

THIRD DIVISION

[**A.M. No. P-00-1396, October 24, 2000**]

**ROBERTO R. IGNACIO, COMPLAINANT, VS. RODOLFO PAYUMO,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, QUEZON CITY,
BRANCH 93, RESPONDENT.**

D E C I S I O N

GONZAGA-REYES, J.:

Complainant Roberto R. Ignacio charges respondent Deputy Sheriff Rodolfo Payumo with Grave Misconduct relative to LRC case No. Q-330 entitled "Re: Application for Registration Sps. Krause A. Ignacio and Teresa R. Ignacio, Applicants vs. Sps. Servando Franco and Leonor Santos, et al., Oppositors".

In his complaint, Ignacio alleges that respondent Payumo has caused him extreme prejudice and damage with the latter's unjustified refusal to fulfill his obligation to implement a writ of demolition for purposes of which the said respondent had received the amount of P40,000.00. Complainant claims that he has sent a demand letter to the respondent for the return of the said amount but the latter failed to return the same.

In his Comment, respondent Payumo denied the allegations in the complaint. He claims that on September 9, 1997 he served a notice to vacate/demolition on all the oppositors of the aforesaid LRC case by virtue of the writ of demolition issued by Judge Apolinario Bruselas, Jr. On the same day, he also served notice to the Office of the Mayor of Quezon City informing the said office that the demolition of the subject premises will be conducted on September 15, 1997. On said scheduled date, respondent allegedly hired 80 persons to assist him in the demolition of about 30 structures erected on the subject premises. However, due to violent resistance of the occupants, respondent failed to demolish the structures. He further alleges that he requested the assistance of the PNP officers or SWAT team. Respondent explains that his failure to implement the writ was not due to personal reasons but was a consequence of his compliance with the order of the trial court directing him to hold further proceedings on the writ of execution/demolition until the court shall have resolved the motion for reconsideration filed earlier. With regard to the P40,000.00, he claims that the money was spent in accordance with the instructions of the complainant in connection with the implementation of the writ. It allegedly covered the expenses for service of notices, surveillance of the premises and payment to persons hired to assist in the demolition.

In the Resolution dated March 29, 2000, the parties were required to manifest if they are willing to submit the case for resolution/decision on the basis of the pleadings already filed. Both parties interposed no objection to submitting the case on the basis of the pleadings/records filed and submitted.