JUNN F. FLORES, COMPLAINANT, VS. ROGER S. CONANAN, CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT, IBAJAY-NABAS, IBAJAY, AKLAN, RESPONDENT.

A.M. No. P-00-1438 (Formerly A.M. OCA IPI No. 99-582-P). August 14, 2001

Ponente: GONZAGA-REYES, J.

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GONZAGA-REYES, J.:

The Office of the Ombudsman, in a letter dated November 16, 1998, forwarded to then Court Administrator Alfredo L. Benipayo a Complaint-Affidavit dated October 19, 1998 signed by Junn F. Flores which charged respondent Clerk of Court II Roger S. Conanan of the Municipal Circuit Trial Court of Ibajay-Nabas, Ibajay, Aklan with grave abuse of authority relative to Civil Case No. 198 for Forcible Entry for alleged unlawful issuance of a writ of execution and in the execution of the said writ.

From the complaint-affidavit, it appears that herein complainant Junn Flores is one of the defendants in a civil case for forcible entry involving a parcel of land with an area of 9,564 square meters located at Poblacion, Nabas, Aklan, which was docketed as Civil Case No. 198. A decision was rendered on May 21, 1998 by Presiding Judge Eulado S. Masangkay of the MCTC-Ibajay-Nabas, Ibajay, Aklan, the dispositive portion of which reads:

> "WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff ordering all the defendants and/or any person/s claiming under them to vacate the premises in question designated as Lot No. 24 (CAD 758-D) and to surrender the possession thereof to the plaintiff. The claim for damages by both parties is hereby denied."

It appears likewise that on September 28, 1998, Sheriff Nelson de la Cruz, Atty. Gideon de Pedro, Monroe Palomara, together with armed companions, arrived at the subject premises and informed the occupants, who were harvesting their palay, that they are serving a writ of execution which was issued by respondent Clerk of Court II Roger Conanan. The pertinent portion of the writ of execution dated September 25, 1998 issued by respondent Conanan reads:

> "NOW, THEREFORE, you are hereby commanded to cause defendants, their privies, cohorts and all other persons acting in their behalf to vacate said parcel of land, and to deliver the possession thereof to the plaintiffs; to seize the goods and chattels of said defendants except such as are by law exempt from execution and to make sale thereof according to law, to satisfy the cost of damages, attorney's fees, cost of suit, together with your fees for the execution and to pay the amount so collected by you thereon to the said plaintiffs, except the amount of your fees hereon.
>
> In case you fail to collect the amount in cash, then you may levy upon the chattels and other personal properties of the said defendants, but (if) sufficient personal properties cannot be found to satisfy this execution and your lawful fees thereon, then you are commanded that the lands and buildings of the said defendants, (sic) you make the said sum of money in the manner required by law and the Rules of Court and return this Writ unto this Court within sixty (60) days from receipt with your corresponding report of the proceedings undertaken thereon."

Herein complainant allegedly begged that they be allowed to finish their harvest first since the decision merely ordered the defendants to turnover the possession of the land and did not state that personal properties or chattels therein be seized and that no damages were awarded. Complainant allegedly told them that the hearing for the issuance of the writ of execution is yet to be held. He explained that the decision did not mention anything about the award of damages in favor of plaintiff but respondent Conanan declared that all the chattels and goods found in the subject premises be seized for payment of damages. The complainant's sacks of palay, nipa hut and other personal properties were allegedly forcibly taken from him.

Respondent denied the allegations in his Counter-Affidavit claiming that he merely followed the format prescribed in the Manual for Clerks of Court. He claims that he merely complied with the Order dated September 22, 1998 of the Presiding Judge Masangcay ordering the issuance of a writ of execution. Respondent further argues that he is not a privy to the implementation of the writ of execution and that if herein complainant is questioning the writ of execution and its implementation, he should have brought the matter to the court and further charge the Sheriff with whatever action was proper under the premises.

The Court Administrator found respondent Conanan guilty of grave abuse of authority and recommended that respondent be fined in the amount of P1,000.00 with a stern warning that a repetition of the same or similar act shall be dealt with more severely. The Court Administrator opined that the disparity between the decision and the writ of execution is clear and apparent. The decision specifically denied the claim for damages while the writ of execution ordered the seizure of goods and chattels of the defendants to satisfy the cost of damages. As officer of the court, respondent was duty-bound to use reasonable skill and diligence in the performance of is duties. He cannot take refuge by arguing that he merely followed the format for writs of execution prescribed in the Manual for Clerks of Court.

We agree with the Court Administrator but we believe that the amount of fine is too light and the same should be increased to P2,000.00.

It is clear from the aforequoted dispositive portion of the subject decision that the claim for damages by both parties was denied. The judgment merely ordered the defendants to vacate the questioned premises and surrender possession thereof to the plaintiff. However, the writ of execution signed by respondent Conanan and addressed to the Sheriff or his deputies commanded the latter not only to cause defendants to vacate and deliver possession of the subject premises but also "to seize goods and chattels of said defendants" and "to make sale thereof according to law, to satisfy the cost of damages, attorney's fee, cost of suit together with the fees for the execution and to pay the amount so collected" to the plaintiffs. The writ is clearly not in accord with the dispositive portion of the subject decision since there was no order by the court for payment of damages, attorney's fees and cost of suit. It is a settled principle that a writ of execution should conform strictly with the very essential particulars of the promulgated judgment.[1] The writ of execution must conform to that ordained or decreed in the dispositive portion of the decision.[2]

The rule is that those involved in the administration of justice from the highest official to the lowest clerk must live up to the strictest standards of honesty and integrity in the public service.[3] As an officer of the court, respondent Conanan was duty-bound to use reasonable skill and diligence in the performance of his officially-designated duties as clerk of court.[4] Respondent fell short of this standard.

WHEREFORE, respondent Roger S. Conanan, Clerk of Court II of the MTCT, Ibajay-Nabas, Ibajay, Aklan is hereby found guilty of grave abuse of authority and is ordered to pay a FINE in the amount of Two Thousand (P2,000.00) Pesos, with a STERN WARNING that a repetition of the same or similar act shall be dealt with more severely by this Court.

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SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Sandoval-Gutierrez, JJ., concur.

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

[2] Gabuya vs. Layug, 250 SCRA 218; Buan vs. Court of Appeals, 235 SCRA 424.

[3] Office of the Court Administrator vs. Galo, 314 SCRA 705.

[4] Neeland vs. Villanueva, 317 SCRA 652.

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