690 Phil. 117

SECOND DIVISION

[A.M. No. P-12-3067 [formerly A.M. OCA IPI No. 10-3400-P], July 04, 2012]

RHEA AIRENE P. KATAGUE, RODOLFO E. KATAGUE, RONA SALVACION K. DELA, COMPLAINANTS, VS. JERRY A. LEDESMA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 48, BACOLOD CITY, RESPONDENT.

R E S O L U T I O N

SERENO, J.:

At bench is an administrative case that involves respondent Jerry A. Ledesma (respondent), employed as Sheriff IV of the Regional Trial Court, Branch 48, Bacolod City. The Office of the Court Administrator (OCA) found him guilty of simple neglect of duty for his failure to submit periodic reports and to make a return of the Writ of Execution in accordance with the Rules of Court. The OCA recommends that he be reprimanded. The administrative case arose from three (3) separate but related Verified Complaints filed by complainants Rhea Airene P. Katague, Rodolfo E. Katague and Rona Salvacion K. Dela (complainants) on various dates[1] in their capacities as defendants in another related case entitled "Eustaquio Dela Torre v. Rodolfo Katague, et al.," docketed as Civil Case No. 08-13303 (Civil Case), and pending before Regional Trial Court of Bacolod City, Branch 48 (RTC Branch 48). The various Complaints contained similar allegations charging respondent, employed as Sheriff IV in RTC Branch 48, with gross neglect in the performance of his official duties, inefficiency and incompetency, as well as violation of the Anti-graft and Corrupt Practices Act.

THE FACTS

Complainants alleged that on 17 December 2009, Presiding Judge Gorgonio J. Ybañez of RTC Branch 48 issued a Writ of Execution directed to the Provincial Sheriff of Negros Occidental ordering the latter to cause plaintiff therein, Eustaquio dela Torre (Dela Torre), to vacate the subject premises in connection with the Civil Case. Subsequently, respondent, employed as Sheriff IV of the said court, personally served a Notice to Vacate upon Dela Torre on 22 December 2009. The Writ of Execution was implemented after the five (5)-day grace period, and Dela Torre peacefully vacated the premises. However, pieces of equipment and other lumber products were left behind, as their removal would take approximately two (2) days to accomplish. Complainants claimed that contrary to the assurance of respondent that he would return the following day to remove the said effects, he failed to do so.

Complainants further alleged that respondent again committed himself to the accomplishment of the task on 09 January 2010; again, he failed to do so. On 08 January 2010, a Third-Party Intervention (Intervention) in the Civil Case was filed by Riza L. Schlosser (Schlosser), who asserted a purported fifty-one percent (51%)

share in the properties left behind by Dela Torre. Schlosser was the petitioner in a related liquidation proceeding entitled "*Riza L. Schlosser v. Eustaquio Dela Torre*," docketed as Civil Case No. 09-13439 (Liquidation Case), pending before the Regional Trial Court of Bacolod City, Branch 54 (RTC Branch 54).

Complainants (defendants in the Civil Case) opposed the Intervention of Schlosser. On 14 January 2010, during the hearing thereon, both parties reached a compromise and agreed to transfer the equipment and lumber products to a particular portion of the same compound until 28 February 2010 with the proper payment of rentals. Complainants alleged that respondent yet again failed to facilitate the said transfer.

On 29 January 2010, a Motion was filed by complainants to enforce the Writ of Execution in the Civil Case. Consequently, the trial court issued an Order directing the enforcement of the writ, but still to no avail. Complainants alleged that respondent's explanation, that police assistance was needed to facilitate the enforcement, was baseless. They even allegedly facilitated the accomplishment of three (3) out of the four (4) listed requirements in the writ in order to aid respondent in its implementation.

Subsequently, complainants yet again moved to have the writ implemented. Despite repeated requests, however, respondent allegedly still did not act upon the motion. Eventually, as stated earlier, the aggrieved complainants filed their respective Verified Complaints.

As required by the OCA, respondent filed three (3) Comments[2] pertaining to each of the three (3) Complaints. He alleged that he had done everything to comply with the trial court's orders and processes; and, if there was any delay in the execution process, it was never intentional, but caused by factors and circumstances beyond his control. He further explained that he had indeed issued a Notice to Vacate directed to Dela Torre, who was then no longer actually occupying the premises. Respondent alleged, though, that by virtue of the Liquidation Case, the remaining subject equipment and lumber stocks could not be removed from the premises, thus, admitting that he had indeed scheduled the removal on 09 January 2010, but he was unable to do so. He claimed that he had been informed by Atty. Lorenzo S. Alminaza, counsel for Schlosser, that the effects were already in *custodia legis* in relation to the Liquidation Case. Respondent likewise confirmed that Schlosser sought to intervene in the Civil Case, and that an agreement to transfer the effects was eventually reached between the parties. However, the transfer was not implemented, because Schlosser refused to cooperate, purportedly for safety reasons and for lack of adequate shelter in the premises where the proposed transfer was to be effected.

Accordingly, the trial court directed respondent to seek assistance from the Bacolod City Police Office to maintain the peace during the implementation of the writ. On 11 March 2010, respondent wrote a letter to Police Superintendent Celestino Guara (Guara) and sought Guara's assistance as instructed. Instead of acting upon it, Guara coursed it through Police Chief Inspector Noel E. Polines, who in turn indorsed it to the Legal Department of the PNP Regional Office at Iloilo City for review and to the Regional Director for final approval. The letter was not acted upon by the regional office despite respondent's follow-ups.