

THIRD DIVISION

[OCA I.P.I. No. 13-4148-P, February 10, 2016]

**SPS. JOSE AND MELINDA CAILIPAN, COMPLAINANTS, VS.
LORENZO O. CASTAÑEDA, SHERIFF IV, REGIONAL TRIAL COURT,
BRANCH 96, QUEZON CITY, RESPONDENT.**

DECISION

PEREZ, J.:

For this Court's resolution is the letter-complaint^[1] dated 8 August 2013 filed by Spouses Jose N. Cailipan and Melinda M. Cailipan (complainants) charging Lorenzo O. Castañeda (respondent sheriff), Sheriff IV, Regional Trial Court (RTC), Branch 96, Quezon City with neglect of duty, abuse of authority, and violation of Republic Act (R.A.) No. 3019 in connection with his alleged anomalous implementation of the Writ of Execution issued in Civil Case No. 40187 for unlawful detainer.

Complainants are the plaintiffs in the unlawful detainer case filed before the Metropolitan Trial Court (MeTC), Quezon City. The case was docketed as Civil Case No. 40187. The case involves a parcel of land owned by complainants located at Matimtiman Street, Pinyahan, Quezon City. Erected on the property is a 3-unit residential apartment. The defendants are occupying one (1) of the units while the two (2) other units have long been vacant and locked.

On 2 June 2011,^[2] the MeTC rendered a decision in favor of complainants, ordering the defendants and all persons claiming rights under their name to, among others, vacate the property subject matter of the case.

On appeal, the Regional Trial Court (RTC), Branch 96, Quezon City in a decision dated 9 December 2011 affirmed *in toto* the decision of the MeTC. On 4 December 2012, complainants' motion for issuance of writ of execution was granted. Consequently, on 31 January 2013, Branch Clerk of Court Atty. Rosemary B. Dela Cruz-Honrado issued a Writ of Execution^[3] commanding respondent sheriff to cause the execution of the judgment.

In their complaint, the spouses alleged that despite their continuous request for respondent sheriff to act on the matter, the implementation of the writ of execution was delayed for six (6) months. It allegedly proceeded only when they gave respondent sheriff P70,000.00, as evidenced by a handwritten receipt^[4] the latter issued, supposedly as expenses in the hiring of policemen who would assist him in the execution.

According to complainants, their long-awaited implementation of the writ of execution, however, turned out to be a farce, since respondent sheriff merely transferred the defendants and their relatives to the two (2) other vacant apartment units. Complainants allegedly learned also that not a single policeman assisted

respondent sheriff during the implementation of the writ of execution. When they confronted respondent sheriff regarding the turn of events, the latter allegedly retorted, "[B]asta ang tungkulin ko ay paalisin sila sa apartment unit 'C.'" *Complainants allegedly answered back, "[D]apat pinalabas mo ang mga defendants sa bakuran ng aming apartment, at hindi mo dapat pinalipat sa aming 2 apartment units na nakakandado at bakante. Ang sama mong tao!"*^[5]

The incident prompted complainants to file the instant administrative case against respondent sheriff praying that he be removed from the service and that he be compelled to return the embezzled P70,000.00, plus interest.

In its 1st Indorsement^[6] dated 2 September 2013, the Office of the Court Administrator (OCA) referred the letter-complaint to respondent sheriff Castañeda for comment.

In his Explanation,^[7] respondent sheriff denied the allegation that he instigated the defendants to transfer to the other units of the apartment. He insisted that the two (2) other units of the apartment were not vacant at the time he executed the writ. Further, he explained that the two (2) other units (Units 33-A and 33-B) were not included in the writ of execution as the writ merely stated "33-C Matimtiman St., Pinyahan, Quezon City." He admitted though that he belatedly obtained a copy of the Order dated 16 August 2013 (which directed Sheriff Pedro L. Borja to oust the defendants, et al., from the two remaining units of the apartment). He likewise denied the allegation that no policemen assisted him during the execution, saying that "a sheriff on his own volition can discreetly deploy policemen on standby for any untoward incident that may arise."

As to the money he received from complainants, respondent sheriff explained: "I was hoodwinked by Sps. Cailipan to acknowledge the amount because of their claim that this is for liquidation purposes for their office and will not be used in any other way; I am a trusting person not prone to persons with selfish motive." He further asserted that the complainants were hell-bent to discredit and harass him so he would succumb to their whims. He reported that the complainants also filed a criminal case against him before the Quezon City Prosecution Office.

In its report^[8] dated 4 November 2014, the OCA found respondent sheriff liable for grave misconduct and for soliciting, accepting directly/indirectly any gift, gratuity, or anything of value in the course of official duty. It recommended that respondent sheriff be dismissed from the service, with forfeiture of all retirement benefits except accrued leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations.

We agree with the findings of the OCA that respondent sheriff is administratively liable.

The duties of sheriffs in the implementation of writs are explicitly laid down in Section 10, Rule 141^[9] of the Rules of Court, as amended, which reads:

Sec. 10. Sheriffs, process servers and other persons serving processes. -
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With regard to sheriffs expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, **the interested party shall pay said expenses in an amount estimated by the sheriff, subject to approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit.** A full report shall be submitted by the deputy sheriff assigned with his return, the sheriffs expenses shall be taxed as cost against the judgment debtor. (Emphasis supplied)

The aforesaid rule enumerated the steps to be followed in the payment and disbursement of fees for the execution of a writ, to wit: (1) the sheriff must prepare and submit to the court an estimate of the expenses he would incur; (2) the estimated expenses shall be subject to court approval; (3) the approved estimated expenses shall be deposited by the interested party with the Clerk of Court, who is also the *ex-officio* sheriff; (4) the Clerk of Court shall disburse the amount to the executing sheriff; (5) the executing sheriff shall thereafter liquidate his expenses within the same period for rendering a return on the writ; and (6) any amount unspent shall be returned to the person who made the deposit.

It is clear from the enumeration that sheriffs are not authorized to receive direct payments from a winning party. Any amount to be paid for the execution of the writ should be deposited with the Clerk of Court and it would be the latter who shall release the amount to the executing sheriff. The amount deposited should be spent entirely for the execution only and any remainder of the amount should be returned.

It is evident that respondent sheriff is guilty of misconduct when he appropriated for himself the money he received from complainants, purportedly as "full payment" for the enforcement of the writ of execution. He never denied the authenticity of his handwritten acknowledgement receipt showing that he received from complainants the amount of P70,000.00. He simply argued that he was "hoodwinked" by complainants to acknowledge the amount supposedly for liquidation purposes. Other than his vague explanation, there was no accounting of the amount he admitted to have received. In fact, there was also no showing that a liquidation was prepared and submitted to the court as required under the rules.

Even if complainants were amenable to the amount requested or that the money was given voluntarily, such would not absolve respondent sheriff from liability because of his failure to secure the court's prior approval. We held in *Bernabe v. Eguia*^[10] that acceptance of any other amount is improper, even if it were to be applied for lawful purposes. Good faith on the part of the sheriff, or lack of it, in proceeding to properly execute its mandate would be of no moment, for he is chargeable with the knowledge that being the officer of the court tasked therefore,