

MARIA LILIA ZARATE, COMPLAINANT, VS. JUDGE CESAR O. UNTALAN AND SHERIFF ANTOLIN O. CUIZON, METROPOLITAN TRIAL COURT, BRANCH 39, QUEZON CITY, RESPONDENTS.

A.M. NO. MTJ-05-1584 (FORMERLY A.M. OCA IPI NO. 03-1451-MTJ). March 31, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

On July 29, 2003, Maria Lilia Zarate filed a complaint for dereliction of duty, abuse of authority, acts unbecoming of public officers and violation of the Code of Conduct against Judge Cesar O. Untalan and Sheriff Antolin O. Cuizon, both of the Metropolitan Trial Court of Quezon City, Branch 39.

The complaint has its roots in the Decision dated October 3, 2002 rendered by respondent Judge Untalan in Civil Case No. 28536 for unlawful detainer entitled Maria Lilia Zarate v. Perry Mendiola. The complainant was the prevailing party therein. In the said decision, the defendant was ordered to vacate the leased property and to pay the plaintiff P48,000.00 as back rentals from April 1, 2002 to June 1, 2002 and, thereafter, to pay P16,000.00 as monthly rental for the use and occupation of the subject premises beginning July 2002 and every month thereafter until the same is finally vacated by the defendant and possession thereof is surrendered and delivered to plaintiff; and to pay attorney's fees in the sum of P10,000.00 plus cost of suit.[1]

In her complaint, the complainant made the following allegations:

- That on November 22, 2002, a Writ of Execution was issued. The original copy of the writ of execution (which is supposed to be attached to the record of the case) was given to me by the respondent Sheriff Antolin O. Cuizon. A copy of the Writ of Execution is hereto attached as Annex "C" hereof;
- That on November 29, 2002, the Writ of Execution was served on defendant Perry Mendiola. Before approaching the defendant, Sheriff Cuizon told the herein complainant not to go with him. According to him, he will be the one to talk to the defendant. He said, "Ako ang bahala. Huwag kang sasama sa loob. Ako lang ang makikipag-usap. Diskarte ko ito;"
- That they spoke for about 40 minutes. After that, the Sheriff said, "May ibabayad naman pala, eh. Sabi ng tenant mo babayaran daw niya ang utang niya sa inyo. Alam mo ba kung magkano yung halaga ng wheel balancer and tire changer? That costs P100,000.00. So I said, "Yon naman pala, eh. Bakit ayaw niya akong bayaran?;"
- That the complainant went back to the MeTC to see the respondent Judge with the tenant. But when the sheriff was already there at Branch 39, he became different. He told me to forgive my tenant because he has no money to pay me. But I said, "Di ba meron siyang tire changer at wheel balancer na worth P100,000.00. Bakit di mo kinuha?" The Sheriff did not answer;
- That the complainant tried to talk to the sheriff to convince him to levy on the tire changer and wheel balancer but he wouldn't. He favored the tenant instead of the complainant;

- That the complainant asked respondent Judge Cesar O. Untalan about the writ of execution. He said he has nothing more to do with it because the case is already finished. It is now between the complainant and her tenant to talk. Complainant told the respondent Judge that she will file a motion for the appointment of the special sheriff, but he laughed and said, "I will deny your motion;"
- That complainant went to see the lawyer, Atty. Confessor Sansano, to ask him if he can file a motion for the special sheriff, but he hesitated because according to him the sheriff might get back at him;
- That the complainant wondered why the money judgment of the decision could not be satisfied. The tenant is a businessman who sells automobiles like Isuzu, Pajero, etc. He also sells tires like Yokohama, Goodrich, etc. His wife is a doctor. He owns a Honda Civic Car. In the leased premises were tires, magwheels, tire changer, wheel balancer and compressor. The Sheriff refused to levy on them. These things were still there to be levied upon as certified to by a son of an employer thereat, a copy of the certification is hereto attached as Annex "D" hereof;
- That the complainant sought the assistance of another lawyer who wrote the Sheriff and inquired if the writ of execution has been served and satisfied. As per the certification of the Quezon City Post Office, the letter was received for the Sheriff by Ms. Mary Claire Lansang on April 23, 2003 but no response was received from the Sheriff. Copies of the letter and certification are hereto attached as Annexes "E" and "E-1" hereof;
- That in not responding to the query of the complainant's counsel, the respondent Sheriff violated the Code of Conduct and Ethical Standards of Public Officials and Employees as well as Book V of Executive Order No. 292 for failure to act promptly on letters or request within fifteen (15) days from receipt;
- That complainant checked with the MeTC about the progress of the writ of execution and she found out that a Sheriff's Report has been filed by respondent Cuizon. In the report, the sheriff stated that the Writ of Execution has been served and satisfied. He also stated that the complainant and the tenant had a verbal compromise for the latter to pay his back rentals. That is a big lie. There was no such agreement. The money judgment has not been satisfied; copy of the sheriff's report attached as Annex "F" hereof.
- That in view of the aforesaid acts of the respondent, the complainant was not able to enforce the decision to its ultimate satisfaction to the damage and prejudice of the complainant.[2]

The respondents filed a Joint Comment on September 17, 2003, where they denied the complainant's allegations. On the contrary, according to the respondent sheriff, when the writ of execution was served on November 29, 2002, the complainant refused to enter the premises, fearing that the defendant might hurt her. The respondent sheriff then explained the import of the writ of execution, to which the defendant replied that he had receipts to prove that he had already made payments, and offered to show the receipts before the respondent Judge in a conference with the complainant. The respondents further narrated, thus:

- Complainant and the respondent sheriff rode on the same car in the proceeding to the sala of the respondent Judge. The defendant showed the receipts to the complainant and the respondent Judge and it was discovered that the defendant was in arrears for three (3) months only. The defendant agreed to vacate the premises by December 2002 and he will pay all the rentals;
- Respondent Sheriff did not ask the complainant to forgive the defendant on his monetary obligation with the complainant. Complainant and the defendant voluntarily agreed before the respondent Judge that the arrears of the defendant is three (3) months only because of the receipts shown by the defendant. Defendant promised to pay the three (3) months arrears to the complainant herself. Complainant cannot deny the existence of this verbal compromise agreement. Complainant and the defendant said that there was no more need to reduce the agreement in writing because they will perform the agreement in good faith and they will abide [by] the agreement through word of honor.

- Defendant in compliance with the agreement vacated the premises in December 2002. Complainant already exercises physical and material possession of the premises. Respondent Sheriff could not ascertain whether the defendant [had] fully paid the monetary obligation because the complainant did not inform the respondent as to the progress of their verbal agreement. ...[3]

According to the respondents, the complainant herself is the one to blame if the monetary award had not yet been satisfied, since she did not inform the respondent sheriff as to the status of the payment of rentals. The respondent sheriff presumed in good faith that the complainant may have been paid or no longer interested. This is why he submitted a Sheriff's Partial Report[4] dated December 26, 2002 where he made substantially the same statement.

Pursuant to the recommendation of the Office of the Court Administrator in its Report[5] dated March 22, 2004, the case was referred to Executive Judge Natividad G. Dizon, Regional Trial Court, Quezon City, Branch 39, for investigation, report and recommendation. [6]

The parties were required to submit their respective counter-affidavits and documentary evidence to support their allegations. Thereafter, the case was considered submitted for resolution.[7]

In her Report and Recommendation dated December 28, 2004, the Investigating Judge made the following findings:

The Investigating Judge believes that the charges are meritorious as against the sheriff. The entire problem is brought about by the execution of the writ, a matter which is entirely in the hands of the sheriff. The money needed for the enforcement of the Writ was not a problem because Zarate had given money to her lawyer purposely for that. Sheriff Cuizon was aware of that, but he did not exert any effort to fully satisfy the judgment. He was complacent and miserably failed to talk with Zarate about the expenses needed. Was it because he was getting favors from defendant Mendiola? This is a query which is naturally triggered by the scenario.

Sheriff Cuizon made two Reports – Partial Sheriff's Report and Final Report. In his Final Report, he stated that the writ [was] fully satisfied. This is inaccurate and far from the truth. A Writ of Execution is satisfied only when it carries out the mandates of the Decision to the satisfaction of the judgment obligee.

Under Rule 39, Sec. 14 of the Rules of Court, the sheriff is required (1) To make a return and submit it to the court immediately upon satisfaction in part or in full of the judgment; (2) If the judgment cannot be satisfied in full, to make a report in court within 30 days after his receipt of the writ and state why full satisfaction could not be made. The sheriff shall continue making a report every 30 days in the proceedings being undertaken thereon until judgment is fully satisfied. Sadly, the sheriff failed to meet the above requirements. In his Sheriff's Report, he talked about the satisfaction of the judgment, but he levied no property, collected no proceeds from auction sale, which proceeds should be turned over to judgment obligee, as required by law. He talked about the satisfaction of the judgment when in fact, he does not know what actually transpired between Zarate and Mendiola. He found out that Mendiola was no longer in the premises. Hence, he presumed that all was settled. He does not know whether or not Mendiola left the premises unnoticed in order to escape his obligation to Zarate.[8]

...

WHEREFORE, the foregoing circumstances considered, this Office recommends that Sheriff ANTOLIN O. CUIZON be fined for TWO THOUSAND PESOS (P2,000.00) with a stern warning that a repetition of similar acts shall be dealt with more sternly.

The Administrative Complaint against JUDGE CESAR O. UNTALAN be DISMISSED for lack of merit.[9]

Thus, the Investigating Judge found that the charges against the respondent Judge should be dismissed,

considering that the entire problem was brought about by the execution of the writ, a matter entirely in the hands of the respondent sheriff.

We agree that the respondent sheriff is administratively liable, as the records show that he was remiss in the performance of his duties.

Section 14,[10] Rule 39 of the Rules of Court makes it mandatory for a sheriff to make a return of the writ of execution to the clerk or judge issuing it.[11] Section 9 of the same Rule enumerates the duties of sheriffs relative to the execution of judgments for money:

SEC. 9. Execution of judgments for money, how enforced. –

(a) Immediate payment on demand.– The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of the payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amounts to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

(b) Satisfaction by levy. – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

Real property, stocks, shares, debts, credits, and other personal property, or any interest in either real or personal property, may be levied upon in like manner and with like effect as under a writ of attachment.

(c) Garnishment of debts and credits. – The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions, and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment

obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash, or certified bank check issued in the name of the judgment obligee, shall be delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such deliver, except the lawful fees which shall be paid directly to the court.

In the event that there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the judgment obligee.

The executing sheriff shall observe the same procedure under paragraph (a) with respect to the delivery of payment to the judgment obligee.

It is also well-settled that the sheriff's duty in the execution of a writ issued by a court is purely ministerial. When a writ is placed in the hands of a sheriff, it is his duty, in the absence of instructions, to proceed with reasonable celerity and promptness to execute it according to its mandate. He has no discretion whether to execute it or not.[12] Good faith on the part of the respondent sheriff, or lack of it, in proceeding to properly execute his mandate would be of no moment, for he is chargeable with the knowledge that being an officer of the court tasked therefor, it behooves him to make due compliance.[13]

In this case, the respondent sheriff failed to observe the correct procedure in order to ensure the proper administration of justice, rules which he is presumed to know by heart. After all, the primary duty of sheriffs is to execute judgments and orders of the court to which they belong. It must be stressed that a judgment, if not executed, would be an empty victory on the part of the prevailing party.[14] It is said that execution is the fruit and the end of the suit and is very aptly called the life of the law.[15] It is also indisputable that the most difficult phase of any proceeding is the execution of judgment. Hence, the officers charged with this delicate task must, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the administration of justice; otherwise, the decisions, orders, or other processes of the courts of justice would be futile.[16] Considering the foregoing, the failure of a sheriff to implement or execute a writ indeed results in a grave omission.[17]

The Court is wont to reiterate that sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them.[18] Being ranking officers of the court and agents of the law, they must discharge their duties with great care and diligence.[19] It cannot be overstressed that the image of a court of justice is mirrored in the conduct, official and otherwise, of the personnel who work there, from the judge to the lowest employee.[20] As such, the Court will not tolerate or condone any conduct of judicial agents or employees which would tend to or actually diminish the faith of the people in the judiciary.[21] It is well to remind all persons serving the Government through its Judicial Arm that the conduct and behavior of every person connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, is tasked with a heavy burden of responsibility. His conduct, at all times, must not only be characterized by propriety and decorum but also, above suspicion.[22] Indeed, the imperative and sacred duty of each and everyone in the court is to maintain its good name and standing as a temple of justice.[23]

It is clear that by his actuations, the respondent sheriff displayed conduct short of the stringent standards required of Court employees. He is guilty of simple neglect of duty, which has been defined as the failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or

indifference.[24] Civil Service Commission Memorandum Circular No. 19 classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.[25]

WHEREFORE, respondent Antolin O. Cuizon is found GUILTY of neglect of duty and is SUSPENDED for One (1) Month. He is STERNLY WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely. He is further DIRECTED to inform the Court of the date of his receipt of this Decision to determine when his suspension shall have taken effect.

The complaint against respondent Judge Cesar O. Untalan is DISMISSED for lack of merit.

SO ORDERED.

Puno, (Chairman), Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Annex “B.”

[2] Rollo, pp. 4-5.

[3] Id. at 32.

[4] Id. at 34.

[5] Id. at 36-39.

[6] Id. at 40.

[7] Id. at 110.

[8] Report and Recommendation, pp. 4-5.

[9] Id. at 5.

[10] Section 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.

[11] Arevalo v. Loria, 402 SCRA 40 (2003).

[12] Evangelista v. Penserga, 242 SCRA 702 (1995), citing Young v. Momblan, 205 SCRA 33 (1992).

[13] Chupungco v. Cabusao, Jr., 417 SCRA 365 (2003).

[14] Benitez v. Acosta, 355 SCRA 380 (2001).

[15] Eduarte v. Ramos, 238 SCRA 36 (1994), citing Tan v. Herras, 195 SCRA 1 (1991).

[16] Re: Danilo Cunanan, 238 SCRA 421 (1994), citing Pascual v. Duncan, 216 SCRA 786 (1992).

[17] Supra at note 8.

- [18] Llamado v. Ravelo, 280 SCRA 597 (1997).
- [19] Magat v. Pimentel, Jr., 346 SCRA 153 (2000).
- [20] Layosa v. Salamanca, 407 SCRA 329 (2003).
- [21] Philippine Bank of Communications v. Torio, 284 SCRA 67 (1998).
- [22] Bornasal, Jr. v. Montes, 280 SCRA 181 (1997).
- [23] Andal v. Tonga, 414 SCRA 524 (2003).
- [24] Philippine Retirement Authority v. Rupa, 363 SCRA 480 (2001).
- [25] Cañete v. Manlosa, 412 SCRA 580 (2003).

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