

SECURITY BANK CORPORATION, COMPLAINANT, VS. ROMEO C. GONZALBO, ARTURO A. RAMOS AND EDILBERTO C. DE CASTRO, RESPONDENTS

A.M. NO. P-06-2139. March 23, 2006

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PANGANIBAN, CJ:

The ministerial duty of sheriffs is to execute with reasonable celerity and promptness all writs placed in their hands. Unless restrained by a court order, they should see to it that the execution of judgments is not unduly delayed.

The Case and the Facts

This administrative case originates from an Affidavit-Complaint[1] filed by Titolaido E. Payongayong, in his capacity as the authorized representative of Security Bank Corporation. The case was filed against Romeo C. Gonzalbo, Arturo A. Ramos and Edilberto C. de Castro, all sheriffs of different branches of the Regional Trial Court (RTC) of Makati City.

The facts of the case including the Comments[2] of respondents were summarized by the Office of the Court Administrator (OCA) in its Report[3] dated September 20, 2004, as follows:

"Complainant Bank is one of the defendants in Civil Case No. 95-724 which was filed by Jose Teofilo T. Mercado and assigned to Branch 62 of the RTC of Makati City. A Writ of Possession was issued by the court on 15 January 2003 (Annex "C" of complainant), ordering and directing respondent Gonzalbo and three (3) other sheriffs to place the bank or any of its authorized representatives in complete, actual and peaceful possession over subject real property covered by Transfer Certificate of Title (TCT) No. 218413 to the absolute exclusion of plaintiff Mercado. Complainant Bank and Mercado previously constituted a real estate mortgage over this real property, which includes three (3) houses located at No. 36 Narra Avenue, South Forbes Park, Makati City.

"On 27 January 2003, respondent Gonzalbo and Sheriff Renato Flora went to the subject property to serve upon Mercado the writ of execution and the Notice to Vacate but the latter refused to receive the same. Thereafter, several appeals were filed by Mercado with the Court of Appeals, but no injunction was issued by said Court to forestall the execution of the writ.

"In spite of the foregoing, respondent Gonzalbo was able to serve the writ again on Mercado only on 14 July 2003. On this occasion, Mercado received a copy of the writ and notice, but he refused to sign the receiving copy. He likewise made a comment that had it not been for his long time friend respondent Gonzalbo, he would not have received and/or accepted the copy. The notice gave Mercado a period of three (3) days within which to vacate and clear the subject property.

"On 17 July 2003, respondents Gonzalbo and Ramos together with the complainant's representative proceeded to the subject property only to find all the gates of the premises padlocked. They were denied entrance thereto by the security personnel. Complainants allege that respondents did not exercise extra effort to implement the writ and decided to leave the premises notwithstanding the protestations of complainant.

"Upon the request of respondents Gonzalbo and Ramos, the lawyers of complainant caused the preparation of a Motion for the Issuance of a Break Open Order. Acting on the aforesaid motion, the Court issued an Order stating that the power to break open is inherent upon the authority granted to the sheriff to enforce and/or implement the writ of possession. It was further ordered that the Southern Police District Office would provide police assistance to the respondents during the enforcement of the writ.

"Respondents Gonzalbo and Ramos along with the lawyers of the complainant proceeded to the premises again on 21 July 2003 to implement the writ. However, instead of insisting on its full implementation, said respondents told the lawyers to give Mercado a period of thirty (30) days or until 21 August 2003 within which to vacate and surrender the possession of the subject premises to avoid confrontation.

"On 21 August 2003, respondent Gonzalbo went to complainant bank to inform its representative that he had granted Mercado an extension of ten (10) days. Complainant's representative insisted that complainant Bank cannot afford to further delay the implementation of the writ. Respondent Gonzalbo told him that they would further discuss the matter on 25 August 2003 at respondent's office. However, when complainant's representative went to the office of respondent Gonzalbo, he was informed that the latter was in Bauan, Batangas for a personal engagement. Consequently, complainant Bank's representative requested respondent Ramos to enforce the writ, but the latter replied that he cannot do so because the documents pertaining to the implementation of the writ were in the possession of respondent Gonzalbo.

"On 1 September 2003, respondents Gonzalbo and Ramos, complainant's representative and lawyers accompanied by some policemen of the Southern Police District Office went to the subject property to enforce the writ. However, respondents Gonzalbo and Ramos did not immediately order the village manager of Forbes Park to assist them to enter the village but whiled their time to let the day end without the writ having been implemented.

"On 11 September 2003, the enforcement of the writ finally proceeded and respondents Gonzalbo, Ramos and de Castro were assisted by several police officers. It was already 4 o'clock in the afternoon when the respondents agreed among themselves to allow Mercado to pull-out his personal belongings and other properties for a period of five (5) days.

"On the agreed date of turn-over, it was discovered that the property was in complete disarray as fixtures and structures therein were either missing or destroyed. Per the valuation conducted, the amount of the damage and missing fixtures was calculated to be around P2,369,084[.J00. The security personnel of the bank who were detailed in the subject property for more than three (3) months have personal knowledge on the condition of the property before respondents allowed the pull-out of Mercado's personal belongings. Copies of the valuation report, Joint Affidavit of the security personnel, and the photographs of the missing fixtures and structures are attached as Annexes "F", "G", "H", "I", "J", "K", "L", "M", "N", "O" and "P" of the complainant.

"Complainant contended that had the respondents performed their duties properly, diligently and efficiently, damage on the part of the bank would have been prevented. It alleges that the foregoing actions of respondents Gonzalbo, Ramos and de Castro constitute Gross Inefficiency and Neglect of Duty in violation of the provisions of Sections 4 (b), (c) and 5 (d) of Republic Act No. 6713 otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees.

"Respondents Gonzalbo, Ramos and de Castro filed separate COMMENTS, all dated 17 March 2004.

"Respondent Gonzalbo admits the allegation that on 27 January 2003, together with respondent Flora and complainant's representative, went to the subject property to serve upon Mercado the writ and notice. After some discussions, Mercado was given a 60-day grace period within which to voluntarily and peacefully vacate or leave the premises without prejudice to the cases which Mercado filed before the Court of Appeals.

"On 14 July 2003, they went again to the premises to serve the notice to vacate but although Mercado received

it, he refused to sign the same. Respondent denies the statement of Mercado that they are long time friends because if it were true, he would have inhibited himself from implementing the writ.

"Respondent and co-respondent Ramos, accompanied by the lawyers of the bank, some workers and several policemen, went to the premises to execute the break-open order on 21 July 2003 but Mercado told them that if they would insist upon implementing the said order, there would be a bloody confrontation. The workers were about to begin their work by taking out a door using an acetylene torch when Mercado fired several shots with his automatic machine pistol causing the respondents, the lawyers of the bank and the policemen to scamper away. Later, Atty. Agustin Aldea, counsel of the complainant bank, and Atty. Ciriaco Macapagal, Mercado's lawyer entered into an agreement captioned as "Turn-Over of Possession" (attached as Annex "5" of the Complaint) stating that Mercado would be given a period of 30 days within which to vacate the premises and that some security guards of the bank would be posted thereat.

"On 20 August 2003, respondents Gonzalbo and Ramos and a certain Atty. Biñas went to the bank but they were not entertained. Thus, they proceeded to the premises to inspect it. They found out that one of three houses therein was empty, and the other two had only a few personal belongings which were already packed in cartons and ready for pull-out.

"Once more, on 1 September 2003, respondents Gonzalbo and Ramos, complainant's representatives and some policemen went to the premises. It was already late in the afternoon and when respondents insisted to fully implement the writ, a certain Major Obinque warned them that somebody might get hurt or be killed.

"Finally, on 11 September 2003, after a long negotiation between the parties, it was agreed upon that Mercado would pull-out his personal belongings from the premises within a period of five (5) days, and that all the security personnel of the bank as well as Mercado's security guards would leave the premises. Police authorities would be detailed thereat instead. The terms and conditions of the pull-out were not formulated by the respondents but by the parties themselves. He emphasizes that they had no knowledge whatsoever about the missing or destroyed fixtures or structures in the premises.

"Respondent Ramos' Comment basically contains the same declarations as those contained in Gonzalbo's. He attached to his Comment a certified true copy of the Order dated 21 July 2003 of Branch 62 of RTC-Makati City which granted the Motion for Issuance of Break-Open Order. He also attached as Annex "5", a photocopy of the 'Turn-over of Possession' dated 21 July 2003 which contains the agreement between the bank's lawyer, Atty. Agustin Aldea, and Mercado's lawyer, Atty. Ciriaco Macapagal.

"He further asserts that he and respondent Gonzalbo did not 'surreptitiously and clandestinely proceeded to the subject property upon Mercado's invitation and acceded to the latter's request for another ten (10)-day extension without the knowledge, consent and conformity of the bank' as they went to the bank first before proceeding to the subject property and the bank was aware that they would inspect the premises. Since they saw that Mercado had already packed most of his belongings, they deemed it best to grant the request of Mercado for an extension of 10 days for the orderly turn-over of the property.

"Respondent further asserts that during his fifteen (15) years of service as sheriff he has always performed his duties with diligence and dedication and the delay in the implementation of the writ was brought about by their efforts to peacefully turn-over the subject property to the bank considering that Mercado showed a violent character as manifested during the 21 July 2003 incident.

"Respondent de Castro's Comment contains the same averments as those of Ramos' and Gonzalbo's." [4]

Findings and Recommendation of the OCA

Considering the length of time that had elapsed from the issuance of the Writ of Possession [5] until its implementation, as well as the surrounding circumstances, the OCA found that Gonzalbo had failed to observe the

highest degree of excellence, professionalism, intelligence and skill in the performance of his function. His failure to enforce the Writ expeditiously also showed his inefficiency, incompetence and negligence. Thus, he was deemed to have violated RA 6713, specifically Sections 4(A)(b) and 5(d) of the law.

The OCA faulted Gonzalbo for unilaterally granting Mercado an extension to vacate the premises without consulting complainant first. Respondent likewise manifested his incompetence when he told the lawyers of complainant to file a motion for the issuance of an order to break open, as the authority to do so had already been included in the power to implement the Writ of Possession. Thus, the OCA recommended the imposition of a fine of P10,000, with a stern warning that a repetition of the same or similar acts in the future would be dealt with more severely.

On the other hand, the OCA recommended the dismissal of the administrative Complaint against Ramos and De Castro for lack of merit. It held that they could not be held administratively liable, because they had merely assisted Gonzalbo in the implementation of the Writ. It further opined that these two respondents had used their best judgment under the circumstances.

The Court's Ruling

We agree with the findings and recommendation of the OCA.

Respondent's Administrative Liability

A writ of possession is one employed to enforce a judgment ordering the recovery of possession of a piece of property. The writ commands the sheriff to enter the land and give its possession to the person entitled under the judgment.[6]

Well-settled is the doctrine that the duty of sheriffs in the execution of a writ issued by a court is purely ministerial.[7] Indeed, it is their ministerial duty to proceed to execute a writ placed in their hands, with reasonable celerity and promptness in accordance with their mandate.[8] Unless restrained by a court order, they should see to it that the execution of a judgment is not unduly delayed. Accordingly, they must comply with their mandated obligation as speedily as possible. Noteworthy is the following ruling of this Court:

"[Sheriffs have] no discretion whether to execute [writs] or not. Good faith on [their part], or lack of it, in proceeding to properly execute [their] mandate would be of no moment, for [they are] chargeable with the knowledge that being an officer of the court tasked therefor, it behooves [them] to make due compliance." [9]

The primary duty of sheriffs is to execute decisions and orders of the court to which they belong. If not executed, a judgment would be an empty victory on the part of the prevailing party.[10] To be sure, execution is the fruit and end of a suit and is very aptly called the life of the law.[11] Also indisputable is the fact that sometimes the most difficult phase of judicial proceedings is the execution of a judgment.[12] Hence, in the absence of a restraining order, the officers charged with this delicate task must act with considerable dispatch. Otherwise, the administration of justice would be unduly delayed; and the decisions, orders, or other processes of the courts of justice, rendered inutile.[13]

By the very nature of their duties, sheriffs perform a sensitive function in the dispensation of justice.[14] They are thus duty-bound to know the basic rules relative to the implementation of writs of execution. At all times, they should show a high degree of professionalism in the performance of their duties.[15] As front-line representatives of our justice system, they should be more vigilant in the execution of the law. Once the people's trust is lost, the people's faith in the judiciary is likewise diminished.[16]

In the present case, we agree with the OCA that Gonzalbo was remiss in his duties when he failed to implement

the Writ of Possession for almost eight months from its issuance. True, there were extensions granted by complainant itself. But even if these were excluded, the delay in the implementation of the Writ was still unconscionable.

Worse, Gonzalbo even granted extensions himself without notifying the bank or seeking the approval of the court. Complainant even had to follow up the matter and remind him of the expiry of the extension granted to Mercado to vacate the premises.[17] The essence of the job of Gonzalbo was to give complainant full control and possession of the real property. This he miserably failed to do for an unreasonable time. And when the Writ was finally implemented, pilferage and destruction had already been wrought on the subject property.

Respondent himself highlighted his culpability in his admission that he had told complainant's lawyers to file a motion granting him authority to break-open the premises. This admission alone shows his interference with the legal processes. To stress, he possessed adequate authority to enforce the Writ. He did not need the alleged additional mandate from the court.

Emphatically ruled this Court in a similar case:

"Time and time again, this Court has reminded sheriffs that, as court employees, they must conduct themselves with propriety and decorum; their actions must be above suspicion at all times. The Court cannot countenance — it in fact condemns — any conduct, act or omission that violates the norm of public accountability and diminishes, or even just tends to diminish, the faith of the people in the judiciary.

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"x x x. Sheriffs are court officers and agents of the law primarily responsible for the speedy and effective service of all court processes and writs. As such, they have an important role to play in the administration of justice, because they are called upon to serve court writs, execute all processes and implement court orders. Thus, they should discharge their duties and responsibilities faithfully, with due care and utmost diligence.[18]

As public officers, court employees — from the presiding judge to the lowliest clerk — should always act with a high degree of professionalism and responsibility. Sheriffs, specifically, are bound to use utmost skill and diligence in the performance of their official duties, particularly when the rights of individuals may be jeopardized by their neglect.[19] Verily, they play an important role in the administration of justice.

Lest we forget, a public office is a public trust.[20] Being in close contact with litigants, sheriffs are in particular at the grassroots of our judicial machinery. Hence, their conduct should be geared towards maintaining the prestige and integrity of the courts.[21] By the very nature of their functions, they must conduct themselves with propriety and decorum. They cannot afford to err in serving court writs and processes or in implementing court orders. Otherwise, they would undermine the integrity of their office and the efficient administration of justice.[22]

As to Ramos and De Castro, we agree with the OCA that the Complaint against them should be dismissed. They merely assisted Gonzalbo in enforcing the Writ of Possession. As the incumbent sheriff of the court that had issued the Writ, he had the primary duty to enforce the Writ fully.

WHEREFORE, Respondent Romeo C. Gonzalbo, Sheriff IV of the Regional Trial Court, Branch 62, Makati City, is found GUILTY of neglect of duty and incompetence in the performance of his official duties. He is hereby FINED in the amount of ten thousand pesos (P10,000), with a stern warning that commission of the same or similar acts in the future will be dealt with more severely. The Complaint against Arturo A. Ramos and Edilberto C. de Castro is hereby DISMISSED.

SO ORDERED.

Ynares-Santiago, Austria-Martinez, Callejo, Sr., and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-6.

[2] Comments of Respondents de Castro, Ramos and Gonzalbo, all dated March 17, 2004; rollo, pp. 38-40, 44-50, and 66-70 respectively.

[3] Rollo, pp. 117-124. Signed by Court Administrator Presbitero J. Velasco, Jr.

[4] OCA Report dated September 20, 2004, pp. 1-5; id., pp. 117-121.

[5] Rollo, p. 19.

[6] PNB v. Sanao Marketing Corp., 465 SCRA 287, July 29, 2005; Sps. Ong v. CA, 388 Phil. 857, June 8, 2000.

[7] Apostol v. Ipac, 464 SCRA 232, July 28, 2005; PAMANA, Inc v. CA, 460 SCRA 133, June 15, 2005.

[8] Buenviaje v. Anatalio, 465 SCRA 20, July 29, 2005; Garcera II v. Parrone, 463 SCRA 440, July 15, 2005; De La Cruz v. Bato, 451 SCRA 330, February 15, 2005.

[9] Zarate v. Untalan, 454 SCRA 206, 215, March 31, 2005, per Callejo, Sr., J.

[10] Bergonia v. Gatcheco, Jr., 469 SCRA 479, September 9, 2005; Buenviaje v. Anatalio, supra at note 8; Zarate v. Untalan, supra.

[11] Gulang v. CA, 360 Phil. 435, December 17, 1998; Re: Danilo Cunanan, 238 SCRA 421, November 28, 1994; Miro v. Tan, 235 SCRA 405, August 17, 1994; PAL v. CA, 181 SCRA 557, January 30, 1990.

[12] Garcia v. Magcalas, 447 SCRA 285, December 17, 2004; Alabastro v. Moncada, Sr., 447 SCRA 42, December 16, 2004; Caja v. Nanquil, 438 SCRA 174, September 13, 2004; Moya v. Bassig, 138 SCRA 49, August 7, 1985.

[13] Zarate v. Untalan, supra at note 9.

[14] Alpeche v. Bato, 413 SCRA 530, October 16, 2003; Espina v. Gato, 401 SCRA 40, April 9, 2003; Castro v. Bague, 411 Phil. 532, June 20, 2001.

[15] Imperial v. Basilla, 435 SCRA 442, July 30, 2004; Andal v. Tonga, 414 SCRA 524, October 28, 2003.

[16] Bergonia v. Gatcheco, Jr., supra at note 10; Imperial v. Basilla, supra; Concerned Citizen v. Torio, 433 Phil. 649, July 11, 2002.

[17] Letter dated August 26, 2003, rollo, p. 20.

[18] Tagaloguin v. Hingco, Jr, 460 SCRA 360, 372-373, June 21, 2005, per Panganiban, J. (now CJ).

[19] Dagooc v. Erlina, 453 SCRA 423, March 16, 2005.

[20] § 1 of Art. XI of the 1987 Constitution.

[21] Tan v. Paredes, 464 SCRA 47, July 22, 2005; Adoma v. Gatcheco, 448 SCRA 299, January 17, 2005; Sulit v. Matias, 448 SCRA 131, January 14, 2005.

[22] Equitable PCI Bank, Inc. v. Bellones, 453 SCRA 598, March 18, 2005.

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