

SECOND DIVISION

[A.M. NO. P-04-1907 (FORMERLY OCA I.P.I. NO. 04-1872-P), July 03, 2007]

ILDEFONSO P. JACINTO, COMPLAINANT, VS. BERNABE M. CASTRO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 24, ECHAGUE, ISABELA RESPONDENT.

D E C I S I O N

CARPIO MORALES, J.:

Branch 24 of the Regional Trial Court (RTC) of Echague, Isabela found the accused in Criminal Case No. JR-2387, *"People of the Philippines v. Christopher Salvador,"* guilty of reckless imprudence resulting in homicide and physical injuries^[1] and ordered him to pay Ildefonso P. Jacinto (Jacinto), herein complainant, among others, actual damages in the amount of P73,266 and attorney's fees in the amount of P10,000, and in case of insolvency, Artemio Salvador (Salvador), the owner of the passenger jeepney involved in the case, would be subsidiarily liable.

The trial court subsequently issued a writ of execution of the civil aspect of the case, ^[2] which was not, however, satisfied as, by the report of herein respondent Sheriff Bernabe M. Castro, "the accused has neither personal nor real property to be levied upon."^[3] A "Subsidiary Writ of Execution against Artemio Salvador" was later issued.^[4]

Herein complainant Jacinto thereupon charged respondent Sheriff for Refusal to Perform Official Duty and Acts Favoring Judgment Debtors in connection with the implementation of the writ of execution issued by the trial court.

In his complaint, Jacinto alleges that in the implementation of the writ of execution for which he gave the amount of P5,000 to respondent, the latter seized a motorized tricycle from the accused but that he (respondent) released it after the accused promised that he would pay P50,000, which promise was not, however, kept;^[5] that respondent also seized Salvador's passenger jeepney which respondent similarly released;^[6] that in respondent's Sheriff's Return of January 15, 2003, the latter reported that the accused has no more leviable properties;^[7] and that his counsel called the attention of respondent for his failure to implement the writ, but he failed to respond.^[8]

Justifying the release of the tricycle, respondent, in his Answer^[9] of April 14, 2004, explains that the accused was no longer the owner thereof, he (the accused) having sold it to one Julius Raspado who showed him a copy of a deed of sale^[10] for the purpose.

Respecting his Sheriff's Return of January 15, 2003, respondent claims that the only property he could seize from the accused was the tricycle, in support of which he attached to his Answer a certification from the municipal assessor of Jones, Isabela that the accused has no registered property therein.^[11]

As for the passenger jeepney which he seized from its owner Salvador, but which he later released, respondent explains that a certain Catalino Tabiolo showed him a copy of a deed of sale executed in his favor by Salvador, hence, his release thereof is in good faith.^[12]

As to his failure to reply to the letter of counsel for complainant, respondent explains that since complainant and his representative were present when he seized the tricycle and passenger jeepney which he later released, he posits that they should have relayed the same to complainant's counsel. Respondent nonetheless apologizes for his failure to reply.^[13]

As to the expenses incurred in the implementation of the writ, respondent explains that since complainant did not make any deposit with the Clerk of Court for the purpose and he had to go as far as Arubub, Jones, Isabela, complainant gave him P100 for transportation expenses.^[14]

The case was referred for investigation, report and recommendation of the Executive Judge of the RTC, Echague, Isabela who reported that the parties submitted their case for resolution on the basis of the pleadings.

The Office of the Court Administrator (OCA), noting that respondent released the vehicles despite the absence of affidavits supporting third-party claims and the prior approval of the court, found that respondent failed to adhere to the rules regarding third-party claims. It found too that respondent failed to observe the rules on acceptance of fees representing expenses for the implementation of writs.

Finally, the OCA found that respondent failed to observe Section 5(a) of Republic Act No. 6713 (R.A. 6713) on public officials and employees' obligation to respond to letters, telegrams or other means of communications sent by the public.

The OCA thus recommended the suspension of respondent for one (1) month and one (1) day without pay, with a stern warning that a repetition of a similar conduct shall be dealt with more severely.

When a person other than the judgment obligor or his agent claims title or right to the possession over a property levied on in execution, Section 16 of Rule 39 of the Rules of Court directs:

SEC. 16. Proceedings where property claimed by third person. - If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party