

SECOND DIVISION

[A.M. NO. P-07-2332 [FORMERLY OCA I.P.I NO. 07-2511-P], September 04, 2009]

**DR. SALOME U. JORGE, COMPLAINANT, VS. CARLOS P. DIAZ,
DEPUTY SHERIFF, RTC, BRANCH 20, TACURONG, SULTAN
KUDARAT, RESPONDENT.**

DECISION

CARPIO MORALES, J.:

In a Decision rendered in Civil Case No. 356 against the therein defendants Carlos T. Jorge and his wife-herein complainant Salome U. Jorge, Branch 30 of the Regional Trial Court (RTC) of Tacurong City disposed as follows:

ACCORDINGLY, the Court orders defendants Carlos T. Jorge and Dra. Salome U. Jorge to pay jointly and severally the plaintiffs spouses Antonio dela Cruz and Elena dela Cruz, the following:

- a) P100,000.00, as principal obligation with legal interest from January 8, 1993 until full settlement thereof;
- b) P20,000.00 as exemplary damages;
- c) P20,000.00 as attorney's fees; and
- d) Cost of the suit.

SO ORDERED.^[1] (Underscoring supplied).

Carlos P. Diaz, Deputy Sheriff, herein respondent, in implementation of the Writ of Execution issued following the finality of the Decision, garnished the P14,279.50 mid-year bonus of complainant without issuing any receipt therefor.

In connection with another case, Civil Case No. 703, "*Heirs of Francisca Penera represented by Dr. Salome U. Jorge, Sabina M. Urlanda, Cornelia Urlanda and Orlando P. Urlanda v. Rural Bank of Tacurong, Inc. represented by its president Jose Lagon and Armando Lagon*," in which complainant was the representative of the therein plaintiff, complainant alleged that respondent escorted the President of the therein defendant Rural Bank of Tacurong, Inc., along with others, in forcibly entering her farm and thereafter burning the kitchen of the farmhouse, taking some personal items, and destroying some fruit-bearing trees.

Hence, spawned complainant's filing of the present administrative complaint against respondent.

In his Comment, respondent, virtually admitting not issuing a receipt to complainant for garnishing the proceeds of her mid-year bonus, explained that he signed the payroll reflecting the grant and receipt of the bonus after receiving the cash proceeds thereof in the presence of the complainant.

Respecting his questioned acts in connection with Civil Case No. 703, respondent found the same undocumented, hence, they may not hold ground.

After evaluating the complaint, the Office of the Court Administrator (OCA) came up with the following observations:

Respondent sheriff categorically denies all the accusations charged against him. However, the best evidence to prove that he was not remiss in his duties was the return of the writ. x x x

x x x x

It appears that respondent has not submitted his return on the garnishment of complainant's mid-year bonus. Such failure amounts to **simple neglect of duty** which has been defined as failure of an employee to give one's attention to the task expected of him, which signifies a disregard of a duty resulting from carelessness or indifference.

On the other hand, the charge of **oppression** regarding the destruction of the farm trees and the taking of her farmhands' beds was not substantiated with any evidence.

The burden is on the complainant to substantiate the allegations stated in the complaint. Hence, if the same were unfounded, the respondent is not required to raise his defenses.^[2] (Emphasis and underscoring supplied)

The OCA thereupon recommended that the administrative complaint be re-docketed as a regular administrative matter, and that respondent be fined P1,000 for simple neglect of duty with a stern warning that a repetition of the same or similar act in the future shall be dealt with more severely.^[3]

On July 2, 2007, this Court noted the Complaint and the Comment, re-docketed the Complaint as a regular administrative matter, and required the parties to manifest within ten days from notice whether they were willing to submit the matter for resolution on the basis of the pleadings on file.^[4]

In the meantime or on April 29, 2008, complainant filed another administrative complaint against respondent with the following charges:

1. DISHONESTY - Sheriff IV Carlos P. Diaz, RTC, Branch 20, Tacurong City, Province of Sultan Kudarat, collected from me a total of P165,781.00 to satisfy the writ of execution against me and my late

husband Carlos T. Jorge dated March 1, 2004 xxx.

2. GRAVE ABUSE OF AUTHORITY - Even after Sheriff IV Carlos P. Diaz already collected the total amount of P165,781.00 to satisfy the judgment against me in Civil Case No. 356, he again executed the writ of execution in the same case. In connection therewith, he again took my bonuses including PIB in the amount of P72,000.00 from the municipal treasurer of Columbio, Sultan Kudarat, to satisfy the judgment in the same Civil Case No. 356.
3. SHERIFF IV CARLOS P. DIAZ should be charge[d] of [*sic*] the crime of Estafa through perjury for making untruthful statements of fact relative to his enforcement of the writ of execution in Civil Case No. 356 and collecting therefor excess [*sic*] amount from the accounts of the undersigned in the office of the municipal treasurer of Columbio, Sultan Kudarat last December, 2007, although the judgment obligation of the undersigned had already been overpaid.
[5]

Complainant in fact sent a letter-complaint of October 2, 2008 addressed to the Deputy Ombudsman for Mindanao reiterating her charge that respondent had illegally collected her bonus in excess of the judgment debt in Civil Case No. 356, [6] which letter the Deputy Ombudsman endorsed to the OCA. [7]

In a still subsequent letter of February 9, 2009, complainant informed the OCA that respondent again garnished her mid-year, year-end, and extra bonuses for 2008, [8] albeit she did not state the amounts thereof.

In his March 12, 2009 Comment on these subsequent complaints, respondent claimed that the amounts taken from complainant's bonuses - which, as of March 12, 2009, totaled P218,000 - represented partial satisfaction of the judgment debt.
[9]

The Court notes from the copy of the sheriff's report submitted by complainant that respondent had collected a total of P149,485.50 from 2006-2007. [10] From the earlier-quoted dispositive portion of the judgment rendered against complainant, the principal obligation of P100,000 was to bear legal interest from January 8, 1993. Twelve percent of P100,000 for every year [11] since January 8, 1993 or P12,000 every year up to this year, 2009, would yield P192,000. Adding this amount of interest to the P100,000 principal obligation, plus the P20,000 exemplary damages, and P20,000 attorney's fees, would yield a total of P332,000 as of this year, excluding costs of suit. Respondent cannot thus be said to have collected amounts in excess of the judgment debt inclusive of interest, exemplary damages, and attorney's fees.

From a copy of a Manifestation complainant submitted to the trial court itemizing the amount she had paid as of January 27, 2007 totalling P165,781, [12] the Court notes that the itemized amounts include some checks dated 1995, which could not have been in settlement of the 2003 judgment debt.