

## **SECOND DIVISION**

**[ A.M. No. P-01-1497 (Formerly AM-OCA-IPI-00-837-P), May 27, 2004 ]**

**HORACIO B. APUYAN, JR. AND ALEXANDER O. EUGENIO,  
COMPLAINANTS, VS. ALFREDO G. STA. ISABEL, SHERIFF IV,  
REGIONAL TRIAL COURT (BRANCH 161), PASIG CITY,  
RESPONDENT.**

### **R E S O L U T I O N**

**AUSTRIA-MARTINEZ, J.:**

Before us is a complaint for Gross Misconduct, Conduct Unbecoming of a Public Official and Graft and Corruption filed by Horacio B. Apuyan, Jr. and Alexander O. Eugenio against Alfredo Sta. Isabel, Sheriff IV, Regional Trial Court, Branch 161, Pasig City (RTC for brevity).

The complaint against Sheriff Sta. Isabel was filed before the Office of the Court Administrator (OCA) on February 22, 2000. In compliance with the 1st Indorsement dated March 29, 2000 of the OCA, the respondent filed his Comment on May 4, 2000. Complainants filed their Reply Affidavit on October 27, 2000. Respondent submitted a Rejoinder dated December 3, 2000 denying complainants' allegations in the Reply-Affidavit.

In our Resolution dated August 20, 2001,<sup>[1]</sup> we referred the administrative matter to Executive Judge Edwin A. Villasor of the Regional Trial Court, Pasig City, for investigation, report and recommendation. The Executive Judge then conducted several hearings where both parties presented their respective evidence.

Witnesses for the complainants were Horacio B. Apuyan, Jr., Alexander O. Eugenio, Atty. Norberto Ortiz Perez, Mario Pangilinan; and Court Stenographer Ramona Teresita Vega, as rebuttal witness.

At the hearing held on January 3, 2002, complainant Apuyan, Jr., through counsel, manifested that he is adopting the Joint-Affidavit Complaint<sup>[2]</sup> as his direct testimony wherein it is averred that: complainants are employees of plaintiff corporation in a civil case<sup>[3]</sup> pending before the RTC, docketed as Civil Case No. 67654; that in connection with said case, a writ of attachment was issued by the RTC against the monies and properties of defendants; on February 8, 2000, complainants fetched respondent in his office and together with Process Server Julio Bautista and a certain Rey de Leon, they proceeded to the Western Police District to fetch some police officers to assist them in the implementation of the writ of attachment; respondent started to dictate to complainants that the police officers should receive no less than P1,000.00 each and another P1,000.00 for each mobile car used; they proceeded to the office of defendant corporation and while in said office, respondent told them that he was able to gather information relative to

defendant's bank account that can be the subject of garnishment; respondent started hinting that the ongoing sheriff's rate in Manila is 5% while it is 3% in Pasig but he is willing to settle for a 0.05% share based on the total amount of P10,000,000.00, that was the subject of attachment; complainant Apuyan called their counsel, Atty. Norberto Ortiz Perez, who requested respondent to immediately garnish said account; respondent replied that he could not do so for he failed to bring with him the necessary papers; Atty. Perez then told respondent to effect garnishment the following morning and assured respondent that he will instruct his client to prepare monetary goodwill for respondent; after levying some properties of defendant, they and the group of respondent proceeded to their (complainants') office where complainant Apuyan handed respondent an envelope containing P2,000.00; when respondent saw the amount, he threw the envelope and cursed them, saying that the amount of P2,000.00 is a big insult to his person; complainant Eugenio tried to pacify respondent who then demanded to see the company president; complainants told respondent that their president is out of the country and explained to him that Atty. Perez promised to give respondent some goodwill money when the garnishment is effected the next day; respondent blurted out that from then on, he would no longer effect the garnishment; the next day, or on February 9, 2000, while complainant Apuyan was waiting for their case to be called in court relative to a hearing of a Motion to Discharge Attachment filed by the defendant, respondent grabbed his collar, uttering, "O, ano ang gusto mong mangyari ngayon?";<sup>[4]</sup> respondent's officemates intervened to avoid further harm and embarrassment to complainant Apuyan; on February 10 and 11, 2000, respondent did not report for work to avoid proceeding with the garnishment; on February 14, 2000, complainant Apuyan and Atty. Perez went to court to file a Motion to Assign a Special Sheriff; while they were waiting along the court's corridor, respondent came out of the staff room and started cursing them and vehemently denying the allegations in their motion; respondent uttered to Atty. Perez, "*Ikaw, abogado ka lang, baka hindi mo ako kakilala, hindi ako basta bastang sheriff. Ididimanda kita ng libel, gago. Puwede ako sa physical, puwede ako sa mental. Hindi ko palalagpasin and ginawa ninyo sa aking ito;*" thereafter, complainant Apuyan and Atty. Perez obtained a copy of the court's Order granting the assignment of a special sheriff, and pursuant thereto, Sheriff Mario Pangilinan was assigned to their case; on February 15, 2000, however, respondent submitted his Sheriff's Report stating that the writ of attachment was duly satisfied.

During cross-examination, complainant Apuyan further testified thus:

Q: After surrendering the equipment here in the Justice Hall in Kapitolyo, where did you go if any?

A: Sheriff Sta. Isabel demanded for Fifty Thousand (P50,000.00) Pesos service fee and I told Sheriff Sta. Isabel that we have no money but since you are very persistent on that may we just go to our Office and have a snack and then we could endorse the same with the former Chief Operating Officer.

Q: Can you tell this Honorable Court if this demand is made in writing?

A: It was not actually made in writing because I think nobody will do it in writing. Actually the very first time that he insisted for Fifty Thousand (P50,000.00) Pesos was before our lunch during the time

that the process of attachment was made where Alex approached me together with Sheriff Sta. Isabel informing me that Sheriff Sta. Isabel was able to chance upon an account number, Metro Bank account number of People's Trans-East Asia Insurance, Corp. and the money worth Fifty Thousand (P50,000.00) Pesos so while inside the lobby they approached me and so I asked him if it is really true and he said yes, "hawak ko na ang alas alam ko na and bank account number ng People's Trans-East but first you have to give me at least .5% of the Ten Million (P10,000,000.00) Pesos so I told him "siguro igarnish muna natin" in a dialect.

. . . . .

Q: And is it also true that one of the reasons as stated to you by the Respondent for refusing to issue a notice of garnishment is the possibility of over levy?

A: No sir.

Q: He did not tell you that?

A: No, the very word that he told us is that he will not push through with the garnishment if we will not able to bring out the Fifty Thousand (P50,000.00) Pesos that he demanded from us.

Q: Did you pay the Respondent any amount for his services?

A: He demanded for the amount and we gave him Two Thousand (P2,000.00) Pesos to make his initial demand from us but instead of taking it, I was insulted, berated and he threw the money on my face.<sup>[5]</sup>

Complainant Alexander Eugenio also adopted the aforementioned Joint Affidavit-Complaint as his direct testimony. On cross-examination, he further testified as follows:

A: Actually when this particular incident happened I was standing outside the building when Sheriff Sta. Isabel approached me and told me that he has chanced to see the account no. of People's Trans-East Asia Insurance Corporation with the Metrobank. As a matter of fact, he showed me the inside cover of the folder he was holding and he told me this is the account number and he told me in vernacular that "hawak ko na and alas, alam ko na and account number ng People's Trans-East Asia sa Metro Bank" and we can garnish the account of Metro Bank with the condition that we should give him the half percent (1/2%) of what we have (sic) claiming after People's Trans-East Asia Insurance Corporation which is equivalent to Fifty Thousand (P50,000.00) Pesos and then I told him that I am not in a position to decide on that matter and I suggested to open this up to Mr. Apuyan who is in-charge of that activity as far as our company's concerned.

. . . . .

Q: Who handed the envelope to Sheriff Sta. Isabel pursuant to this statement?

A: It was Mr. Horacio Apuyan who handed the envelope.

Q: And it also states here that he threw the envelope, where did he throw the envelope?

A: He threw it to Mr. Apuyan, to his face.<sup>[6]</sup>

Another witness for complainants, Atty. Norberto Perez, testified as follows: He first came to know respondent when they talked over the phone on February 8, 2000 during the time that the writ of preliminary attachment was being implemented. He had to talk to respondent over the phone because the latter was insinuating that he would not serve the notice of garnishment if he is not paid P50,000.00. He was only able to talk personally to respondent on February 14, 2000 when he was at the corridor in front of Branch 161, RTC, Pasig City and respondent confronted him, shouting at the top of his voice cursing him (Atty. Perez) and complainant Apuyan. Respondent only stopped shouting and cursing when he was pacified by some BJMP people, police officers and other court personnel who told him to keep quiet because there was a hearing going on.<sup>[7]</sup>

Sheriff Mario Pangilinan testified that he was appointed as the special sheriff and proceeded to serve the notice of garnishment of the accounts of defendant corporation on several banks. For his efforts, he received P5,000.00 goodwill money from plaintiff corporation.<sup>[8]</sup>

For respondent's defense, the testimonies of respondent Alfredo Sta. Isabel himself, Process Server Julio S. Bautista and Atty. Emmanuel R. Jabla were presented.

Respondent adopted his Comment dated May 2, 2000 as part of his direct testimony. In his Comment, he contends as follows: The complaint was brought about by a personal grudge between him and complainant Apuyan. He implemented the writ of attachment on February 8, 2000. While in the course of effecting the writ, he talked to Atty. Perez on the phone because the latter wanted him to garnish defendant's bank account. He made the excuse that he was not prepared to do so for he did not have a notice of garnishment. He never made mention of any monetary consideration during their phone conversation. He believes that Atty. Perez was not pleased with his response. Thereafter, he and his co-employees proceeded to complainants' office upon the latter's invitation for snacks. At said office, no snacks were offered, but complainant Apuyan handed him an envelope. His co-employee opened the envelope and showed him that it contained two pieces of P1,000.00 bills. He refused to take the envelope and complainant Apuyan made an outburst, saying "Why do you have to ask me to give you so much money? That is illegal. I know the same fact (sic) because I am a law student! You are very corrupt!"<sup>[9]</sup> The next day, February 9, 2000, he prepared a notice of garnishment but complainants did not come to see him or even call him. On February 10, 2000, complainants went to court but he was then on sick leave. On February 14, 2000, when complainants went to court for the hearing of their Motion for Appointment of Special Sheriff, he confronted Atty. Perez regarding the allegations made in said motion. Atty. Perez said, "*Hoy, huwag mo akong question-in, sheriff ka lang at*

*malapit na ang katapusan mo!"*<sup>[10]</sup> and a verbal tussle ensued between him and Atty. Perez.

At the hearing held on January 18, 2002 before the Executive Judge, respondent denied that he ever touched any of the complainants or their counsel. He insists that only a verbal altercation transpired between them. On cross-examination, however, respondent admitted that on February 9, 2000, complainant Apuyan was there at the staff room of Branch 161, RTC Pasig City, and he even told said complainant to get out of the staff room, contradicting his statement in his Comment that on said date of February 9, 2000, he prepared a notice of garnishment but complainants did not come to see him or even call him.<sup>[11]</sup>

Respondent also recounted that at the time they went to complainants' office, there was already animosity between him and Mr. Apuyan, but he still acceded to the latter's invitation for snacks at their office, with the intention to see Dr. Cenon Alfonso, the company president, supposedly to complain about Apuyan's arrogant demeanor. Respondent also admitted that there is a contradiction between his statement in paragraph 22 of his Rejoinder that he was not able to memorize the numerals contained in the account number of defendant corporation and his testimony where he stated that he did, in fact, see and note down the account number and told complainants about it.<sup>[12]</sup>

The next witness for respondent, Process Server Bautista, adopted his Joint Affidavit<sup>[13]</sup> dated May 3, 2000 as his direct testimony wherein he stated that: he proceeded with respondent and complainants to the office of defendant corporation to effect the writ of attachment; respondent was able to see some checks issued by defendant corporation but respondent stated that he was not able to memorize the account number; complainants wanted respondent to immediately garnish said bank account, and Atty. Norberto Perez even talked to respondent over the phone, but respondent said he could not proceed with the garnishment as he did not have the necessary papers with him; they went to complainants' office for snacks and there, complainant Apuyan placed an envelope on top of the table; thereafter, Apuyan returned to where he, respondent, and a certain de Leon were seated and Apuyan started yelling at respondent, calling the latter corrupt; respondent was angered by the accusation; Apuyan then told respondent that if the latter did not want to take it, "Thank You, anyway," then placed the envelope into the pocket of his polo-shirt; respondent never made any demand for money from complainants; that when complainants and Atty. Norberto Perez filed a Motion for the Appointment of Special Sheriff, a verbal tussle occurred between Atty. Perez and respondent; and when they learned that an administrative case had been filed against respondent, he executed the affidavit of his own free will to help respondent.

On cross-examination, Process Server Bautista stated that they went to complainants' office not mainly because they were invited for snacks but rather, "Hindi ko alam kung kasama na ang snack pero ang alam ko doon mayroong ibang trabahong pag-uusapan kaya nagyaya sila."<sup>[14]</sup> With regard to the confrontation between complainant Apuyan and Atty. Perez on the one hand and respondent on the other, witness Bautista testified thus:

Q: Were you present during the altercation between Atty. Perez, Mr. Apuyan and Sheriff Sta. Isabel?