

## EN BANC

**[ A.M. No. RTJ-99-1432, June 21, 2000 ]**

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.  
JUDGE LORENZO B. VENERACION, AND BRANCH CLERK OF  
COURT ROGELIO M. LINATOC, BOTH OF THE REGIONAL TRIAL  
COURT, BRANCH 47, MANILA, RESPONDENTS.**

### R E S O L U T I O N

**PARDO, J.:**

The case before the Court is an administrative complaint against Judge Lorenzo B. Veneracion for grave misconduct and violation of Canon 3, Rule 3.08 of the Canons of Judicial Ethics, and Branch Clerk of Court Rogelio M. Linatoc, for grave misconduct, both of the Regional Trial Court, Branch 47, Manila, initiated by the Court Administrator.<sup>[1]</sup>

On November 24, 1998, Merlinia C. Santos filed with the Court Administrator, a sworn letter-complaint<sup>[2]</sup> against Rogelio A. Tria, "Acting Sheriff IV, Branch 47, Regional Trial Court, Manila," assailing the acts of "Sheriff" Tria in the implementation of a writ of execution in a civil case for support.<sup>[3]</sup>

On the basis of the letter, on January 15, 1999, Court Administrator Alfredo L. Benipayo ordered an investigation of the status of "sheriff" Tria of RTC, Manila, Branch 47. The investigation revealed that "sheriff" Tria was not an employee of the judiciary at the time he acted as "sheriff" in Civil Case No. 97-84356. The record showed that on August 9, 1988, Mr. Rogelio A. Tria was appointed process server of the Regional Trial Court, Branch 47, Manila. However, on January 1, 1995, he transferred to the Economic Intelligence and Investigation Bureau (EIIB), Department of Finance, as an Intelligence Officer. He was not thereafter re-employed in the judiciary.<sup>[4]</sup>

The investigation disclosed the following facts:

- "1. that the writ of execution dated July 3, 1998 was signed by Judge Lorenzo B. Veneracion addressed to Mr. Rogelio A. Tria as Acting Sheriff IV;
- "2. that the Sheriff's Return dated July 30, 1998 was signed by Mr. Rogelio A. Tria as Acting Sheriff IV; and
- "3. that the Notice of Levy and Sale dated July 3, 1998 was signed by Mr. Tria as Acting Sheriff IV."

The investigation further disclosed that in 1985, Mr. Antonio Velasco was the duly appointed Deputy Sheriff IV of the Regional Trial Court, Branch 47, Manila. Subsequently, however, Judge Veneracion assigned Deputy Sheriff IV Antonio

Velasco to the Office of the Clerk of Court in order that Rogelio A. Tria, who was not an employee of the judiciary, could be designated to perform the functions of "Acting Deputy Sheriff IV" considering the position vacant and authorized to carry out the writ of execution in Civil Case No. 97-84356. This irregularity was not limited to Civil Case No.97-84356, or to the period July to August 1998. The Court Administrator concluded that Judge Veneracion and Branch Clerk of Court Rogelio M. Linatoc had knowledge of the irregularity.<sup>[5]</sup>

Meantime, Justice Benipayo directed Judge Veneracion to desist from assigning any task to "Sheriff" Rogelio A. Tria and to prevent him from holding office in his sala. On January 18, 1999 Judge Veneracion ordered Rogelio A. Tria to return to his post at the EIIB.<sup>[6]</sup>

On January 29, 1999, Court Administrator Benipayo recommended that the memorandum report be considered as an administrative complaint against Judge Lorenzo B. Veneracion for grave misconduct and violation of Canon 3, Rule 3.08 of the Canons of Judicial Ethics and against Atty. Rogelio M. Linatoc for grave misconduct.<sup>[7]</sup>

On February 23, 1999, the Court adopted a resolution considering the memorandum as an administrative complaint against Judge Veneracion and Atty. Linatoc, and directing them to file their respective answers thereto within ten (10) days from notice.<sup>[8]</sup>

On June 22, 1999, the Court referred the case to Court of Appeals Justice Remedios A. Salazar-Fernando for investigation, report and recommendation within sixty (60) days from receipt of the records.<sup>[9]</sup>

On August 16, 1999, Judge Veneracion filed an answer,<sup>[10]</sup> contending that there was nothing irregular about a judge signing a writ of execution, considering that it had been his practice as a matter of court policy. He professed good faith in detailing Mr. Rogelio A. Tria, an employee of the EIIB with the Regional Trial Court, Branch 47, Manila and his designation as "Acting Deputy Sheriff" assigned to serve writs of execution in cases therein, properly supported by documents. The latest authority for the detail was issued on October 5, 1998, by Executive Secretary Ronaldo B. Zamora, to Col. Wilfred A. Nicolas, Commissioner, EIIB, recommending approval of Mr. Tria's detail with Branch 47, as requested by retired Supreme Court Justice Emilio A. Gancayco.<sup>[11]</sup>

Also on August 16, 1999, Atty. Linatoc filed an answer<sup>[12]</sup> denying involvement in any anomaly. He averred that there was nothing anomalous with the issuance of a writ of execution signed by a presiding judge. He denied participation in the temporary detail of Mr. Rogelio A. Tria with the Regional Trial Court, Branch 47, Manila as "Acting Deputy Sheriff IV." At the same time, he expressed good faith in believing that "Sheriff" Tria's appointment was legal since it was supported by various documents authorizing his detail with the Regional Trial Court, Branch 47, Manila.

According to the investigation conducted by Justice Fernando, on January 1, 1995, Rogelio A. Tria was employed with EIIB, an agency under the Department of

Finance. However, from January 2, 1995 to June 30, 1995<sup>[13]</sup> and January 1, 1997 to June 30, 1997,<sup>[14]</sup> Tria was detailed with the Regional Trial Court, Branch 47, Manila as Acting Deputy Sheriff IV, upon the request of Judge Veneracion. From January 1, 1998 to April 22, 1998,<sup>[15]</sup> Rogelio A. Tria was detailed with Branch 47, at the request of former Justice Emilio A. Gancayco.

It will be noticed, however, that when "sheriff" Tria implemented the writ of execution in Civil Case No. 97-84356 on July 3, 1998, he had no appointment or designation authorizing his assignment as "Acting Deputy Sheriff IV" of the Regional Trial Court, Branch 47, Manila. Nor was he a duly bonded official.

On August 13, 1998, Judge Veneracion requested EIIB Commissioner Colonel Wilfred Nicolas for Mr. Rogelio A. Tria's assignment as Deputy Sheriff of Branch 47.<sup>[16]</sup> On August 25, 1998, Colonel Lara **denied** the request.<sup>[17]</sup> Nonetheless, respondent Judge Veneracion assigned "sheriff" Tria to execute writs in cases therein.

The question is whether an employee of EIIB, an agency under the Department of Finance, of the executive branch of the government, may be assigned by that agency on detail with the judiciary, specifically to the Regional Trial Court, Branch 47, Manila, as deputy sheriff, upon the request of the presiding judge of the court without the authority of the Supreme Court.

Judge Veneracion's repeated requests for Mr. Rogelio A. Tria's detail with the Regional Trial Court, Branch 47, Manila, as Acting Deputy Sheriff IV, a position that was not vacant, contravened Article VIII, Section 5 (6) of the Constitution, Supreme Court Administrative Circular No. 07 dated August 27, 1987, re: appointments to vacant positions in the judiciary, and Supreme Court Administrative Circular No. 12, dated October 1, 1985, addressed to all judges and clerks of court of the Regional Trial Courts, prescribing guidelines and procedure in the service and execution of court writs and processes. Administrative Circular No. 12 provides that "in the absence of deputy sheriff appointed and assigned in his sala" the judge may at any time designate any of the deputy sheriffs in the office of the clerk of court. However, the judge shall not be allowed to designate the deputy sheriff of another branch without first securing the consent of the presiding judge thereof. Judge Veneracion failed to observe the Constitutional and regulatory prescriptions. Judge Veneracion had no power to assign on temporary detail his duly appointed sheriff to the office of the clerk of court. The authority to detail employees of his branch to the office of the clerk of court is vested in the executive judge.<sup>[18]</sup> Hence, there was no vacancy even temporarily in the office of branch sheriff of Branch 47, and the judge can not appoint or designate any person of his choice to act as sheriff. His action showed persistent disregard of the rule in the designation of acting sheriffs. This act constitutes usurpation of the appointing authority of the Supreme Court amounting to grave misconduct in office. As a member of the bench, Judge Veneracion is conclusively presumed to know the law and is "expected to keep abreast of all laws and prevailing jurisprudence"<sup>[19]</sup> which he clearly failed to do in this instance. It was not a matter of negligence, but a deliberate act of defiance of the Supreme Court's authority by a lower court judge. Judge Veneracion did not observe the Constitutional and regulatory prescriptions. He persistently disregarded well-known legal rules in the designation of acting sheriffs. By such action, he repeatedly usurped the appointing authority of the Supreme Court. Thus, it amounts to grave