

## EN BANC

**[ A.M. NO. P-06-2277 (FORMERLY A.M. OCA I.P.I. NO. 05-2270-P), December 06, 2006 ]**

**ROMEL FLORES, COMPLAINANT, VS. JUAN C. MARQUEZ, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 53, RESPONDENT.**

### D E C I S I O N

**TINGA, J.:**

For resolution is an administrative case filed by Romel Flores against Juan C. Marquez, Sheriff IV, Regional Trial Court ("RTC"), Rosales, Pangasinan, Branch 53, for gross neglect of duty in connection with the implementation of the writ of execution in Criminal Case No. 2797, entitled "*People of the Philippines v. Jaime De Vera*" ("criminal case") for reckless imprudence before the Municipal Trial Court ("MTC") of Santa Maria, Province of Pangasinan.

Complainant Flores as the private complainant in the aforesaid criminal case obtained a favorable judgment<sup>[1]</sup> dated 30 September 1999, the dispositive portion of which reads:

WHEREFORE, finding the accused [Jaime De Vera] guilty beyond reasonable doubt of having committed the crime charged, he is therefore sentenced to a fine of Eighty Thousand (P80,000.00) Pesos.

As for his civil liability, accused is ordered to pay to the private complainant the amount of Seventy Six Thousand and Three Hundred Fourteen (P76,314.00) Pesos, as reparation for the damage caused.

SO ORDERED.<sup>[2]</sup>

Consequently, a writ of execution<sup>[3]</sup> was issued by the Clerk of Court on 10 February 2000 and was received by Marquez on 10 March 2000 for implementation.<sup>[4]</sup>

This administrative case was triggered by Flores's grievance that despite giving Marquez on several occasions the total amount of P1,000.00 as expenses for execution, the latter failed to inform him of any development relative to the implementation of the writ. Upon verification with the Municipal Trial Court (MTC) of Sta. Maria, Pangasinan, Flores was issued a Certification<sup>[5]</sup> dated 26 April 2005 by the Clerk of Court to the effect that Marquez had not made a report or a return of the writ since his receipt thereof on 10 March 2000. Flores's counsel, Atty. Salud Aldana, then reported the matter to Judge Teodorico P. Bauzon, the Executive Judge of RTC, Rosales, Pangasinan, Branch 53, alleging that Marquez's lackadaisical attitude had caused Flores suffering and turmoil by depriving him of the fruits of the favorable decision he obtained.<sup>[6]</sup>

It was only after Judge Bauzon had required Marquez to explain under pain of administrative sanction that the latter made a Sheriff's Return<sup>[7]</sup> on 19 April 2005. <sup>[8]</sup> Marquez reported that he executed the said writ on 15 March 2000 but de Vera pleaded for more time to pay his civil liability. Marquez gave him ten (10) days within which to pay the same. However, when he returned to collect from de Vera on 25 March 2000, the latter informed him that he had no money because he was sick and he had no property that

could be attached. When Flores followed up the matter with him, Marquez once again attempted to collect from de Vera on 14 April 2005 but to no avail. The latter allegedly promised him that he would directly pay Flores. Consequently, Marquez went to the Municipal Assessor of Tayug, Pangasinan to verify whether de Vera owned real property that could be attached to satisfy his obligation. He was issued a certification by the said office to the effect that de Vera had none.<sup>[9]</sup> These circumstances, according to Marquez, led to the delay in making his return. He also thought that de Vera had already paid Flores because the latter no longer followed up the matter with him until sometime in 2005.

On 20 July 2005, Flores filed the instant administrative complaint with the Office of the Executive Judge, RTC, Rosales, Pangasinan which was later referred to this Court for appropriate action.<sup>[10]</sup> He assails Marquez's allegations as fabricated, averring that de Vera owned real property in Lingayen, Pangasinan as shown by three tax declarations<sup>[11]</sup> issued in the name of Spouses Jaime de Vera and Lolita Estrada by the Provincial Assessor. Flores further alleges that de Vera was once a Municipal Councilor in Tayug, Pangasinan and is known to be a well-to-do man with several businesses such as duck-raising so that it is unbelievable that he could not satisfy even a portion of his obligation if Marquez had indeed properly executed the writ. He states that Marquez's dereliction of duty has caused him sleepless nights, serious anxiety, great damage and irreparable injury for which the latter should be penalized.

In his Comment<sup>[12]</sup> dated 28 September 2005, Marquez denies the charges against him. According to him, he was not remiss in the implementation of the subject writ. Upon receiving the same, he immediately went to Tayug, Pangasinan to ask for assistance from one of the sheriffs in that court considering that Tayug is not within his territorial jurisdiction, as evidenced by his letter<sup>[13]</sup> addressed to the Clerk of Court of RTC, Tayug, Pangasinan. Sheriff Romeo Dela Cruz assisted him in the actual implementation of the writ on 15 March 2000. Marquez reiterates that de Vera had no property listed in his name for taxation purposes in the Municipality of Tayug, Pangasinan as shown by the 25 March 2005 certification issued by the Municipal Assessor. He points out that the tax declarations attached to the instant complaint were not dated. He explains that Tax Declaration No. 42-04374 Series of 1994 in the name of Spouses Jaime de Vera and Lolita Estrada was cancelled by Tax Declaration No. 42-08165 in the name of Spouses Danilo Chua and Elizabeth Chua on 15 April 1996, as certified by Pedro F. Fernandez, the Municipal Assessor of Tayug.<sup>[14]</sup> Similarly, Tax Declaration No. 42-04375 and Tax Declaration No. 42-04376 in the name of Spouses Jaime de Vera and Lolita Estrada had been previously cancelled by Tax Declaration No. 2812 and Tax Declaration No. 2811, respectively, both in the name of Spouses Zaldy de Vera and Maria Elena A. de Vera in 1999. Hence, when the criminal case was decided, de Vera no longer owned the properties. Flores avers

that he faithfully and religiously performed his tasks but admits that his only mistake was that he did not immediately make a return to the court due to oversight and voluminous work as well as the mild stroke he suffered. Marquez attached to his Comment the Affidavit<sup>[15]</sup> of Sheriff Dela Cruz and the Certifications<sup>[16]</sup> issued by Fernandez. The attachments essentially corroborate Marquez's statement that he indeed attempted to implement the writ but de Vera failed to pay because the latter could not work, as he was ill, and that he had no property that could be attached to satisfy his judgment debt.

In its Report,<sup>[17]</sup> the Office of the Court Administrator (OCA) recommended that the case be referred to the Executive Judge of the RTC, Rosales, Pangasinan for investigation in view of the conflicting factual allegations of the parties. In a Resolution<sup>[18]</sup> dated 19 April 2006, this Court referred the instant case to Judge Bauzon for investigation, report and recommendation.

At the hearing, Flores testified basically on the matters contained in his affidavit-complaint. He added that he gave Marquez a total sum of P1,000.00 for gasoline expenses upon the orders of his former counsel, Atty. Mapili. Marquez later informed him that he could not collect from de Vera as the latter had no properties listed in his name. Flores thereafter personally went to the Tayug Municipal Assessor's Office and he was informed that de Vera indeed had no property. Unconvinced, he went to the Provincial Assessor's Office in Lingayen sometime in the year 2000 where he was able to secure three tax declarations in the name of the spouses Jaime and Lolita de Vera and gave copies thereof to Marquez. Marquez later informed him that the properties subject of the tax declarations were already transferred to other persons. Sometime in 2005, Marquez informed him that he was not able to collect anything from de Vera. Flores then filed the instant administrative complaint.

Meanwhile, Marquez took the witness stand and presented Dela Cruz and Fernandez as his witnesses. Marquez testified that he never received any amount from Flores and that he used his own money in defraying the costs of implementing the writ. In fact, Flores even promised to reimburse his expenses after he shall have collected from de Vera.<sup>[19]</sup> Although Flores verified with him the status of the execution sometime in 2002, he still forgot to make the required sheriff's return due to his workload. After his last attempt to collect from de Vera in 2005 had failed, Flores and his counsel, Atty. Aldana allegedly demanded that he pay Flores P200,000.00 as damages for not collecting from de Vera.<sup>[20]</sup> Marquez refused.

Sheriff Dela Cruz testified that he assisted Marquez in implementing the writ. He allegedly accompanied Marquez every time the latter tried to collect from de Vera and the latter failed to pay because he had no property, real or personal, and that he could not work because of his illness.

Pedro Fernandez testified that Marquez went to his office sometime in 2000 to inquire if de Vera had any property listed in his name for taxation purposes. Since de Vera had none, Fernandez issued to Marquez a certification to that effect. He further testified that Flores went to his office sometime in 2003 to verify the existence of properties belonging to de Vera and he informed him that based on the current revised tax declarations, de Vera had none.

Flores's right to cross-examine Marquez and his witnesses was deemed waived as