

DOMINADOR AREVALO, AMELITA FERNANDO, DEMIGIO QUIROEL, JR., SUSAN BITAG, GEROME FRONDOZA, MIRALYN BECONG, LEONARDO FAJARDO, RONA FAJARDO, JOEY LOPEZ, VIRGILIO ANICIETE, MEBELYN S...

A.M. No. P-02-1600. April 30, 2003

Ponente: VITUG, J.

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VITUG, J.:

A complaint, dated 26 September 2001, charges Clerk of Court Celestina Rota of MeTC Branch 34, Quezon City, and Sheriff Edgardo S. Loria of MeTC, Branch 33, Quezon City, with gross neglect of duty, gross dishonesty and gross misconduct. Complainants are said to be residents of Sitio III, Campo 2, Brgy. Talipapa, Novaliches, Quezon City.

Manila Paper Mills, Inc., filed an ejectment case against members of the Urban Poor United Neighborhood Association, Inc., and “any person claiming rights under them.”[1] According to complainants, they themselves were not impleaded defendants in the ejectment case and neither were they claiming rights under the named defendants. The trial court rendered its decision on the case in favor of plaintiff corporation. A writ of execution was later issued by the court. Thereafter, a certain Atty. Leonardo Jacinto A. Soriano filed a “Motion to Defer Writ of Execution/Motion to Include Movants as Necessary Parties.” The movants claimed to be members of Campo II, Sitio III, Neighborhood Association, Inc., and their purpose in so asking to be included as necessary parties was to question the writ of execution. Complainants later filed an “Omnibus Motion to Withdraw” the prior motion and to stop the sheriff from enforcing the writ of execution against them. Plaintiff corporation opposed the new motion on the ground that its movants (herein complainants) were “claiming rights under Carlito Aniciete, Senen Frondoza, Jerome Frondoza, Leonardo Fajardo, Dindo Frondoza and Leonila Eugenio” all of whom were impleaded party defendants.

On 25 January 2001, the trial court ruled that the motion filed by complainants was a prohibited pleading and, since the judgment had already become final and executory, it ordered the issuance of a writ of demolition. On the same day, respondent Clerk of Court Celestina D. Rota issued a writ of demolition. On 13 February 2001, complainants filed a “Motion for Clarification of the Order” of 25 January 2001. Complainants averred that plaintiff corporation had connived with Carlito Aniciete in filing the motion to include them as necessary parties so that the writ of demolition could be implemented even against them. The motion was followed by an “Ex-Parte Motion for Clarification of the Writ of Demolition” wherein complainants sought the amendment of the writ of demolition so as to exclude them from the judgment and the writ of demolition. On 19 March 2001, complainants filed a motion to recall the writ of demolition and to hold in abeyance the issuance of an alias writ of demolition. On 23 March 2001, the court issued an order holding in abeyance the order of demolition of 25 January 2001. Complainants claimed, however, that, on the very same day, respondent Loria implemented the writ and failed to issue a sheriff’s return pursuant to Section 14, Rule 39, of the 1997 Rules of Civil Procedure. Complainants also assailed the failure of respondent Rota to issue a certification attesting to the fact that the judgment had been

satisfied notwithstanding the pending motions adverted to.

In his comment, respondent Edgardo S. Loria admitted that he had implemented the writ of demolition on the morning of 23 March 2001 and that he had then turned over the possession of the premises to the representative of plaintiff corporation, explaining that it was his duty to do so since there was no order restraining him from implementing the writ. Relative to the order to hold in abeyance the implementation of the writ of demolition, he contended that the said order could not have been issued on 23 March 2001 considering that the motion to recall the writ of demolition was considered only in the morning of the same day.

In her case, respondent Celestina D. Rota stated in her comment that, on 02 May 2001, complainants requested a certification that judgment had been fully satisfied; that Sheriff Loria had not as yet then made a sheriff's return and she thus had no basis for issuing the certificate. She also cited the fact that as early as 21 February 2001, a petition to annul the judgment in the ejectment case had been filed with the Regional Trial Court and that, in fact, complainants filed a petition for certiorari before the Court of Appeals, docketed CA.G.R. No. 67127, which was dismissed only on 18 October 2001.

Complainants filed their reply, reiterating that respondent Loria implemented the writ on 15 February 2001 even as against them despite their not having been impleaded party defendants in the ejectment case and the still then pending motion seeking a clarification of the order of 25 January 2001. Complainants continued to bewail the refusal of respondent Rota to amend the writ of demolition she issued on 25 January 2001 and accused her of failing to give advance notice to respondent Loria regarding the order of 23 March 2001 and to furnish complainants with a copy of the order.

On 27 February 2002, the Office of the Court Administrator (OCA) submitted a report, the pertinent portions of which read:

“The complaint is partly meritorious.

“In so far as respondent Celestina Rota is concerned, she was fully justified in issuing the writ of demolition on 25 January 2001 (Rollo, p. 69) because the court directed the issuance thereon in its order of the same date. (Rollo, pp. 66-68) Her mistake was that in drafting the writ she varied the terms of the dispositive portion of the order of the court. The dispositive portion of the said order reads:

“Wherefore, let Writ of Demolition issue in the above entitled case, commanding the Deputy Sheriff of this Court to demolish and remove the improvements/structures of defendants mentioned in the decision on the subject property at Sitio II, Campo 2, Barangay Talipapa, Novaliches, Quezon City covered by TCT Nos. 42022, 154969, 167534, 167536, RT-74322 (293059) and 346099 of the Register of Deeds of Quezon City, and to place plaintiff in full enjoyment and possession of the same with the directive that in the implementation of this Order, all the necessary precaution, pertinent laws, rules and regulations shall be observed particularly sub par. 1 to 8 of Section 28 of Art. VII of RA 7279.’

“On the other hand, the writ of demolition issued by respondent Rota reads as follows:”

“NOW THEREFORE, pursuant to pertinent laws, rules and regulations you are commanded to cause the demolition of the decision in the above-entitled case and is allowed/authorized to remove the improvements/structures of all persons refusing to vacate in the subject property at Sitio III, Campo 2, Barangay Talipapa, Novaliches, Quezon City, covered by TCT Nos. 142022, 154969, 167534, 167536, RT-74322 (29059) and 346099 of the Register of Deeds of Quezon City in order to place the plaintiff in full enjoyment and possession of the subject premises. (Rollo, p. 69)’

“The difference between the order and the writ of demolition is clearly apparent. The order directs the sheriff to demolish the improvements/structures only of the defendants mentioned in the decision while the writ of

demolition commanded the sheriff to remove improvements/structures of all persons refusing to vacate the subject property. This is not to say that it was because of this error that the houses of complainants were demolished. This matter will be fully discussed when we come to the charges against respondent sheriff, but at this point it is sufficient to state that the writ of demolition issued by respondent Rota varied the terms of the order dated 25 January 2001.

“The other charges against respondent Rota are devoid of merit. She was justified in not issuing a certificate that judgment has been fully satisfied because the sheriff did not as yet make a Sheriff’s Return, hence she has no basis for issuing the certificate. As to her alleged failure to give the sheriff advance notice of the order dated 23 March 2001 so that the demolition could have been aborted, and to furnish complainants a copy of the said order or to inform the Presiding Judge of the motion filed by them, these charges should be dismissed for being unsubstantiated.

“The main accusation against respondent sheriff Edgardo Loria revolves around the implementation of the writ of demolition against the complainants. It is true that a judgment can be executed only against the defendants and herein complainants are not individually listed in the complaint for ejectment. However, the said complaint is not only against the named defendants therein but also against “all persons claiming rights under them” (Rollo, pp. 34-35) and according to the plaintiff herein complainants are claiming rights under some of the named defendants in the complaint for ejectment. Hence, the resolution of this issue depends upon the ruling of the court as to who are covered by the term “all persons claiming rights under them”.

“The order of the court dated 25 January 2001 wherein it directed the issuance of a writ of demolition, sought to resolve the motion for the issuance of a writ of demolition filed by the plaintiff, the motion filed by Atty. Soriano which sought to include, among others, the herein complainants as necessary parties in the ejectment case and the omnibus motion filed by herein complainants opposing their inclusion as necessary parties. The comment of the plaintiff to this opposition has not been made part of the record of this case and the only trace we have thereof is the order itself wherein the court stated that plaintiff opposed the motion of herein complainants because the latter are claiming rights under some of the named defendants. Thereafter, the court made its ruling that the motion is a prohibited pleading under the Rules on Summary Procedure without specifying which motion since both the motion filed by Atty. Soriano and the omnibus motion of herein complainants are prohibited pleadings. Neither did the court rule on the position of the plaintiffs. In sum, the court granted the motion for the issuance of a writ of demolition without squarely ruling on the issue of who are covered by the term “all persons claiming rights under them.”

“It is in the light of these circumstances that we are reluctant to hold respondent Loria administratively liable for implementing the writ of demolition against herein complainants. The issue of who are properly the subject of the writ of demolition has not been settled by the court. However, once the writ of demolition was issued and handed to respondent Loria, it became his ministerial duty to implement the same in the absence of a restraining order and if ever there was really a mistake in the implementation of the writ this was due to the fact that the issue of the proper parties subject of the writ has been left hanging, something that should not be imputed to respondent Loria.

“As to the implementation of the writ of demolition notwithstanding the order holding the same in abeyance, we also find for respondent Loria. According to him, he implemented the writ at 8:00 a.m. and turned over the premises to the plaintiff at 11:00 a.m. We are inclined to believe that by the time the order of 23 March 2001 was prepared and signed, if indeed it was signed on the same day, the writ has been fully implemented. At any rate, no evidence was presented to show that respondent Loria actually knew that said order has been issued. In fact, we doubt that the order was signed on 23 March 2001 because the copies for the parties were sent by mail only on 04 May 2001.(Rollo, p. 121)

“Respondent Loria is however liable for failing to make a Sheriff’s Return pursuant to Section 14, Rule 37 of the 1997 Rules of Civil Procedure. Section 4 provides:

“Sec. 14. Return of writ of execution. – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefore. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.’

“In this case, complainants alleged that respondent Loria implemented the writ of demolition twice, first on 15 February 2001 during which there was only a partial satisfaction of the judgment and the second, on 23 March 2001 when the judgment was fully satisfied. Respondent’s comment was silent on the implementation on 15 February 2001 and he even failed to controvert the accusation that he did not make a Sheriff’s Return. His silence should be considered as an admission since he has all the opportunity to controvert the same.(Perez vs. Suller, A.M. No. MTJ-94-936, November 6, 1995).”

The OCA recommended that respondents Celestina D. Rota and Edgardo Loria be each fined in the amount of P1,000.00 for neglect of duty, with a warning that a similar infraction would be dealt with severely. The OCA recommended the dismissal of the other charges against respondents.

The Court finds the foregoing report and recommendations well taken.

The clerk of court could, under the direction of the court, make out and sign all writs and processes issuing from the court.[2] Respondent Rota was bound to issue the writ of demolition strictly in accordance with the tenor of the judgment sought to be executed. By varying the terms of the writ, Rota usurped a judicial function. She was thus remiss in her duty to her office which demanded fidelity and accountability at all times. It would appear, however, that her actuations were not motivated by malice or an intent to cause damage to herein complainants. The trial court granted the motion for the issuance of a writ of demolition without squarely ruling on the issue of who were covered by the term “all persons claiming rights under them” that could have led Rota to issue the subject writ of demolition in the language it was ultimately worded.

Neither could any ill-motive be ascribed to respondent Loria when he implemented the writ of demolition. Lora’s duty in the execution of the writ issued by the court was purely ministerial.[3] Unless restrained by a court order to the contrary, he was bound to see to it that the execution of the judgment was not unduly delayed.[4] The officers charged with the delicate task of implementing the judgment should, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the cause of justice.[5] Loria could not thus be faulted for implementing the writ of demolition. Once the writ was placed in his hands, it behooved him, in the absence of any directive to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate.[6] Nevertheless, as so observed by the OCA, respondent Loria was remiss in his duty in failing to make a sheriff’s return pursuant to Section 14, Rule 39, of the 1997 Rules of Civil Procedure.

It is mandatory for a sheriff to make a return of the writ of execution to the clerk or judge issuing it.[7] If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason or reasons therefor. The officer is likewise tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full or its effectivity expires.

Clerks of court and sheriffs, including all court personnel, play a critical role in the administration of justice and,

as such, high standards are expected of them.[8] The heavy burden of authority and responsibility reposed in them must at no time be taken lightly.[9]

WHEREFORE, respondents Celestina D. Rota, and Edgardo S. Loria, are found liable for neglect of duty and are each fined the sum of One Thousand (P1,000.00) Pesos with a WARNING that another or similar infraction by them will be dealt with severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] Rollo, pp. 34-35.

[2] Viray vs. Court of Appeals, 286 SCRA 468.

[3] Araza vs. Garcia, 325 SCRA 1; Añonuevo vs. Pempeña, 234 SCRA 168.

[4] Marigsa-Magbanua vs. Villamar V, 305 SCRA 132.

[5] Teresa T. Gonzales La'o & Co., Inc. vs. Hatab, 329 SCRA 646.

[6] National Bureau of Investigation vs. Tuliao, 270 SCRA 351; Jumio vs. Egay-Eviota, 231 SCRA 551.

[7] Cunanan vs. Tuazon, 237 SCRA 380; Vda. de Gillego vs. Roxas, 235 SCRA 158.

[8] Llamado vs. Ravelo, 280 SCRA 597.

[9] Martines vs. Rimando, 328 SCRA 699.

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