

MIGUELA VDA. DE TISADO, COMPLAINANT, VS. CLERK OF COURT PROSPERO V. TABLIZO, DEP. SHERIFF FELINOR R. TRAMPE, AND DEP. SHERIFF CARLOS M. UBALDE, ALL OF RTC – VIRAC, CATANDUANES, ...

A.M. No. P-94-1025. February 20, 1996

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Before us is a sworn administrative complaint[1] filed on March 4, 1994 charging respondents with abuse of authority and malfeasance/misfeasance of duty.

The records show that complainant and her now deceased-husband were the plaintiffs in Agrarian Case No. 267, Regional Trial Court, 5th Judicial District, Branch 43, in which a decision[2] was rendered on November 10, 1983, the dispositive portion of which reads:

"WHEREFORE, decision is hereby rendered ordering defendants-spouses to reinstate plaintiffs to the landholding in question and for the other defendants not to interfere with the same.

"Plaintiffs, upon reinstatement, should cultivate the landholdings in question according to proven farm practices for three (3) consecutive years, to find out the average yearly net harvest therefrom which shall be the basis of this Court to fix its rental. In the meantime, plaintiffs shall only give to defendants-spouses their landowners' share equivalent to 25% of the net harvest."

Complainant alleged that in spite of several alias writs of execution, the foregoing decision was not enforced. Hence, after the lapse of five years, an action for revival of judgment was filed with the RTC, Virac, Catanduanes docketed as Civil Case No. 1576, where, in a decision[3] dated June 22, 1992, it was ruled:

"ACCORDINGLY, judgment is hereby rendered reviving the execution of the Decision in CAR Case No. 267 dated November 10, 1983.

"The defendants and all persons claiming rights under them are hereby ordered to reinstate plaintiffs to the landholding in question forthwith (sic), and to faithfully comply with the aforementioned Decision."

Consequently, respondent Tablizo, in his capacity as ex-officio provincial sheriff, issued a writ of execution on November 4, 1992.

Because of their refusal to obey the writ, the defendants in said case were held in contempt of court,[4] as follows:

"ACCORDINGLY, the Court hereby finds the defendants GUILTY of indirect contempt pursuant to Section 3(a) of Rule 71 of the Rules of Court, and are hereby sentenced to undergo imprisonment until such time that they surrender the possession of the land in question to the plaintiffs."

After a month of incarceration, they were released and an alias writ of execution was issued on June 28, 1993. Respondent Trampe made futile attempts to execute the writ but failed as before to reinstate herein complainants

to the subject land. Complainant insisted that said respondent was not serious in performing his duties, but instead, was persistently convincing her to give up the land in favor of defendants. Meanwhile, another alias writ was issued on September 30, 1993, but on the day of execution on November 3, 1993, respondent Ubalde - who was tasked to implement it - refused to do so because allegedly respondent Tablizo instructed him to desist from implementing it.

In his Comment[5] filed on July 7, 1994, respondent Trampe denied the charges. He said that on July 6, 1993, as commanded by the Provincial Sheriff, he (Trampe) turned over the property to the complainant in the presence of her counsel Atty. Salvador Tulay and a para-legal officer of the Department of Agrarian Reform, who all signed the "Certificate of Turn-Over of Land Holding"; pictures were even taken during said turn-over. However, after said turn-over and while the property was being fenced, defendant (who allegedly had refused to sign the turn-over certificate), armed with a bolo, together with his wife, entered the land, destroyed the fence and prohibited all those present including respondent sheriff and complainant from entering the land. To avoid any untoward incident, he (Trampe) decided to leave the premises. Respondent argued that complainants should have filed another motion to hold defendants in contempt instead of filing this administrative complaint.

For his part, respondent Ubalde in his Letter-Comment dated June 15, 1994, admitted that he did not execute the writ, not because of a refusal to perform his duties but "in obedience (to) my superior's (respondent Tablizo) instruction(s) to hold it in abeyance until further instruction." [6]

Respondent Tablizo explained in his Comment⁷ that he was acting in good faith in not implementing the execution of the writ because he received verbal instructions on November 2, 1993 from the presiding judge (Hon. Nilo B. Barsaga) to postpone the execution since the court had not yet ruled on defendant's pending motion to quash a previous writ (which motion was heard on August 30, 1993). The court subsequently issued an order on November 15, 1993 reconsidering its order of September 30, 1993 and holding in abeyance the issuance of alias writ of execution pending resolution of defendant's motion to quash writ.

By this Court's Resolution dated July 3, 1995, this case was referred to the Office of the Court Administrator for evaluation, report and recommendation. In his Memorandum⁸ dated November 7, 1995 addressed to the Chief Justice, Deputy Court Administrator Reynaldo L. Suarez, with the approval of Court Administrator Ernani Cruz Paño, submitted the following findings:

"1. The charges against respondent Deputy Sheriff Felinor R. Trampe are meritorious. We find said respondent to have been remiss in the performance of his duties as the implementing Sheriff. Record shows that twice he had attempted to enforce the writ of execution and everytime the writ is returned unsatisfied. In his official returns dated November 13, 1992 and July 6, 1993, the reasons for such failure is because of the belligerent and defiant attitude of the defendants to obey the writ and surrender the possession of the land premises to herein complainant. Each time defendants showed that recalcitrant attitude, respondent Sheriff Trampe, for the lame excuse of avoiding any untoward incidents that may occur, just meekly left the place. This fact is reported by respondent Sheriff Trampe in the aforesaid returns.

"The explanation of respondent Sheriff Trampe that the circumstances prevailing on July 6, 1993 execution is beyond his control is hardly acceptable. He should have anticipated this situation as this is not the first time that had happened and he should have taken appropriate steps to thwart any unlawful aggression from the defendants such as employing appropriate means such seeking assistance from police authorities. Record shows that notwithstanding his awareness of the violent attitude of the defendants, respondent only employed one police officer by the name of SPO1 Rojas. We then find respondent Sheriff Trampe not to have fully exerted his effort to employ necessary or reasonable force to repel such defiance and violence which he was authorized and empowered to do so by order of the court and the writ. Instead of exhibiting a cavalier attitude expected of a Sheriff, respondent Trampe showed a lackadaisical attitude in enforcing the writ which gives a

semblance of truth to the claim of the complainant that respondent is being partial to the defendant landowners. By such act or omission, respondent contributed to the delay in the speedy administration of justice which tends to diminish or undermine the public's faith and trust in the judiciary.

"It is said that execution is the fruit and end of the suit and is the life of the law. 'By the very nature of the office which a sheriff holds, as an officer of the court, he should exert every effort and indeed consider it his bounden duty to see to it that the final stage in the litigation process, that of execution of judgment, is carried out in order to ensure a speedy and efficient administration of justice.' (Rafael Lacuata vs. Sheriff Antonio J.M. Bautista, A.M. No. P-94-1005, August 12, 1994 resolution).

"The importance of the duties of the officers charged with the enforcement of execution of judgment has been stressed by this Court in the case of Moya vs. Bassig, 138 SCRA 49, 52, 53 [1985], to quote:

xxx xxx xxx

'It is undisputable that the most difficult phase of any proceeding is the execution of judgment. Hence, the officers charged with the delicate task of the enforcement and/or implementation of the same 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 and the like would be futile x x x' (cited in Pascual vs. Daucan, 216 SCRA 786 [1992]).

"2. With respect to the charges against respondents Sheriff Carlos Ubalde and Ex-Oficio Provincial Sheriff Prospero Tablizo, relative to the non-implementation of the subject writ scheduled on November 3, 1993, the rule is that 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 (Young vs. Momblar, 205 SCRA 33).

"In the case at bar, we opined that the refusal of Sheriff Ubalde to proceed with the November 3, 1993 execution is justified as there was a previous instruction from his superior, Ex-Oficio Provincial Sheriff Tablizo, to defer the same pending consultation with the Presiding Judge over a pending motion to quash writ previously filed by the defendants. Respondent Ubalde merely followed the order of a superior, otherwise if he insisted on the enforcement of the writ, he may be charged for insubordination.

"The same is true with respondent Ex-Oficio Provincial Sheriff Tablizo who had to make such instructions as he became aware and had found out from the records of the case that there was indeed an unresolved pending incident. Though the motion to quash writ was filed by the defendants purposedly to delay the execution of the judgment which had long become final and executory, yet the respondent Ex-Oficio Provincial Sheriff cannot preempt the ruling of the court which could have rendered any action futile. In fact, record shows that indeed the September 30 order granting the issuance of the subject alias writ of execution was reconsidered by the court's order of November 15, 1993 which held in abeyance the subject alias writ of execution pending the resolution of the pending motion to quash writ." (copied verbatim)

We agree with the foregoing findings of Deputy Court Administrator Suarez.

Sheriffs must comply with their mandated ministerial duty⁹ to implement the writ as early as possible; and by the nature of their functions, sheriffs at all times must act above suspicion.^[10]

"This Court has repeatedly stressed that the conduct and behavior of everyone connected with an office charged with the dispensation of justice, like the courts below, from the presiding judge to the sheriff and deputy sheriff to the lowest clerk should be circumscribed with the heavy burden of responsibility. His conduct, at all time (sic), must not only be characterized with propriety and decorum but above all else must be above suspicion. (Jereos, Jr. v. Reblando, Sr., 71 SCRA 126, 131-132 [1976])."

In Florendo vs. Enrile^[11] we ruled that:

"The respondent's (deputy sheriff) explanation that he was not able to implement the writ of demolition because he was threatened with death by the defendants is unacceptable. If that were true, he should have either reported it to the MTCC (Municipal Trial Court in Cities) and requested the assistance of other sheriffs or law enforcement authorities, or filed the appropriate criminal complaint against the defendants who had threatened him. Instead of doing so, he filed his returns only after several months had lapsed."

The mere fact that defendants, in a threatening manner, prohibited respondent Trampe from entering the premises is no excuse for him to retreat and refuse to enforce the writ of execution. A deputy sheriff is a front-line representative of the justice system in this country. If he shows fear, or worse, is cowed by mere threats from enforcing the legitimate orders of courts, then by his cowardly act, he diminishes the judiciary. He erodes the faith and trust of the citizenry in the ability and capacity of the courts to settle disputes and to safeguard their rights. Specifically, he breaches his sworn duty to uphold the majesty of the law and the integrity of the justice system.

WHEREFORE, respondent Deputy Sheriff Felinor R. Trampe is found GUILTY as charged and meted a penalty of SUSPENSION for six (6) months without pay, with a stern WARNING that commission of the same or similar acts in the future will be dealt with more severely. Respondents Deputy Sheriff Carlos Ubalde and Ex-Oficio Provincial Sheriff Prospero Tablizo are ABSOLVED from administrative liability as the complaint against them is found to be without merit.

SO ORDERED.

Narvasa, C.J. (Chairman), Davide, Jr., Melo, and Francisco, JJ., concur.

[1] Rollo, pp. 3-7.

[2] Rollo, pp. 43-49.

[3] Rollo, pp. 50-51.

[4] Rollo, pp. 52-53.

[5] Rollo, pp. 89-92.

[6] Rollo, pp. 109.

[7] Rollo, pp. 130 to 131-A.

[8] Rollo, pp. 151-155.

[9] *Young vs. Momblan*, A.M. No. P89-367, 205 SCRA 33 (January 9, 1992).

[10] *Llanes vs. Borja*, A.M. No. P-86-32, 192 SCRA 288 (December 10, 1990).

[11] *Florendo vs. Enrile*, 239 SCRA 22, 31 (December 7, 1994).

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