



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 3, 2021 which reads as follows:

“A.M. No. P-10-2847 [Formerly OCA IPI No. 09-3183-P] – (MARIANO AND CARMELITA CRUZ, *complainants* v. VIRGILIO F. VILLAR, Sheriff IV, Regional Trial Court, Office of the Clerk of Court, Pasay City, *respondent*.) – For the Court’s resolution is the verified administrative Complaint¹ filed by Mariano and Carmelita Cruz (complainants) against Virgilio F. Villar (respondent), Sheriff IV in the Office of the Clerk of Court, Regional Trial Court (RTC) of Pasay City, charging him with gross dereliction of duty and delay in the administration of justice.

The Antecedent Facts

Complainants alleged that they are the plaintiffs in a case docketed as Civil Case No. 98-0607 for Abatement of Nuisance with Temporary Mandatory Order/Injunction and Damages² (Abatement Case). Therein, the RTC ruled in their favor. Hence, a *Writ* of Execution³ was issued on April 11, 2008, the dispositive portion of which reads:

NOW THEREFORE, you are hereby commanded to cause that all the structures built and/or placed along the easement of right of way in Lot 2969, Pasay City Cadastre located along Edang Street, including, but not limited to a bird cage, dog house, concrete benches and eaves attached to the walls or built in front of any house within the compound are declared as private nuisance, and are hereby directed to be abated, destroyed, or removed from the subject

- over – seven (7) pages ...

167

¹ *Rollo*, pp. 1-2.

² *Id.*

³ *Id.* at 15-16.

premises and never again to be reconstructed, replaced or rebuilt therein, costs against the defendants.

Make a return on the proceedings pursuant to this Writ within (60) days from receipt hereof.⁴

Respondent was then assigned as the special sheriff to enforce the *Writ* of Execution.

Complainants further averred that sometime in May 2008, respondent initially asked for ₱300.00 allegedly for the service of the *writ* of execution to the losing parties. Complainants acceded and gave ₱300.00 to respondent. Later, respondent again asked for ₱1,000.00, this time to be used as a downpayment for the people (carpenters, masons, etc.) who will dismantle the nuisance. Again, complainants give heed to the request in exchange for a speedy enforcement of the *writ*. Then come June 2008, respondent again asked for money in the amount of ₱2,500.00 as full payment for the people who will dismantle the nuisance and as a budget for police assistance. Complainants acceded and gave respondent ₱2,500.00. Notwithstanding the receipt of a total amount of ₱3,800.00, respondent failed to enforce the *writ*. Further, respondent failed to make a return of the April 11, 2008 *writ* within 60 days from receipt thereof.⁵

In his Comment to the Complaint,⁶ respondent strongly and vehemently denied the accusations made against him. He denied asking for money in exchange for the enforcement of the *writ* of execution.⁷ On the contrary, he explained that upon receipt of his appointment as special sheriff in the Abatement Case, he immediately informed the defendants therein to voluntarily remove the concrete and plastic benches, and other nuisance complained of by complainants. Under his supervision, the defendants complied with the order. However, complainants subsequently asked respondent to remove and destroy major improvements such as the main extended roofing of defendants' houses, as well as concrete ceilings. He explained to complainants that he cannot remove these improvements without a special order to such effect from the court. Complainants, however, did not secure a special order for the removal of these improvements. Notwithstanding, respondent still asked the defendants in the Abatement Case to voluntarily remove these improvements. When defendants refused, respondent made a sheriff's report on October 6, 2008.⁸

- over -

167

⁴ Id. at 16.

⁵ Id. at 1.

⁶ Id. at 9-14.

⁷ Id. at 12.

⁸ Id. at 10-11

Pending resolution of this case complainants instituted a Criminal Complaint⁹ against respondent based on the same set of facts. After preliminary investigation, the Office of the City Prosecutor issued a Resolution¹⁰ dated May 12, 2010 recommending that an Information¹¹ for violation of Sec. 3(b), Republic Act (R.A.) No. 3019, otherwise known as the “*Anti-Graft and Corrupt Practices Act*”, be filed in court. The Office of the City Prosecutor, however, deferred the filing of the Information because the administrative case against respondent was still pending with this Court. Subsequently, the Office of the City Prosecutor forwarded the entire records of the criminal complaint to the Office of the Court Administrator (OCA) upon the Order¹² dated July 22, 2010 of the Office of the Ombudsman finding that the determination of respondent’s liability for such acts rests upon this Court which has power of supervision over court personnel.

OCA’s Report and Recommendation

After evaluating the records of this case, the OCA issued a Memorandum¹³ dated October 22, 2020, reiterating its earlier recommendation that respondent be held liable for simple neglect of duty and be fined in the amount of ₱3,000.00.¹⁴

The OCA found, based on its earlier recommendation¹⁵, that respondent did not commit any undue and intentional delay.¹⁶ The OCA pointed out that on the very same day that respondent was appointed special sheriff to the Abatement Case, respondent immediately gave Notice of Execution upon the defendants; his only fault is his failure to make his Sheriff’s Report on time; it took respondent five months, more or less, instead of two months, as what the rules prescribe, to make his report; and respondent likewise failed to offer a valid reason for such delay.¹⁷

The OCA also did not give credence to complainants’ allegation that respondent extorted money from them. It ratiocinated that complainants failed to show, by substantial evidence, that respondent asked money in exchange for the execution of the *writ*.¹⁸

- over -

167

⁹ Id. at 129-130.

¹⁰ Id. at 64-65.

¹¹ Id. at 68.

¹² Id. at 52-54.

¹³ Id. at 224-229.

¹⁴ Id. at 228-229.

¹⁵ Id. at 43-47.

¹⁶ Id. at 46.

¹⁷ Id.

¹⁸ Id. at 47.

The Issue Before The Court

The sole issue is whether or not respondent should be held administratively liable for neglect of duty.

The Court's Ruling

This Court finds the OCA's report and recommendation well taken.

At the outset, it is settled that complainants bear the burden of proving the allegations in their complaints by substantial evidence. If they fail to show in a satisfactory manner the facts upon which their claims are based, the respondents are not obliged to prove their exception or defense.¹⁹

In the instant case, records reveal that other than their bare allegations, complainants failed to prove that respondent extorted money from them in exchange for the immediate execution of the decision in the Abatement Case. They failed to present corroborative evidence to support their claim. Since mere allegation is not evidence and is not equivalent to proof,²⁰ this Court is constrained to disregard the allegation of extortion made by complainants. Needless to state, charges based on mere suspicion and speculation cannot be given credence.²¹

Notwithstanding, this Court agrees with the OCA that respondent should be held administratively liable for simple neglect of duties.

While respondent immediately served the *Writ* of Execution in the Abatement Case to the defendants therein on the same day he was appointed special sheriff to the case, records reveal that he failed to timely file a Sheriff's Return to the Court.

Section 14, Rule 39 of the 1997 Rules of Civil Procedure provides:

Sec. 14. *Return of writ of execution.* — The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ,

- over -

167

¹⁹ *Re: Letter of Rafael Dimaano Requesting Investigation of the Alleged Illegal Activities Purportedly Perpetrated By Justice Lantion, CA-CDO*, 813 Phil. 510, 517-518 (2017).

²⁰ *Billanes v. Latido*, A.C. No. 12066, August 28, 2018, 878 SCRA 343, 353.

²¹ *Aboy, Sr. v. Diocos*, A.C. No. 9176, December 5, 2019.

the officer shall report to the court and state the reason therefore. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.'

Clearly, it is mandatory for a sheriff to make a return of the *Writ* of Execution to the clerk or judge issuing it.²² If the judgment cannot be satisfied in full within 30 days after his receipt of the *writ*, the officer shall report to the Court and state the reason or reasons therefor. The officer is likewise tasked to make a report to the court every 30 days on the proceedings taken thereon until the judgment is satisfied in full or its effectivity expires.²³

While the above-quoted rule requires respondent to make a return on the *writ* within 30 days from receipt, the subject *Writ* of Execution in the instant case extended this period and gave respondent another 30 days, or 60 days in total, from receipt of the *writ* to comply with the Court's directive to execute the decision in the Abatement Case. Unfortunately, respondent still failed to make a return on time.

In the instant case, respondent received the April 11, 2008 *Writ* of Execution on May 12, 2008. On the same day, he served the writ to the defendants in the Abatement Case. Respondent, thus, have until July 11, 2008, that is 60 days from receipt of the *writ*, to make a return. Unfortunately, respondent made the report on October 6, 2008,²⁴ and filed it only on October 9, 2008²⁵, that is, more or less five months from his receipt of the *Writ* of Execution. Worse, respondent failed to justify the delayed filing of the return. While respondent averred that he was awaiting for a special order from the court before filing a return,²⁶ this cannot be considered a valid justification for the delay. The filing of the return is not dependent on the issuance of a special order. As enunciated by the rules and as extended by the *writ* itself, petitioner should have filed a return on or before July 11, 2008, regardless of whether that writ had been fully executed or not, or whether a special order was issued or not.

- over -

167

²² *Cunanan v. Tuazon*, 2307 Phil. 392, 398 (1994); *Vda. de Gillego v. Roxas*, 305 Phil. 169, 174 (1994).

²³ *Arevalo v. Loria*, 450 Phil. 48, 58 (2003).

²⁴ *Rollo*, pp. 24-25.

²⁵ *Id.*

²⁶ *Id.* at 11-12.

For failure of respondent to file the return on time, this Court agrees with the recommendation of the OCA that he should be held administratively liable for simple neglect of duty. A fine of ₱3,000.00 is likewise reasonable and commensurate to the misdemeanor he committed.

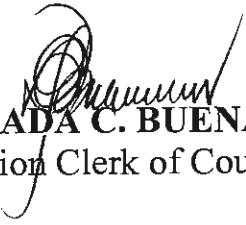
On a final note, this Court reiterates its pronouncement in the case of *Arevalo v. Loria*²⁷ that clerks of court and sheriffs, including all court personnel, play a critical role in the administration of justice and, as such, high standards are expected of them. The heavy burden of authority and responsibility reposed in them must at no time be taken lightly.²⁸

WHEREFORE, in view of the foregoing premises, respondent Virgilio F. Villar is found liable for **SIMPLE NEGLIGENCE OF DUTY** and is fined the sum of ₱3,000.00 with a **WARNING** that another or similar infraction will be dealt with severely.

Let a copy of this Resolution be furnished the Office of the City Prosecutor of Parañaque City for its information and guidance.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *off 5/11*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court
167

Sps. Mariano & Carmelita Cruz
Complainants
c/o Atty. Francisco Resurreccion
Room 427, 4/F, City Hall Building
F.B. Harrison, 1300 Pasay City

Mr. Virgilio F. Villar
Respondent – Sheriff IV
Office of the Clerk of Court
Regional Trial Court
1300 Pasay City
and/or
Block 32, Lot 46 Camella Homes
Springville, Molino
Bacoor, 4102 Cavite

- over -

²⁷ Supra.

²⁸ Id. at 58.



Office of the City Prosecutor
Parañaque City Hall
1700 Parañaque City

Hon. Jose Midas P. Marquez (x)
Court Administrator
Hon. Raul B. Villanueva (x)
Hon. Jenny Lind R. Aldecoa
-Delorino (x)
Hon. Leo Tolentino Madrazo (x)
Deputy Court Administrators
Hon. Lilian Barribal-Co (x)
Hon. Maria Regina A. F. M. Ignacio (x)
Assistant Court Administrators
OCA, Supreme Court

Office of Administrative Services (x)
Legal Office (x)
Court Management Office (x)
Financial Management Office (x)
Docket & Clearance Division (x)
OCA, Supreme Court

Public Information Office (x)
Library Services (x)
Supreme Court
(For uploading pursuant to A.M.
No. 12-7-1-SC)



167

UR

MMP