

**PEPITO I. TORRES AND MARTA M. TORRES, COMPLAINANTS, VS.
VICENTE SICAT, JR., SHERIFF IV, REGIONAL TRIAL COURT-OFFICE
OF THE CLERK OF COURT, ANGELES CITY, PAMPANGA,
RESPONDENT.**

A.M. No. P-00-1379. September 19, 2002

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

By itself, the swiftness by which a sheriff implements a writ of execution does not warrant sanction because when a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandates.[1] In fact, in the absence of instructions or a restraining order, he is bound to serve the writ of execution with dispatch.[2] However, speed of implementation assumes a sinister significance when, taken in conjunction with the overzealous manner of its execution, a writ was enforced on the very same day it was issued.[3]

In a verified letter-complaint dated October 25, 1997,[4] the spouses Pepito I. Torres, Sr. and Marta M. Torres charged respondent sheriff Vicente S. Sicat with abuse of authority, gross ignorance of the law and duty, manifest partiality, evident bad faith and gross and inexcusable negligence relative to Civil Case No. 1268, entitled “Rouel AD Reyes v. Spouses Pepito and Marta Torres, et al.,” for Ejectment and Damages.

Complainants-spouses, who were the defendants in the above mentioned case, alleged that on September 30, 1997 at around 1:30 p.m., while they were in their store in Barangay Mabiga, Mabalacat, Pampanga, respondent arrived and introduced himself to them as Sheriff of the Regional Trial Court of Angeles City. Respondent told them to remove all their personal belongings and to vacate their home located along McArthur Highway, Sta. Ines, Mabalacat, Pampanga because he was going to demolish the same in compliance with the writ of execution issued by the Municipal Circuit Trial Court of Mabalacat and Magalang, Pampanga. Respondent was accompanied by plaintiff Rouel AD Reyes, the plaintiff’s father, brother and more or less twenty men.

Complainants asked respondent for his legal authority to effect such demolition considering that the ejectment case filed against them was still pending appeal with the Regional Trial Court of Angeles City. Respondent showed a Writ of Execution dated September 30, 1997[5] which the complainants were not aware of. They asked respondent to first confer with their lawyer-son but he refused. Thus, complainants were compelled to seek help from the Office of the Mayor which, in turn, requested the local police to secure peace and order in the contested premises.

Complainants proceeded to their house and found that demolition of the structures thereon had already begun.[6] When complainants’ lawyer-son arrived, he urged the respondent to stop the demolition because they should have first been afforded reasonable time to vacate the premises. Respondent, however, maintained that he had the authority to proceed with the demolition and that he was ready to face the consequences.

Subsequently, complainants learned that Rouel AD Reyes, plaintiff in the ejectment case, filed the motion for issuance of the writ of demolition only on October 1, 1997, the day after respondent had demolished their house. Hence, to prevent him from proceeding with the demolition of the remaining structures, complainants filed with the Regional Trial Court of Angeles City, Branch 62, a petition for certiorari and prohibition with prayer for preliminary injunction and/or temporary restraining order, docketed as SP Case No. 8794.[7]

In his Comment,[8] respondent alleged that when he served the writ of execution on September 30, 1997, he first requested complainants to vacate the premises, remove the structures erected thereon and to turn over the possession thereof to plaintiff, but the complainants vehemently refused to do so claiming that they have a pending motion for reconsideration before the Regional Trial Court. Considering, however, the writ of execution issued and there being no order to the contrary, respondent “turned over the contested premises to the plaintiff” in the presence of a barangay kagawad and defendant Araceli T. Manalo.

After plaintiff’s hired men completed the “removal of the structure which was vacant,” complainants’ lawyer son arrived with around fifty people. The lawyer son allegedly warned respondent’s group that he and his men will physically prevent them from continuing the removal of the remaining structures. To avoid any untoward incident, respondent convinced the plaintiff to postpone the removal thereof.

Respondent contends that as an officer of the law, he merely discharged his duties pursuant to the clear and unmistakable terms of the writ of execution, to wit:

WHEREAS, judgment was rendered by this Court in the above-entitled case on May 27, 1997, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against herein defendants by ordering the latter:

1. To vacate the premises and to surrender the same peacefully to the plaintiff or to any of his authorized representatives;
2. To remove the structure/s standing on the premises;

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and was dismissed on appeal by Hon. Eliezer R. delos Santos, Presiding Judge of the Regional Trial Court, Branch 59, Angeles City on September 18, 1997.

NOW THEREFORE, you are commanded to cause the premises in question located at MacArthur Hi-way, Sta. Ines, Mabalacat, Pampanga to be vacated by the defendants in pursuance to the decision and you are hereby further commanded to seize the goods and chattels of the said defendants, except such as are by law exempt, and make sale thereof according to the law in such cases made and provided to the amount of such judgment together with your fees for the execution and pay the amount so collected by you to the plaintiff in said case and to accept the amount of your business fees thereof.[9]

Upon referral of the case to the Office of the Court Administrator (OCA) for evaluation, the latter recommended that a fine of Ten Thousand Pesos (P10,000.00) be imposed on respondent with a warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

On March 22, 2000, the case was docketed as a regular administrative proceeding and the parties were required to manifest if they were willing to submit the case for resolution based on the pleadings filed. On April 19, 2000 and August 11, 2000, respectively, respondent and complainants manifested their willingness to submit the case for resolution on the basis of the pleadings filed.

We adopt the findings and recommendation of the OCA.

Sheriffs and deputy sheriffs, being ranking officers of the court and agents of the law, must discharge their duties with great care and diligence.[10] In serving and implementing writs, as well as processes and orders of the court, they cannot afford to err without affecting adversely the proper dispensation of justice.[11] Sheriffs, as public officers, are repositories of public trust and are under obligation to perform the duties of their office honestly, faithfully and to the best of their ability.[12] Thus, high standards are expected of them.[13]

Section 10 (d) of the 1997 Rules of Civil Procedure[14] states:

SEC. 10. Execution of judgment for specific act. – x x x

x x x x x x x x

(d) Removal of improvements on property subject of execution. – When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon a special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court. (Emphasis and italics supplied).

The culpability of respondent is clear given the prevailing facts of the case. From the records, it appears that respondent sheriff undertook the demolition of the structures on the subject premises without a special order. The records show that respondent sheriff demolished the improvements on the subject property on the strength of a writ of execution alone. The records likewise disclose that the motion for issuance of the writ of demolition was filed only on October 1, 1997 – one day after demolition had commenced.

It is a palpable mistake to equate immediacy of execution with speed of implementation. As the Court pointed out in *Lu v. Siapno*,[15] where, as in this case, the sheriff precipitately enforced a writ of execution on the very same date it was issued:

. . . Under the Rules of Court, the immediate enforcement of a writ of execution in ejectment cases is carried out by giving the defendant notice of such writ, and making a demand that the defendant comply therewith within a reasonable period, normally three (3) to five (5) days, and it is only after such period that the sheriff enforces the writ by the bodily removal of the defendant and his personal belongings. And if demolition is involved, there must first be a hearing on motion and due notice for the issuance of a special order under Section 14, Rule 39. (Emphasis and italics supplied).

In other words, the fact that the decision of an inferior court in ejectment cases is “immediately executory” does not mean that notice of the motion for execution may be dispensed with.[16]

Respondent sheriff cannot feign ignorance of the foregoing fundamentals on the execution of judgments in ejectment cases considering that he had been employed in the Judiciary since 1980, first as Court Process Server II up to June 1983 and later as a Sheriff from July 1, 1983 up to the present. In this regard, it has been held that when a respondent’s inefficiency springs from a failure to consider so basic and elemental a rule, a law or a principle in the discharge of his duties, he is either too incompetent and undeserving of the position and title he holds or he is too vicious that the oversight or omission was deliberately done in bad faith and with grave abuse of judicial authority.[17]

WHEREFORE, based on the foregoing, respondent Sheriff IV Vicente S. Sicat, Jr. is ORDERED to pay a FINE of Ten Thousand Pesos (P10,000.00). He is likewise STERNLY WARNED that a repetition of the same or similar infractions will be dealt with more severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Vitug, and Carpio, JJ., concur.

[1] *Francisco v. Cruz*, 340 SCRA 76 [2000] ; *Oniquit v. Binamira-Parcia*, 297 SCRA 354 [1998] .

[2] *Portes v. Tepace*, 267 SCRA 185 [1997] .

[3] *Philippine Bank of Communications v. Cachero*, 352 SCRA 1, 9 [2001] .

[4] *Rollo*, pp. 1-4.

[5] *Ibid.*, pp. 5-6.

[6] *Id.*, pp. 7-9.

[7] *Id.*, p. 13.

[8] *Id.*, pp. 32-37.

[9] *Op. cit.*, note 5.

[10] *Magat v. Pimentel*, 346 SCRA 153, 159 [2000] .

[11] *Bornasal, Jr. v. Montes*, 280 SCRA 181 [1997] , citing *NBI v. Tuliao*, 270 SCRA 351 [1997] and *Vda. de Abellera v. Dalisay*, 268 SCRA 64 [1997] .

[12] *Vda. de Velayo v. Ramos*, A.M. No. P-99-1332, 17 January 2002.

[13] *Biglete v. Maputi*, A.M. P-00-1407, 15 February 2002.

[14] Formerly Section 14, Rule 39 of the Revised Rules of Court.

[15] 335 SCRA 181, 188 [2000] .

[16] *Limpo v. CA*, 333 SCRA 575, 584 [2000] .

[17] *Macalintal v. Teh*, 280 SCRA 623 [1997] .

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