issued directing respondent Sheriff Camino to execute the award of moral damages.^[3]

Mangubat alleges that on 8 January 2004, Camino went to her house, showed her the writ of execution, and inquired for goods and chattels that can be levied upon. He was at that time accompanied by a livestock buyer. Having found no other goods or chattel, Camino turned to her only carabao, which her husband used in the farm where they worked as tenants. Camino allegedly warned that if she could not pay the moral damages, she may be imprisoned. Out of fear, Mangubat was allegedly forced to sell her carabao to the livestock buyer who paid her P12,500.00. Camino then took the P10,000.00 and issued her a temporary receipt.^[4]

On 29 January 2004, Mangubat filed the instant administrative complaint with the Office of the Ombudsman which was later referred to this Court for appropriate action. She assailed Camino's act on the ground that her carabao was exempt from execution under paragraph (c), Section 13, Rule 39 of the 1997 Rules of Civil Procedure.^[5] She further alleged that he did so to unduly favor Plaza by ensuring her payment of moral damages to the latter.

In his Comment^[6] dated 27 May 2004, Camino denies the charges against him. According to him, he went to Mangubat's house on 7 January 2004 purposely to implement the writ of execution issued in Criminal Case No. 854. On the way thereto, he met Florian Rebong, the Process Server of MTCC-Branch 1, who was also

going to her residence to serve an order of the court. They then went together to Mangubat's house.

When they arrived at Mangubat's residence, Camino tendered to her a copy of the Sheriff's Letter of Demand^[7] pursuant to the writ of execution after the latter refused to receive it. He claims that he did so in a courteous manner, explaining and interpreting to her the contents of the writ. After conferring with her husband, Mangubat conveyed to Camino her willingness to comply with the court order and requested him to come back the following day as they would still look for means to pay the P10,000.00 moral damages stated in the writ.

In the morning of 8 January 2004, Camino went back to Mangubat's house. However, her husband instructed him to come back in the afternoon as they had decided to sell one of their livestock that day. Camino claims that prior thereto, he had no knowledge that the spouses would sell their carabao. When he returned, Mangubat readily handed to him the amount of P10,000.00 and he, in turn, issued the corresponding receipt. Thereafter, he proceeded to Barangay San Isidro to locate Plaza, to whom he turned over the amount of P10,000.00 for which the latter issued and signed the corresponding temporary receipt.^[8] Camino attached to his comment the affidavits^[9] of Florian Rebong and Miguel Cuberos, the livestock buyer who bought the Mangubats' carabao. They essentially corroborate Camino's statement that Mangubat sold her carabao to satisfy the writ of execution voluntarily and without any intervention from Camino.

In her Reply^[10] dated 11 June 2004, Mangubat admits that respondent went to her house on 7 January 2004 together with process server Florian Rebong and policeman Antolin San Juan of the Samal City Police Station. However, she denies asking Camino to come back the next day. She claims that it was he who suggested that he would come back the following day together with a livestock buyer.

Mangubat assails Camino's act of delivering the amount of P10,000.00 to Plaza as illegal because it violates par. 2, Sec. 9(a), Rule 39 of the 1997 Rules of Civil Procedure on execution of judgments for money enforced through immediate payment on demand.^[11] She opines that it is another indication of his giving undue favor and advantage to Plaza.

In his Rejoinder^[12] dated 2 July 2004, Camino points out alleged lies and inconsistencies in Mangubat's statements. First, while her affidavit-complaint skirted the 7 January 2004 incident, when Camino first went to her house, she subsequently admitted the same in her reply. Second, Mangubat's stress on the 30-kilometer distance between his and Plaza's residence was misleading. He points out that although Plaza's residence was far from his station, the former was only two (2) kilometers away from Mangubat's house so that he deemed it more practicable to give the money personally to Plaza than to turn it over to the Clerk of Court that very same day due to distance and time constraints. He submits that although there may have been a shortcut in the procedure, he never intended to violate it. Camino likewise professes that he learned of the name of Miguel Cuberos only after he made inquiries to aid him in filing his comment.

On 15 February 2005, the Office of the Court Administrator (OCA) rendered a

report^[13] to this Court which the Second Division noted in a Resolution^[14] dated 27 April 2005. In the same Resolution, this Court required the parties to manifest whether they were willing to submit the case for decision on the basis of the pleadings already filed and submitted. Camino complied on 2 June 2005 while Mangubat did so only on 2 December 2005. Hence, this resolution.

The Court Administrator, through Retired Justice Narciso Atienza,^[15] found Camino's version of the facts to be more credible compared to Mangubat's. He concluded that Mangubat voluntarily sold her carabao in order to satisfy the writ of execution against her. However, he found Camino's act of delivering the P10,000.00 personally to Plaza as illegal. Under the second paragraph of Sec. 9 (a), Rule 39 of the 1997 Rules of Civil Procedure,^[16] if the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff who shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality. Justice Atienza further made the following findings:

Respondent's deviation from the afore-quoted provision merits no justification. In fact it was risky for respondent to go out of his way to seek the judgment obligee whose residence he did not even know. His recourse is not sanctioned by law, for which appropriate sanction is warranted. However, as no bad faith or malice was established, and that respondent was apparently pressed by the circumstances, it is deemed that the sanction be accordingly tempered.^[17]

The Court Administrator recommended that Camino be reprimanded for neglect of duty by failing to strictly follow the procedure required by law for the execution of judgments for money.

We agree with the findings of the Court Administrator.

The nature of a sheriff's duty in the execution of a writ issued by a court is purely ministerial such that he exercises no discretion as to the manner of executing the same.^[18] He has the duty to perform faithfully and accurately what is incumbent upon him and any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.^[19]

While Camino did not strictly adhere to the required procedure, Mangubat failed to establish malice on his part in so doing. Neither did he cause delay in the execution of the final judgment in Criminal Case No. 854. In fact, the judgment obligor received the amount on the very same day Mangubat paid Camino. In addition, Camino made a return^[20] of the writ of execution and reported to the court which issued the writ the manner and circumstances by which the said judgment was satisfied. Considering the foregoing, there was substantial compliance with the requirements of the rules of procedure.

Although Camino's departure from Sec. 9(a), Rule 39 appears excusable under the circumstances, we find that he committed other violations which, if taken together with the rest, merit a stiffer penalty than reprimand.