

**ADELA REFORMINA, COMPLAINANT, VS. DEPUTY SHERIFF
DOMINADOR ADRIANO OF REGIONAL TRIAL COURT OF MANILA,
BRANCH VIII, RESPONDENT.**

Adm. Mat. No. R-439-P. September 19, 1990

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PER CURIAM:

Filed with this Court is the verified complaint of one Adela Reformina against Dominador Adriano, Deputy Sheriff of the Regional Trial Court of Manila, Branch VIII, charging the latter with grave abuse of authority.

The instant complaint arose from Civil Case No. 85-30855, entitled "Guillermo Uy, Jr. v. Tan Chong Hoo substituted by Adela Reformina" for ejectment, which was decided in favor of the plaintiff. The decision was affirmed in toto by the Regional Trial Court of Manila, Branch VIII.

On October 15, 1985, Judge Gonong issued an order granting a writ of ejectment execution pending appeal;

On the same date, October 15, 1985, a writ of execution was issued by then Clerk of Court, Atty. Cesar P. Javier, commanding the Deputy Sheriff of Branch 8, respondent Dominador Adriano, to carry out the writ of execution;

On the same day, October 15, 1985, at 4:20 p.m., the defendant through counsel, filed before the Regional Trial Court, Branch 8, an urgent motion for reconsideration and to stay execution, duly verified and scheduled for hearing on October 31, 1985 at 8:30 a.m.;

On October 16, 1985, early in the morning without the aforementioned motion for reconsideration being resolved by Judge Gonong, respondent Deputy Sheriff Dominador Adriano assisted by three (3) hired helpers and policemen of the Western Police, Chinatown Detachment, immediately proceeded to the premises in question to carry out the writ of execution. At that time, even though he knew that the motion for reconsideration was unresolved, and without giving the occupant a reasonable time to pack up her personal belongings, respondent Deputy Sheriff carried out the execution by moving out the personal belongings of the said occupant, complainant Adela Reformina. At that time, complainant Adela Reformina was out and upon the latter's arrival, she informed the respondent sheriff that her lawyers were securing a restraining order from the appellate court and requested respondent to stop the eviction process. Respondent sheriff did not heed the request. At about 1:30 p.m. of October 16, 1985; a representative of complainant's lawyer requested the respondent sheriff to stop the execution because a restraining order was already issued by the appellate court and was being typed, but still, respondent sheriff did not oblige. At 3:00 p.m. of the said date, a restraining order from the Intermediate Appellate Court was served on the plaintiff. At that time, the respondent sheriff had turned over possession of the premises to the plaintiff.

Respondent Deputy Sheriff explained in his Comment dated November 26, 1985, that he enforced the writ of ejectment execution at the insistence of the prevailing party's lawyer because there was no contrary order issued by Judge Gonong or any restraining order from the appellate court.

It appears that respondent deputy sheriff acted precipitately in carrying out immediately the writ of execution to

restore possession of the premises to the plaintiff. Respondent deputy sheriff acted with undue haste and enforced the writ of execution on the same date he received it by taking out the belongings of the complainant from the premises even though he knew that there was a pending motion for reconsideration, and that the losing party was seeking a restraining order from the appellate court. In fact, a restraining order was issued by the afternoon of the same day.

Under the Rules of Court, the immediate enforcement of a writ of ejectment execution is carried out by giving the defendant notice of such writ, and making a demand that defendant comply therewith within a reasonable period, normally from three (3) to five (5) days, and it is only after such period that the sheriff enforces the writ by the bodily removal of the defendant and his personal belongings. In this case, the precipitate act of the respondent sheriff in carrying out the writ of ejectment execution rendered the motion for reconsideration before the trial court and the petition for review filed with the Intermediate Appellate Court moot and academic. Indeed, a temporary restraining order was issued by the appellate court enjoining the respondent deputy sheriff from implementing the writ of execution issued in Civil Case No. 85-30855, until further orders of the court.

Premises considered, the Court resolved to SUSPEND respondent Deputy Sheriff Dominador Adriano from office for a period of six (6) months without pay, effective from the date of receipt of resolution for having been found GUILTY of grave misconduct in office. Let a copy of this resolution be spread on respondent's personal records.

SO ORDERED.

Melencio-Herrera, (Chairman), Paras, Padilla, Sarmiento, and Regalado, JJ., concur.

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