

MARIANETTE VILLAREAL, COMPLAINANT, VS. ROLANDO T. RARAMA, RESTITUTO MADRAZO, FIDEL CASUYON, AND AGUINALDO DEL CAMPO, RESPONDENTS.

A.M. No. P-94-1108. August 23, 1995

Ponente: REGALADO, J.

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REGALADO, J.:

The present administrative case arose from a sworn complaint[1] filed by Marianette Villareal against respondents Rolando T. Rarama, Restituto Madrazo, Fidel Casuyon, and Aguinaldo del Campo who are all serving as Sheriff III in Branches V, VII, II, and III, respectively, of the Municipal Trial Courts in Cities (MTCC), Davao City, for allegedly "conniving and confederating in maliciously serving a writ of execution intended for another person who is living in another place." Pursuant to the First Indorsement of Deputy Court Administrator Reynaldo L. Suarez dated August 24, 1994,[2] the complaint was referred to respondent Sheriff Rolando T. Rarama, through Judge Roberto Q. Canete, MTCC, Branch 5, Davao City, for comment. Subsequently, respondents submitted their joint counter-affidavit[3] to which a reply[4] was filed by herein complainant. A rejoinder to complainant's reply[5] was also submitted by respondents.

It appears that an action for collection of a sum of money was filed by the Cooperative Rural Bank of Davao City against the spouses Marianette (herein complainant) and Roy Villareal, Lito Lacorda and Felimon Cangrejo before the MTCC, Branch 5, of Davao City docketed as Civil Case No. 548-E-M. The records show that summons was served upon respondent Cangrejo who, however, failed to file his answer, as a consequence of which he was declared in default. On April 19, 1989, judgment[6] was rendered against him in favor of the plaintiff bank without prejudice to his right to proceed against his co-debtors. On March 29, 1994, an alias writ of execution[7] was issued by the trial court against Cangrejo.

According to complainant, at around 1:30 P.M. of April 25, 1994, respondent Rarama arrived at her house in Digos, Davao del Sur, together with the other respondents and three employees of the Cooperative Rural Bank of Davao City, Inc., including one Vic Belo who is a collector of the bank. Respondent Rarama introduced himself as a sheriff of Davao City and informed her that they were going to attach her properties because she lost in a case. Complainant denied having been charged in court, much more of having lost in a case, and that she did not owe anything to the bank. When respondent Rarama persisted in getting her properties, she demanded and was shown the writ of execution. She objected thereto, claiming that the same was not addressed to her but to Felimon Cangrejo and that the writ was being served after more than five years from the date the decision was rendered. The reply given her was that she is the principal borrower and the only one who is solvent.

Despite the pleas of complainant and a neighbor for the postponement of the implementation of the writ until she shall have consulted her lawyer, respondents immediately proceeded to pull out from complainant's house the following items, viz.: one VHS player, one Singer sewing machine, one Chinese cabinet, and another Chinese cabinet with glass shelves. Allegedly, complainant was forced to sign an inventory receipt because she would

otherwise not be able to get back her things. She hastened to add that when she signed the receipt, the words "with my conformity" were not written thereon.

The following day, complainant and her husband went to the bank to inquire about the status of her loan and she was informed that, unless she settled her account, her properties would not be released. Complainant avers that because of this she was constrained to pay the amount of P10,000.00 despite earlier representations made with the bank that she had fully paid her loan to the bank collector. She further asserts that she was thereafter forced to write a promissory note as dictated by the assistant manager of the bank, Gerry Alag, and the bank's lawyer, Atty. Herbert Artég. Eventually, after she presented the receipt of payment and the promissory note to respondent Rarama, the attached properties were released to herein complainant.

On the other hand, respondent Rarama claims that on April 25, 1994, he went to Digos, together with Vic Belo and Bading dela Fuente, employees of the bank, to coordinate with Provincial Sheriff Andres regarding the implementation of the alias writ of execution issued in the aforementioned Civil Case No. 548-E-M. However, he was informed that he would have to implement the writ on his own because the other sheriffs were not available. On their way out of the Hall of Justice, they met respondents Madrazo, Casuyon and del Campo who, upon learning that Rarama's group was going to Digos where they all lived, decided to join the group so they could get a free ride.

Upon the suggestion of Vic Belo, the bank collector, the group first went to the house of complainant purportedly to ask for the exact address of Felimon Cangrejo against whom the writ was issued. When they reached the house of complainant, respondent Rarama introduced himself and his other companions, and then inquired from the former about the address of Cangrejo. When complainant asked why they were asking her, Rarama showed her the writ of execution and the court decision. It was then that complainant stated that she was the principal defendant in the case.

Respondents further allege that complainant requested Rarama not to implement the writ against Cangrejo because he was merely her co-maker who never benefited from the loan extended to her by the Rural Bank of Davao, after which she offered to pay her obligations in monthly installments. Respondent Rarama did not agree to the proposal since he was not authorized to enter into that compromise but, at the same time, he suggested that complainant deposit some of her personal properties as security for the settlement of her obligation, and the latter allegedly agreed. Much later, the properties hereinbefore mentioned were released to complainant by virtue of a letter from the creditor bank.

In addition, respondents controvert the claims of complainant that they forcibly entered her house and took possession of her personal properties without her consent. On the contrary, they insist that complainant deposited her personal properties voluntarily and of her own free will. They likewise contend that it is not true that complainant has never been charged in court for in fact there was a pending criminal case for violation of the law on bouncing checks, as well as a civil case for collection of a sum of money, filed against her.

In her aforesaid reply to respondents' counter-affidavit, complainant maintains her original stand that she did not voluntarily deposit her personal properties with respondents and declares as untrue respondents' claim that they merely came to see her to ask for the address of Felimon Cangrejo.

On January 16, 1995, this Court issued a resolution,^[8] as recommended by Deputy Court Administrator Reynaldo L. Suarez, referring the case to Executive Judge Augusto B. Brea of the Regional Trial Court of Davao City for investigation, report and recommendation within sixty (60) days from receipt of the records thereof.

Thereafter, Judge Brea submitted his report dated July 12, 1995, with the recommendation that respondent

sheriff Rolando T. Rarama be declared guilty of an administrative offense and that he be suspended for three months, with a stern warning that a repetition of a similar offense will be dealt with more severely. He further recommended that the three other respondents be exonerated.

We quote with approval the findings of the investigating judge regarding the propriety of the respective claims of the parties and the culpability, or absence thereof, with respect to each of the respondents herein:

"RATIONALIZATION: The defense of Sheriff Rarama-- that he along with the representatives of the plaintiff bank went to the house of the complainant only to ask for the address of Felimon Cangrejo; that the four items taken by them were offered as deposit by the complainant after requesting Rarama not to implement the alias writ against Cangrejo as it was her loan and Cangrejo was only her co-maker; and that two days after, she got the items back upon making a partial payment of P10,000.00 to said bank and promising in writing to pay the balance within sixty days - cannot be accepted as true in view of the followings points of the evidence:

(1) The alias writ of execution (Exh. '5'), although directed against Felimon Cangrejo only, was actually served by Sheriff Rarama on the complainant as evidenced by her signature at the bottom thereof along with the date '4-25-94' (Exh. '5-A'), the date of the taking of the four items. Service of the writ on her was indicative of the intent to implement it against her personal interests.

(2) The RECEIPT (Exh. '6') issued by Rarama to the complainant, for the four items, positively shows that it was prepared in advance. The opening paragraph is typewritten and reads: 'Received from defendants MARIANETTE & ROY VILLAREAL the personal property/ies mentioned and particularly described below, to wit:' Thus the fact that the names 'MARIANETTE & ROY VILLAREAL' had already been typewritten beforehand is a further indication of said intent, otherwise their names would have been handwritten like the descriptions of the four items appearing therein.

(3) There is nothing in the RECEIPT showing that the items were only deposited. On the contrary, it contains a typewritten paragraph which reads: 'That the above-mentioned personal property/ies was/were levied and attached by virtue of the Writ of Execution issued by Honorable ROBERTO Q. CANETE, Presiding Judge, MTCC, Branch 5, Davao City, dated March 29, 1994.'

(4) The four items were not brought to the plaintiff bank (which would have been the case if they were merely deposited by private arrangement) but to the MTCC which issued the alias writ and from which the complainant recovered them after paying P10,000.00 to the bank.

(5) Vic Belo - the collector of the bank, when asked in the course of his testimony in this case why he did not inquire before proceeding to Digos on April 25, 1994, (about) the address of Felimon Cangrejo from the NFA in Davao City, where the latter had been employed - answered '... my perception is that since Mrs. Villareal is the principal borrower I focused more my attention on her' (TSN 6-7-95 p. 100).

On the other hand, the testimony of the complainant cannot be entirely believed for the following reasons:

(a) She claims to have already fully paid her loan account with the plaintiff bank but has not produced any receipt to substantiate it other than the official receipt for the P10,000.00 she paid on April 27, 1994, two days after the incident complained of in this case happened (Exh. 'G').

(b) In her affidavit in support of her administrative complaint she alleges that 'I and my husband have never been charged of (sic) any criminal and/or civil case in Davao City.' But it turned out that she actually received the summons issued in the same Civil Case No. 548-E-M on September 27, 1990 as evidenced by her signature thereon (Exh. '2', '2-A' & TSN 6-5--95 pp. 29-30). The decision rendered in that case against Cangrejo alone is dated April 19, 1989.

The alias writ directed against Cangrejo was issued on March 29, 1994, which was within the five-year period.

There appears to be no clear positive evidence that respondents Casuyon, Madrazo and del Campo really knew that the alias writ was directed only against Cangrejo. And in her testimony the complainant for the most part only named Sheriff Rarama, and named sheriff Casuyon only in the re-direct examination as the one who wrote down the descriptions of the four items taken from her house, writing as the things were accordingly being pulled out 'by the other sheriffs' without naming them (TSN 6-5-95 pp. 46-47). She did not even identify them during the hearing, and she got the names of Madrazo and del Campo only days later from the Court upon instruction of her adviser, then Provincial Prosecutor Aves (same TSN p. 39). She did not particularize the participation of each of the respondents except as to Rarama and the writing of the RECEIPT by Casuyon, referring to the respondents only as Rarama, or as Rarama and the other sheriffs, or the sheriffs. But Rarama was not only with the other respondents sheriffs but with two employees of the bank.

Hence, we believe that the evidence only warrants a finding of administrative accountability on the part of Rolando Rarama."

While there is evidence to show that indeed complainant Marianette Villareal is the principal debtor while Felimon Cangrejo is merely a co-maker, the fact remains that Cangrejo was the sole debtor adjudged liable for the loan obtained from the Cooperative Rural Bank of Davao City, Inc. and the alias writ of execution was directed only against him. Hence, respondent Rarama had no authority to implement the same against herein complainant considering that, although she was named as a defendant in the collection case, there was no judgment against her as of the date of the incident.

The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law.[9] Thus, when a writ is placed in the hands of a sheriff it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom.

Hence, a sheriff has no authority to levy on execution upon the property of any person other than that of the judgment debtor. If he does so, the writ of execution affords him no justification, for such act is not in obedience to the mandate of the writ.[10] As long as the sheriff confines his acts to the authority of the process, he is not liable, but all of his acts which are not justified by the writ are without authority of law. This is so because if an execution against one man would excuse the sheriff for taking the property of another, every citizen would be at his mercy and none could call his estate his own.[11]

Respondent Rarama's improvidence in enforcing a judgment against complainant who is not the judgment debtor in the case calls for disciplinary action. Considering the ministerial nature of his duty in enforcing writs of execution, it is incumbent upon him to ensure that only that part of a decision ordained or decreed in the dispositive portion should be the subject of execution, no more and no less. That the title of the case specifically names complainant as one of the defendants is of no moment as execution must conform to that which is directed in the dispositive portion and not what appears in the title of the case.[12]

We find the recommended penalty of three month's suspension proper and commensurate under the circumstances obtaining in this case. However, pursuant to the policy adopted by the Court, a fine equivalent to the salary of respondent for three months should instead be imposed, but with some mitigation considering the nominal extent of the damages sustained by complainant who, to a certain extent, also contributed in bringing about the situation which gave rise to the incident.

ACCORDINGLY, respondent Sheriff Rolando T. Rarama is hereby declared GUILTY of serious misconduct in

the enforcement of the alias writ of execution in Civil Case No. 548-E-M of the Municipal Trial Courts in Cities, Branch 5, Davao City and he is hereby ordered to pay a FINE of ten thousand pesos (P10,000.00). He is further sternly warned that the commission of the same or a similar offense hereafter will be punished with a more severe sanction.

The complaint against respondents Restituto Madrazo, Fidel Casuyon and Aguinaldo del Campo is hereby DISMISSED for lack of merit.

SO ORDERED.

Puno, Mendoza, and Francisco, JJ., concur.
Narvasa, C.J., (Chairman), on official leave.

[1] Rollo, 3.

[2] Ibid., 1.

[3] Ibid., 16.

[4] Ibid., 40.

[5] Ibid., 43.

[6] Ibid., 12.

[7] Ibid., 11.

[8] Ibid., 46.

[9] Tan vs. Herras, A.M. No. P-90-404, March 11, 1991, 195 SCRA 1.

[10] Arrellano vs. Flojo, et al., A.M. No. RTJ-93-1008, November 14, 1994, 238 SCRA 72.

[11] Codesal, et al. vs. Ascue, etc., 38 Phil. 902 (1918).

[12] Cruz vs. Dalisay, etc., A.M. No. R-181-P, July 31, 1987, 152 SCRA 482.

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