

THIRD DIVISION

[A.M. NO. P-06-2122 (FORMERLY OCA IPI NO. 05-2202-P), July 17, 2007]

SAULA DE LEON-DELA CRUZ, COMPLAINANT, VS. FERNANDO P. RECACHO, CASH CLERK AND RODERICK D. ABAIGAR, DEPUTY SHERIFF, METROPOLITAN TRIAL COURT, BRANCH 79, LAS PIÑAS CITY, RESPONDENTS.

RESOLUTION

AUSTRIA-MARTINEZ, J.

Before the Court is a verified letter-complaint^[1] dated April 27, 2005 of Saula de Leon-dela Cruz (complainant) charging Fernando P. Recacho (Recacho), Cash Clerk and Roderick D. Abaigar (Abaigar), Deputy Sheriff, Metropolitan Trial Court (MeTC), Branch 79, Las Piñas City, with Conduct Prejudicial to the Best Interest of the Service, Grave Misconduct and Dereliction of Duty relative to Civil Case No. 6340, entitled *Saula de Leon-dela Cruz v. Lolita Salazar*.

Complainant alleges: She is the plaintiff in Civil Case No. 6340. On March 17, 2003, the trial court rendered a decision in her favor. On October 23, 2003, the trial court issued a writ of execution. Nearly ten months from the issuance of the writ of execution, she filed a motion for the issuance of a writ of demolition and the same was granted by the trial court on November 24, 2004. Despite inquiry and due request, Recacho hid, withheld, and refused to show and furnish her copies of three court orders, to wit: (a) Order dated September 23, 2003 granting her motion for execution; (b) Writ of Execution dated October 23, 2003; and, (c) Demolition Order dated December 1, 2004. Abaigar, on the other hand, inimically and unjustifiably delayed the execution of the Demolition Order; with undue, unwarranted and unreceipted solicitation of money which amounted to P50,000.00, as a condition *sine qua non*, for implementing the Demolition Order in connivance with Deputy Chief of Police Alberto Romero of the Las Piñas City Police Department. The Demolition Order has not been fully implemented.

In her supplemental complaint dated May 16, 2005,^[2] complainant further alleges: She gave Abaigar the amount of P14,000.00 on April 21, 2005 for the food and services of the demolition crew as well as for the *barangay* officers, but Abaigar did not issue a receipt. She went to the demolition site and when Abaigar saw her, he asked for money with a threat that they would leave the premises absent any police back-up. When the policemen arrived, the demolition work pushed through, but only eight shanties were demolished. She paid P10,000.00 to Abaigar and P5,000.00 to Col. Romero but still no receipts were issued. Due to the unethical attitude of Abaigar, the demolition of the houses failed to materialize. Abaigar even instructed her to hire her own demolition crew as he would be attending a seminar from April 25-30, 2005. Abaigar said that the demolition would be done in two to three days' work, but only 12 shanties were demolished in two half-days' work.

In his Comment^[3] dated July 4, 2005, Abaigar avers: He did not receive the sums of money from the complainant. He went to the subject premises on February 15, 2005 and told the squatters to voluntarily vacate the place. The squatters pleaded for an extension of up to March 15, 2005 within which to vacate the premises. He granted the same with the consent of the complainant. The demolition scheduled on March 15, 2005 did not push through due to complainant's failure to coordinate with the police authorities to assist in the demolition. On April 18, 2005, he sent a letter to complainant informing her that the demolition would be done on April 21, 2005, demolishing eight houses in the process. The demolition continued the following day with the demolition group, composed of 30 persons, waiting for the arrival of the police officers to assist in the demolition job. He tried to contact Col. Romero but the latter was in a rescue operation. The complainant agreed to pay P15,000.00 for the demolition crew, but only P10,000.00 was given for the 30 persons. He did not say that he could not continue with the demolition on April 25-30, 2005 due to the seminar because the seminar was held on April 27-30, 2005. He was doing his duties as sheriff in the best way he could, but it was the fault of complainant in not coordinating properly with the police authorities. He did not assure complainant that the demolition would be done in two to three days considering the more or less 200 houses erected on the premises.

In his *Sinumpaang Salaysay*^[4] dated June 17, 2005, Recacho contends: He did not hide the writ of execution and writ of demolition as, in fact, several houses were already demolished. The delay in the service of the above-mentioned writs was due to his heavy workload. He is serving three judges and in addition to his clerical work, he prepares the calendar of cases, mails court processes and does such other errands assigned to him.

Upon recommendation of the Office of the Court Administrator (OCA), the Court, in its Resolution dated June 14, 2006, referred the case to the Executive Judge of the Regional Trial Court, Las Piñas City, for investigation, report and recommendation.^[5]

On January 2, 2007, Investigating Judge Joselito DJ. Vibandor submitted his Report and Recommendation^[6] dated November 29, 2006 finding respondents Abaigar and Recacho guilty of grave misconduct for violating the rules.

In its Resolution of January 24, 2007, the Court referred the Report and Recommendation of Judge Vibandor to the OCA for evaluation, report and recommendation.

In its Memorandum^[7] dated March 21, 2007, the OCA adopted the recommendation of the Investigating Judge insofar as finding Abaigar guilty of grave misconduct and violation of Section 6,^[8] Canon IV, Code of Conduct for Court Personnel; but as to Recacho, the OCA found him guilty of neglect of duty for failure to act promptly on letters and requests within 15 days from receipt. The OCA recommends that: (a) Abaigar be dismissed from the service with forfeiture of all benefits, except accrued leave credits, with prejudice to reinstatement and re-employment in any branch or service of the government, including government-owned or controlled corporations; and, (b) Recacho be fined in the amount of P2,000.00, for simple neglect of duty.

We concur with the findings and recommendations of the OCA, except as to the

recommended penalty with respect to respondent Abaigar.

Time and again, we have reminded court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice. With respect to sheriffs, they are to implement writs of execution and similar processes mindful that litigations do not end merely with the promulgation of judgments.^[9] Being the final stage in the litigation process, execution of judgments ought to be carried out speedily and efficiently since judgments left unexecuted or indefinitely delayed are rendered inutile and the parties prejudiced thereby, condemnatory of the entire judicial system.^[10]

As court employees, sheriffs are obliged to conduct themselves with propriety and decorum and to ensure that their actions are above suspicion at all times. The Court cannot countenance – it in fact condemns – any conduct, act or omission that violates the norm of public accountability and diminishes, or even just tends to diminish, the faith of the people in the judiciary.^[11]

Records reveal that the writ of execution was issued by the trial court on October 23, 2003, while the writ of demolition was issued on December 1, 2004. However, Abaigar failed to promptly act on the writ after the same was given to him for execution. He made a partial return only on April 25, 2005, or almost four months after the issuance of the writ of demolition, in utter violation of the Rules.^[12]

During the investigation, complainant clarified that the amount given to respondent Abaigar was not P50,000.00, as initially alleged in the complaint, but only P11,000.00.^[13] It matters not, however, how much money was received by Abaigar. Primordial is the act of Abaigar in demanding money from complainant for the execution of the writ of demolition.

Section 10, Rule 141 provides:

Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes. –

x x x x

With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safe-guarding 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 the 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, x x x.