

PAG-IBIG VILLAGE ASSOCIATION (REPRESENTED BY ITS CHAIRMAN OF THE BOARD), ABNER FLOR, AND ATTY. RENI M. DUBLIN, COMPLAINANTS, VS. AQUILINO ANGON, SHERIFF OF THE REGIONAL TRIAL CO...

A.M. No. P-98-1268. August 25, 1998

Ponente: DAVIDE, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/77e32f921913/>

DAVIDE, JR., J.:

In a sworn complaint^[1] filed with the Office of the Court Administrator (OCA) on 4 June 1996, complainants charged respondent with grave misconduct for having: (a) hastily, prematurely and illegally implemented a writ of demolition issued by Branch 8 of the Regional Trial Court (RTC) of Davao City in an appealed case, Civil Case No. 23,484-95; and (b) defamed complainant Atty. Reni Dublin during the implementation of the writ by telling his clients that there was nothing more respondent could do because Atty. Dublin had already been paid.

As to the facts, the complaint alleged that the plaintiffs in Civil Case No. 23,484-95 filed an application for demolition, which was opposed by Atty. Dublin, counsel for the defendants. During the hearing of the application on 9 January 1996, the parties agreed that the writ of demolition which might be issued would be enforced only after a determination of the boundaries of the lots claimed by plaintiffs and that defendants would voluntarily vacate the premises and remove their constructions thereon if it be found that they were occupying plaintiffs' lots. On 18 March 1996, the trial court granted the motion for the issuance of a writ of demolition. Atty. Dublin received a copy thereof on 29 March 1996. On the latter date, the trial court issued a Special Order of Demolition. Then on 12 April 1996, Atty. Dublin filed a motion for reconsideration of the order of 18 March 1996, praying that a delineation of the southern boundaries of the plaintiffs' land be first made before any demolition was to be effected. The motion was set for hearing on 19 April 1996. On even date, while Atty. Dublin was arguing his motion in court, respondent, who was not a regular sheriff of Branch 8 of the RTC of Davao City, "hastily, prematurely, and illegally implemented the writ of demolition," as the writ was not by then final and executory. Worse, respondent implemented the writ with knowledge of the agreement that no demolition would be effected before the delineation of the boundaries of the plaintiffs' lot. Moreover, in so executing the writ, respondent uttered in the vernacular and in the presence of Atty. Dublin's clients, defamatory words against Atty. Dublin which, when translated into English, meant: "There is nothing I can do because your lawyer was already paid. This is now the fault of your lawyer because he was already paid."

In his Comment,^[2] respondent alleged that under the Memorandum of 15 April 1996 of the Clerk of Court and Ex-Officio Provincial Sheriff, Marilou Dureza-Aldevera, he and other sheriffs were assigned to implement the writ of demolition. Moreover, he had never been privy to or connected with, the main case; likewise, he was not present during the hearing of 9 January 1996. Neither did he have knowledge of the motion for reconsideration or of the hearing thereon on 19 April 1996. Respondent pointed out that his counsel received a copy of Atty. Dublin's motion for reconsideration only on 25 April 1996, and despite his lack of knowledge of the supposed agreement of 9 January 1996, he took it upon himself to procure the services of Geodetic Engineer Agustin Vedula

to determine the peripheral boundaries of the lots in question. Considering that the defendants had already accomplished a "second reentry," plaintiffs' counsel (who was also respondent's counsel) did not agree with Atty. Dublin's proposal that the writ of demolition be not effected until the relocation; and that what respondent took Atty. Dublin to mean was for the sheriff to proceed with the demolition but with the assistance of a surveyor to guide the sheriff as to the peripheral boundaries of the property in question. Respondent denied having uttered libelous attacks against the person of Atty. Dublin; in support of which, he attached the affidavits of Juan Mahilum, Sr., and Epifania Auman and the Joint Affidavit of the other sheriffs.

Elaborating on the defendants' "second reentry," respondent alleged that in Civil Case No. 295-G-92, which was later appealed to become Civil Case No. 23,848-95, the Municipal Trial Court in Cities (MTCC), Branch 7, Davao City, granted the plaintiffs' motion for a writ of preliminary injunction and a writ of demolition on 30 March 1992. This writ of demolition was fully implemented. Subsequently, however, due to an erroneous implementation of a writ of demolition issued by Branch 3 of the MTCC of Davao City in Civil Case No. 1,407-C-94, defendants in Civil Case No. 295-G-92 were able to reenter the lots involved in the latter case. Upon motion by the plaintiffs in Civil Case No. 295-G-92 to recall the writs of execution and demolition issued in Civil Case No. 1,407-C-94, Branch 3 of the MTCC issued, on 7 September 1995, an order granting said motion to recall, explicitly stating therein that the properties covered were distinct and separate from those of the plaintiffs in Civil Case No. 295-G-92. The court thereupon directed the sheriff to properly implement the writ by not disturbing the properties of the plaintiffs in Civil Case No. 295-G-92. But on 7 October 1995, defendants in Civil Case No. 295-G-92 reentered plaintiffs' property and constructed makeshift shanties, compelling the plaintiffs to move for the issuance of a writ of mandatory preliminary injunction. On 2 November 1995, the appellate court in Civil Case No. 23,848-95 ordered the issuance of a writ of preliminary injunction directing the defendants to remove all their constructions on the land subject of said case upon plaintiffs' posting of a bond of P150,000.

As to the issue of hasty, premature, and illegal implementation of the writ of demolition, we found the pleadings sufficient for resolution. But, as to the alleged utterance of defamatory remarks against the complainant Atty. Dublin, we referred the matter to Judge Romeo P. Marasigan of the RTC of Davao City, Branch 16, for investigation, report and recommendation.

Judge Marasigan conducted hearings to receive the evidence for the parties. In his Report and Recommendation, dated 29 September 1997, Judge Marasigan made the following findings and recommendation:

It is the findings of the undersigned that the evidence adduced by the complainant is weak and insufficient to prove that respondent Angon has actually uttered to the squatters who are members of the Pag-ibig Village Association during the demolition for two days that Atty. Dublin had been bought.

The undersigned gave more faith to the declarations of the witnesses of respondent Angon. Their declarations were straightforward, clear and convincing to deserve credence as compared to the declarations of the three (3) witnesses of the complainant which were unreliable.

It is but a natural feeling of these squatters who are members of the Pag-ibig Village Association of which Atty. Dublin is the counsel to get mad at respondent Angon for leading the demolition of all their shanties, especially so that their motion for reconsideration was pending resolution then.

And the possibility is not remote to strike back at him or they wanted to lay the blame to Atty. Dublin why the demolition was pushed through despite their motion for reconsideration was still to be resolved.

Based from the foregoing findings of facts, the undersigned recommends the dismissal of the complaint against respondent Sheriff Aquillo Angon for lack of sufficient basis.

We thereafter referred this case to the OCA for evaluation, report and recommendation, which was submitted on

10 March 1998.

In the resolution of 27 April 1998, we required the parties to inform us whether they were willing to submit this case for decision on the basis of the pleadings filed. As they failed to do so manifest despite their receipt of copies of the resolution, we then considered this case submitted for decision.

We defer to the findings of fact of Judge Marasigan, as these inevitably redound to the issue of credibility of witnesses. The rule is settled that the assessment of the trial judge as to the issue of credibility binds the appellate court because he is in a better position to decide the issue, having heard the witnesses and observed their deportment and manner of testifying during the trial. An exception to this rule is when the trial court has plainly overlooked certain facts of substance and value that, if considered, might affect the result of the case,[3] or where the assessment is clearly shown to be arbitrary.[4] This exception, however, finds no room for application in this case. We thus agree with the recommendation that the charge of defamation is without basis and should, therefore, be dismissed.

We now address the issue of the alleged hasty, premature and illegal implementation of the writ of demolition.

In its initial report, the OCA made the following findings:

Since [Sheriff Angon] was not the regular sheriff of RTC, Branch 8, Davao City, it was all the more important for him -- upon receiving the instructions of his superior -- to look at the records to ascertain whether or not complainant Atty. Dublin, as counsel of complainant Pag-ibig, was furnished [with] a copy of the Special Writ of Demolition and, if he had been furnished with a copy, the date indicated in the return card as to when he received his copy of said writ.

Upon an examination of the case records, he would have seen that a Motion for Reconsideration of the Order dated March 18, 1996 had been filed April 12, 1996 by complainant Atty. Dublin and that the same had been set for arguments for April 19, 1996.

Since he received the special assignment on April 15, 1996 -- if he had examined the records -- he would have had all of April 15, 16, 17 and 18, 1996 to inquire formally from the trial court whether or not he should proceed with the implementation of the special writ of demolition on April 19, 1996... considering that the hearing on the Motion for Reconsideration was to be held on April 19, 1996.

Sheriff Angon's "glaring omission [was] a clear violation of the principles of fair play and due process" as "Writs of Execution should always be served and enforced with prudence and caution, taking into consideration all relevant circumstances."

It matters not that the Pag-ibig members were mere squatters who had entered the land of the plaintiffs a THIRD time. They were still entitled to the service of the writ of demolition through their counsel of record before their shanties were to be actually demolished, just in case they refused to leave.

And in its final report, the OCA stated:

On March 18, 1996, the RTC, Branch 8, Davao City ordered that a writ of demolition issue. Before said Order [c]ould gain finality, complainant Atty. Dublin filed a motion for its reconsideration on April 12, 1996, the 15th day to file said motion being April 13, 1996 as he received said Order on March 29, 1996.

He had the same set for hearing on April 19, 1996. Until the same would have been resolved, said March 18, 1996 order would not yet become final and executory, assuming that said motion for reconsideration would be denied upon its resolution.

Atty. Dublin prayed in said motion for reconsideration:

That because of the uncertainty of the specific boundaries of the areas by plaintiffs and the new entry of defendants are within the lands claimed by plaintiffs, plaintiffs' counsel agree[d] to a prior determination of the boundaries before the implementation of any demolition, as can be seen from his manifestation during the hearing of plaintiffs' motion made on January 9, 1996, which we quote:

ATTY. ANG:

This is my suggestion also -- considering that this is the second re-entry of the defendants -- and my client cannot accommodate, as a compromise, a writ of demolition be issued but we are not going to implement it immediately until after the boundaries subject matter of this complaint is determined because the sheriff will go to the areas and determine the boundaries so that the minds of defendants be laid to rest, your Honor.

ATTY. DUBLIN:

An agreement between the parties, through counsel.

COURT:

Submitted.

That from the foregoing agreement of the parties, allowing the grant of the demolition when viewed from the manifestation/argument of counsels during the hearing of January 9, 1996 would be tantamount to placing the matter of which are to be demolished within the sole discretion of the plaintiffs and reducing the sheriff to nothing but subservient to the plaintiffs' caprices.

Thus, it matters not that respondent Angon brought with him a surveyor, courtesy, of course, of Atty. Ang, plaintiffs' counsel, before he implemented the writ. The surveyor who should have "determined" the boundaries of plaintiffs in said disputed land should have been the surveyor, who having been first picked by both the plaintiffs and defendants in said case, would have been ordered by the trial court to do so.

While it is true that sheriffs are supposed to implement writs of execution without fear or favor, it is the practice of the winning parties to induce the virtues of hard work and enthusiasm in the sheriffs by giving them something extra.

This prospect of receiving extra income in implementing the writ of demolition on April 19, 1996 must have titillated respondent Angon so much that he did not inquire anymore with the trial court that issued the writ to find out whether a motion for the reconsideration of the March 18, 1996 order granting the issuance of the writ of demolition had been filed.

Since jurisprudence is clear that an order is not yet final and executory when a motion for its reconsideration has been filed and is still pending, respondent Angon cannot rely on his defense that

[He] has never been privy nor connected in any manner insofar as the main case of the parties is concerned and neither was he present during the January 9, 1996 one of the several hearing dates for the issuance of the writ of demolition Order dated March 18, 1996 hearing before RTC-8, Davao City. Consequently, respondent has no knowledge of said "Motion for Reconsideration of the Order" dated March 18, 1996 nor on the date -- April 19, 1996 -- set for hearing of said motion in RTC-8, Davao city.

Because, as implementing sheriff, he should have looked at the case records to find out: (a) whether counsel of the losing party had been furnished a copy of the said writ of demolition and (b) whether a motion for reconsideration of the order granting said writ had been filed, and if filed, (c) whether still pending or already resolved in favor of the winning party -- to ensure that due process is followed in the implementation of said writ.

As this Court has already stated in *Wenceslao v. Madrazo* [247 SCRA 696]:

Respondent should not have simply presumed that the demolition order has already been served by the process server considering that xxx this is also part of his own functions and responsibilities. Such careless presumptions amount to negligence and misconduct.

xxx

And in *Balais v. Abuda* (146 SCRA 56), we issued this reminder:

"Respondent, and all sheriffs for that matter, should be reminded that Writs of Execution should always be served and enforced with prudence and caution, taking into consideration all relevant circumstances. xxx"

Praiseworthy is the expeditious and efficient execution of court orders and writs but not at the expense of due process and fair play, as demonstrated in the case at bench by respondent's overzealousness.

Respondent sheriff Angon must be fined in an amount sufficient for him to understand the gravity of his misconduct and to serve as an example to other sheriffs to await the resolution of a motion for reconsideration of an order granting execution and/or demolition where one has been filed.

It could happen, as in the case at bench, that such writ, although granted and ministerial, is of such nature that either clarification must be made as to the extent of the implementation of said writ or supervening matters have come into existence.

The OCA then recommended that for misconduct, respondent be fined in the amount of P5,000.

We disagree with the OCA. First, there is at all no basis for the sweeping speculation that the "prospect of receiving extra income [from the winning parties]... must have titillated respondent Angon so much that he did not inquire anymore from the trial court that issued the writ... whether a motion for reconsideration of the 18 March 1996 order granting the issuance of the writ of demolition had been filed." Complainant does not suggest, in the slightest, that respondent's actions were somehow motivated or that he was enticed by any offer of extra income.

Second, there was nothing irregular at all in his designation by the Ex-Officio Provincial Sheriff as the implementing sheriff, considering that the sheriff officially assigned to the court which issued the order was then on leave.[5]

Third, what respondent was lawfully directed to implement was the Special Order of Demolition, which enjoyed the presumption of regularity in its issuance. This then presupposed, pursuant to Section 14 of Rule 39 of the Rules of Court[6] which was the governing law then, that there was a prior order for the defendants to vacate the premises and remove their improvements and that they refused to do so within a reasonable time fixed by the court. Under the facts, this prior order was the writ of preliminary injunction, mandatory in character, issued on 17 November 1995, directing the defendants or their successors-in-interest or any other person or persons acting under their command "to remove within fifteen (15) days from receipt thereof all their makeshift shelters/shanties erected on the land belonging to the ... plaintiffs-appellees covered by Transfer Certificates of Title Nos. T-137880, T-137881, T-137882, T-137883 and T-137884." The Special Order of Demolition was then resorted to by the court to effectively implement the writ of preliminary mandatory injunction after the defendants refused to comply with the writ.

The complaint did not allege that a motion to reconsider the issuance of the writ of preliminary mandatory injunction was filed by the defendants and nothing else indicates that such a motion was filed.

Fourth, there was a hearing on the motion for the issuance of a writ of demolition on 9 January 1996, and the

matter was extensively argued as the transcript of stenographic notes of the proceedings[7] shows. In fact, complainant Atty. Dublin even announced to the court that there might be no more need for the issuance of a writ of demolition, as the defendants manifested to him that they were willing to vacate provided that proper delineation of the boundaries be made; thus:

ATTY. DUBLIN:

There might be actually no more need for the issuance of a writ of demolition, Your Honor. The defendants have manifested to this representation that they are willing to vacate the premises provided that proper delineation of the boundaries be made, Your Honor, be definitely stated indicating the area claimed by plaintiffs specifically that one submitted by plaintiffs as exhibit before the Municipal Trial Court. Now, it is the position of the defendants that based on the sketch, they were already outside the area claimed by the plaintiffs. What we are praying is based on logic, Your Honor. There would be proper application based on that sketch.[8]

Later, counsel for the prevailing party responded and offered the following assurance, thus:

ATTY. ANG:

This is my suggestion also -- considering that this is the second re-entry of the defendants and my client cannot accommodate, as a compromise, a writ of demolition be issued but we are not going to implement it immediately until after the boundaries subject matter of this complaint is determined because the Sheriff will go to the area and determine the boundaries so that the minds of the defendants be laid to rest, Your Honor.[9]

To which, Atty. Dublin concluded:

ATTY. DUBLIN:

An agreement between the parties through counsel.[10]

Clearly, Atty. Dublin did not object to the issuance of a writ of demolition since he was assured by Atty. Ang that it would be implemented only after the boundaries of the lots subject matter of complaint were determined. Respondent and his team of other sheriffs then conducted the demolition, but only after it was determined by a geodetic engineer that the constructions of the defendants were within the property of the plaintiffs.

Fifth, respondent sheriff cannot be faulted for implementing the writ of demolition on 19 April 1996, for settled is the rule that "when a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate.[11]

Sixth, complainants have not shown that the constructions of the defendants which were demolished were outside the property of the plaintiffs.

Seventh, it is crystal that the defendants and their counsel have employed all possible stratagems to unduly delay the implementation of the writ of preliminary injunction. Herein complainants have not denied the fact that defendants had indeed reentered the property of plaintiffs, thereby demonstrating beyond cavil that they defied lawful writs of preliminary injunction issued in Civil Case No. 295-G-92 and Civil Case No. 23,848-95.

We have been exacting in our demands that court sheriffs should always faithfully adhere to, hold inviolate and invigorate the principle solemnly enshrined in the Constitution that a public office is a public trust.[12] Pursuant thereto, we have, without hesitation, dismissed or disciplined sheriffs who failed to meet our expectations. However, such as here, we shall likewise be the first to protect them against unfounded administrative complaints which do not appear to be genuine efforts to rid the court of the scalawags in the service, or which are merely designed to frustrate the due administration of justice.

In this case, we do not find respondent to have committed any misfeasance nor malfeasance to warrant the imposition of disciplinary action.

WHEREFORE, the instant complaint is dismissed.

SO ORDERED.

Vitug, Panganiban and Quisumbing, JJ., concur.

Bellosillo, J., took no part in the deliberation.

[1] Rollo, 1.

[2] Rollo, 36.

[3] People v. Pascual, 208 SCRA 393, 399 [1995] ; People v. Simon, 209 SCRA 148, 156 [1992] ; People v. Matrimonio, 215 SCRA 613, 628-629 [1992]; People v. De Leon, 245 SCRA 538, 545 [1995] ; People v. Delovino, 247 SCRA 637, 646-647[1995] .

[4] See People v. Quejada, 223 SCRA 77 [1993].

[5] Now Sec. 10(d), Rule 39, 1997 Rules of Civil Procedure.

[6] Rollo, 91.

[7] Annex "A" of complaint.

[8] TSN, 9 January, 1996, 3.

[9] Id., 7.

[10] TSN, 9 January 1996, 8.

[11] Jumio v. Egay-Eviota, 231 SCRA 551, 555 [1994]; Padilla v. Arabia, 242 SCRA 227, 231 [1995]; Villareal v. Rarama, 247 SCRA 493, 501 [1995].

[12] Sy v. Academia, 198 SCRA 705, 717 [1991].

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.