ESMERALDO D. VISITACION, JR., COMPLAINANT, VS. GREDAM P. EDIZA, SHERIFF IV, RESPONDENT.

A.M. No. P-01-1495. August 09, 2001

Ponente: MELO, J.

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MELO, J.:

On May 19, 1998, the Municipal Trial Court of Mabinay, Negros Oriental issued a writ of execution against the defendant in Criminal Case Number 12732, People vs. Cristobal Ejercito, for violation of Presidential Decree 772, otherwise known as the Anti-Squatting Law. The writ directed defendant Ejercito to restore possession of Lot No. 3098 to complainant Esmeraldo D. Visitacion and to remove the building constructed thereon. On June 10, 1998, the writ was assigned for implementation to respondent Deputy Sheriff Gredam P. Ediza, who asked that complainant hand-over the amount of P3,000.00 in order to facilitate service of processes on the defendant. Complainant turned over to respondent a social security pensioner's check in the amount of P2,400.00, which was supported by a receipt handwritten and signed by respondent. The balance of P600.00 was given at later dates, although no receipts were issued.

Almost three months later, the lower court had yet to receive a report or return of service on the writ of execution from respondent. Complainant then filed the instant administrative complaint against respondent on August 24, 1998 for dereliction of duty.

In his answer, respondent attached a return of service on the writ of execution dated August 10, 1998, which was the 60[th] day from the date of his receipt of the writ. The return was, however, stamped received by the Municipal Trial Court of Mabinay on August 25, 1998. Respondent explained in his answer that the discrepancy between the two dates is due to the distance between his office and the court. Further, the submitted return of service stated that respondent served the writ of execution on defendant Ejercito on June 29, 1998, but that the latter refused to acknowledge receipt thereof. It also reported that respondent explained the import and consequences of the writ to the defendant who was given 30 days to comply. As of August 10, 1998, defendant still continued to occupy the premises of complainant.

The Court agrees with the recommendation of the Office of the Court Administrator that respondent Deputy Sheriff Gredam P. Ediza be found guilty of dereliction of duty.

Notwithstanding the funding appropriated by the complainant for the entire proceeding, respondent failed, plainly and simply, to do his job. Under Section 9, Rule 141, of the Revised Rules of Court, complainant shall pay the expenses of the sheriff and/or other persons serving or executing processes, in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of such estimated expense, complainant should deposit the amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned. In the case at bar, respondent unilaterally dispensed with proper procedure when he directly requested from complainant the amount of estimated expenses instead of first seeking approval of the court.

Further, this same amount is subject to liquidation within the same period for making a return, and any unspent

amount should be refunded to the complainant (Section 9, Rule 141, Revised Rules of Court). There is no showing in the record of the case that respondent filed a liquidation report on the amount he received. Again, respondent ignored proper procedure.

Respondent ought to be reminded that he is an officer of the court and should at all times show a high degree of professionalism in the performance of his duties. By failing to observe proper procedure, respondent showed very little regard in upholding the law. He should remember that as a front-line representative of the justice system in this country (Vda. de Tisado vs. Tablizo, 253 SCRA 646 [1996]), he should be more vigilant in the execution of the law, for once he loses the people's trust, he diminishes the people's faith in the judiciary (Dilan vs. Dulfo, 304 SCRA 460 [1999]).

Respondent also failed to file a timely return of service on the writ. He claims that he submitted the return of service on time because he filed the same on the 60[th] day from the time of his receipt of the writ. However, under Section 14, Rule 39 --

> [t]he 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 30 days after his receipt of the writ, the officer shall report to the court and state the reason therefor. 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 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.

As now provided, respondent should have made a report to the court 30 days, not 60 days, after receipt of the writ. Although under the old rules, respondent was given a maximum of 60 days to submit his report, he cannot feign ignorance of this new revision. Ignorance of the law excuses no one, especially those who should be aware of such changes because it is part of their duties and responsibilities to implement them.

Equally unpersuasive is the argument that it took 15 days for the MTC of Mabinay to receive the return of service from respondent because of the distance from Dumaguete to Mabinay. The two places are approximately 60 kilometers apart, which should take only about 2 hours traveling time. The delay could but be attributed to negligence and irresponsibility. The return of service of a writ is vital for it is the only means of informing the court whether the writ has indeed been implemented. Any judgment, if not executed, remains but an empty victory on the part of the prevailing party (Junio vs. Egay-Eviota, 231 SCRA 551 [1994]). Respondent failed to observe that degree of dedication required of him as a sheriff.

Sheriffs are responsible for the speedy and efficient implementation of writs of execution (Casal vs. Concepcion, Jr., 243 SCRA 369 [1995]). As agents of the law, they are called upon to discharge their duties with due care and diligence (Mamanteo vs. Magumun, 311 SCRA 259 [1999]). In serving writs and implementing orders of the court, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice (Mamanteo vs. Magumun, supra, citing Bernasal, Jr. vs. Montes, 280 SCRA 181 [1997]). A decision left unexecuted or delayed indefinitely due to the inefficiency, negligence, misconduct, or ignorance of the law of sheriffs renders the same inutile, and worse, the parties who are prejudiced tend to condemn the entire judicial system (Portes vs. Tepace, 267 SCRA 185 [1997]). It is evident that respondent failed to live up to his sworn duty to uphold and execute the law, as well as to perform his duties and responsibilities with integrity, efficiency, and fairness to all parties. It should, however, be observed that there was no intention on the part of respondent to misappropriate the money. This circumstance somehow mitigates respondent's shortcomings.

WHEREFORE, the Court finds respondent Gredam P. Ediza GUILTY of dereliction of duty and hereby orders

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him to pay a FINE in the amount of Three Thousand Pesos (P3,000.00). Commission of the same or similar offense will warrant a more severe penalty.

SO ORDERED.

Vitug, Panganiban, and Gonzaga-Reyes, JJ., concur.
Sandoval-Gutierrez, J., on leave.

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