

EN BANC

[A.M. No. P-99-1286, March 04, 1999]

CONCEPCION L. JEREZ, COMPLAINANT, VS. ARTURO A. PANINSURO, DEPUTY SHERIFF, MTCC, BRANCH 6, CEBU CITY, RESPONDENT.

RESOLUTION

PER CURIAM:

Submitted before the Court is a verified complaint^[1] dated December 17, 1992, originally filed with the Deputy Ombudsman for Visayas, by Concepcion L. Jerez against Arturo A. Paninsuro, Deputy Sheriff, Municipal Trial Court in Cities (MTCC), Branch 6, Cebu City, for estafa and misconduct.

On December 27, 1991, the Municipal Trial Court, Branch 6, Cebu City, in Civil Case No. R-307676, entitled "Concepcion Lopez Vda. de Jerez, plaintiff, vs. Paterna Canoy, et. al., defendants", for ejectment with damages, rendered judgment sentencing the defendants to pay the plaintiff the amount of Twenty-Seven Thousand Five Hundred Thirty Pesos (P27,530.00), and issued the corresponding writ of execution.^[2] The writ was assigned to respondent Sheriff Arturo A. Paninsuro for service and enforcement. In the course of the execution of the writ, Deputy Sheriff Paninsuro received from the defendants the total amount of P27,530.00, for which he issued receipts dated August 25, 1992^[3] and September 24, 1992.^[4] Respondent Sheriff, however, failed to turn over the money collected to the plaintiff, or to the court that issued the writ.

On June 28, 1994, the Deputy Ombudsman for Visayas, Hon. Arturo C. Mojica, referred the complaint to the Office of the Court Administrator, Supreme Court, Manila. Subsequently, Deputy Court Administrator Bernardo P. Abesamis, by First Indorsement,^[5] dated July 13, 1994, required respondent Sheriff Arturo A. Paninsuro to file his comment on the complaint.

In his Comment/Answer,^[6] dated October 17, 1994, respondent Sheriff contended that he and the plaintiff had agreed that the rentals collected would be placed under his custody, to be used for future demolition expenses. Because the demolition had not yet taken place, plaintiff had agreed to give respondent Sheriff until November 3, 1994, within which to turn over the money. Respondent Sheriff surmised that due to the passage of time, the plaintiff forgot all about the agreement, and, instead, filed a complaint with the Deputy Ombudsman for Visayas. To prove his allegations, respondent Sheriff stated that the complainant "will in fact" affix her signature in conformity with his comment/answer.

In her Reply to Comment/Answer,^[7] dated October 24, 1994, complainant vehemently denied any agreement regarding the collected rentals, and alleged that

had respondent Sheriff been sincere in remitting the amount collected, he should have turned over the money to the plaintiff in response to her motions filed in court and her complaint filed with the Deputy Ombudsman for Visayas. However, no payment or remittance to complainant has been made.

Deputy Court Administrator Bernardo T. Ponferrada, in his Memorandum^[8] dated November 3, 1998, recommended the dismissal of Deputy Sheriff Arturo A. Paninsuro from the service for grave dishonesty and grave misconduct.

We agree.

It is the duty of respondent Deputy Sheriff to enforce or implement court processes. In this case, the Municipal Trial Court, Cebu City, issued a writ of execution and respondent Sheriff has seized and collected an amount of the judgment debt, evidenced by the Sheriff's Return^[9] and two receipts.^[10] In fact, respondent Sheriff admitted that the amount was in his possession, alleging that complainant had given him until November 3, 1994, within which to turn over the money.^[11] However, this assertion proved to be false as respondent Sheriff failed to remit the money to complainant after collecting the amount from the defendants.

The failure to turn over the money entrusted to respondent Sheriff in his official capacity is an act of misappropriation of funds amounting to serious misconduct or gross dishonesty,^[12] not to mention his criminal liability therefor.

Respondent Sheriff has displayed a predisposition to dishonesty. On April 16, 1993, Graft Investigator Ricardo A. Rebolledo, office of the deputy Ombudsman for Visayas, issued an order,^[13] warning respondent Sheriff Paninsuro of his "reprehensible actuation" in filing a motion for postponement allegedly to attend to an important matter in Manila on April 10, 1993, but actually remaining in Cebu City, without filing a leave of absence.

Moreover, the court Administrator reported that respondent has been previously penalized for similar offenses.^[14] In A.M. No. P-87-888, decided on June 11, 1998, respondent was fined equivalent to one (1) month salary for misconduct. In A.M. No. P-88-223, decided on February 27, 1991, respondent was suspended for one (1) month without pay for inefficiency and incompetence. In A.M. No. P-94-1086, decided on July 14, 1995, respondent Sheriff was fined P3, 000.00, for grave abuse of discretion in the performance of his official duties, attempted extortion and dishonesty.

Also worth noting is respondent's allegation that "the complainant will in fact affix her signature in conformity to [his] comment".^[15] Complainant, aside from denying respondent's assertion, refused to sign the comment. Respondent's display of arrogance and dishonesty does not speak well of his character as an officer of the court charged with the duty of enforcing court processes.

The Court has repeatedly emphasized that the conduct and behavior of every person connected with the dispensation of justice, from the presiding judge to the sheriff and to the lowliest clerk should be circumscribed with the heavy burden of responsibility.^[16] Persons involved in the administration of justice ought to live up to