JENNIFER B. DOMINGO, COMPLAINANT, VS. SILVINO R. MALANA, JR. AND CIPRIANO B. VERBO, JR., BOTH SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, TUGUEGARAO CITY, RE...

A.M. No. P-07-2391. February 12, 2009

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

Sheriffs must exert every effort to see to it that execution of judgment is carried out in order to ensure a speedy and efficient administration of justice. A writ or process left unexecuted or delayed due to their inefficiency is rendered inutile, and worse, the parties who are prejudiced tend to condemn the entire judicial system.

The Facts

In a letter-complaint dated 8 February 2001,[1] complainant Jennifer B. Domingo (Domingo) charged respondents Sheriff Silvino R. Malana, Jr. (Malana) and Cipriano B. Verbo, Jr. (Verbo), both Sheriff IV of the Regional Trial Court, Office of the Clerk of Court of Tuguegarao City (RTC-OCC), for failure to fully implement the writ of demolition in Civil Case No. 079.

Domingo alleged that the writ of demolition was referred to respondents for implementation in November 2000 but the latter informed Domingo that the implementation would have to wait until 24 January 2001 because the schedule for the month of November was full and the court would not implement demolitions during the month of December. Respondents further requested Domingo to provide a service vehicle from Tuguegarao to Centro Baggao, Cagayan, where the demolition was to take place. Domingo agreed. Domingo's brother Emil Baleva brought a service vehicle to fetch respondents in Tuguegarao City going to Centro Baggao.

The parties arrived at their destination where the hired laborers were already waiting. Before the demolition, Willie de Guzman, a defendant in Civil Case No. 079 and a policeman assigned at Baggao Police Station, requested for additional three days within which to vacate the place. Domingo refused considering that the defendants in the case had been given sufficient time to vacate the place and were notified of the demolition since November 2000.

The demolition started at around 10:00 in the morning and lasted until 3:00 in the afternoon when respondent Verbo directed its discontinuance. The house of Willie de Guzman was left undemolished. Respondent Verbo allegedly informed Domingo that the operation would continue on 27 January 2001, despite the objection of the latter.

On the agreed date, Domingo's brother Emil Baleva went to see respondent Verbo to follow-up the scheduled demolition. He was told that respondents could not go back to Baggao because of previous commitments. Respondents further assured Domingo's brother that the demolition would continue on 8 or 9 February 2001. But, two days before the date, respondents informed him that they would complete the demolition in March 2001 with

no exact date.

In the 1[st] Indorsement dated 6 March 2001,[2] then Acting Court Administrator Zenaida N. Elepaño referred to respondents the letter-complaint for comment.

In their Letter dated 5 April 2001,[3] respondents admitted that when the writ of demolition was referred to them, they told Domingo that the writ could be implemented on 24 January 2001 considering the full schedule in November and the usual no-demolition policy in December. Respondents further averred that defendant Willie de Guzman and his wife presented to them a letter bearing the signature of their lawyer and attaching a third party claim. Willie de Guzman allegedly told respondents that they could not demolish their house due to a pending case in the Regional Trial Court, Branch 2, Tuguegarao, but respondents informed him that in the absence of any restraining order, they would implement the demolition. Respondents explained that they did not commit to go back and continue the demolition in Baggao on the 27[th] of January 2001. Neither did they promise Domingo's brother that the continuation of the demolition would be on 8 or 9 February 2001. Respondents clarified that they set the completion of the demolition on 8 or 9 March 2001. The writ of demolition was fully implemented on 9 March 2001 and the subject property was turned over to Domingo on the same date.

In the Resolution dated 11 November 2002, the Court referred the case to Judge Jimmy Henry Luczon, Jr., the Executive Judge of the Regional Trial Court, Tuguegarao City, Cagayan, Branch 1 (Investigating Judge), for investigation, report and recommendation.[4]

Report of the Investigating Judge

In the Investigation Report and Recommendation dated 14 March 2005,[5] the Investigating Judge recommended the dismissal of the administrative case for lack of merit. But, this Court issued a resolution directing the Investigating Judge to require the Clerk of Court of the RTC-OCC to submit the accomplishment report of respondents covering the period from November 2000 to 9 March 2001, attaching copies of the Sheriff's Report/Sheriff's Return. The entire records of the case were returned to the Investigating Judge for further investigation, report and recommendation.[6]

In his Supplemental Report and Recommendation,[7] the Investigating Judge found that respondents were remiss in the performance of their duties as sheriffs for failure to execute the lawful orders of the court. The Investigating Judge recommended that respondents be imposed a fine of P3,000 each.

This report was referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.[8]

OCA Report and Recommendation

The OCA, in its Report and Recommendation,[9] agreed with the findings of the Investigating Judge that respondents are guilty of delay in the performance of their duty but modified the recommended penalty to be imposed. The OCA stated that in A.M. No. P-07-2290 for simple neglect of duty, respondent Malana was suspended for one month and one day and he was sternly warned that a repetition of the same or similar offense shall be dealt with more severely. The OCA recommended that respondent Malana be suspended for two months without pay and sternly warned for any repetition of the same or similar offense. As for respondent Verbo, the OCA recommended that since this is his first offense, reprimand would be proper.

The Court's Ruling

We agree with the findings of the Investigating Judge and the OCA that respondents are guilty of delay in the performance of their duty in failing to promptly execute the writ of demolition.

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The writ of demolition was referred to respondents sometime in November 2000. The houses of Candido Peralta and Moises Antonio were demolished on 24 January 2001 while the house of Victoriano Cadoma was demolished on 25 January 2001. Demolition could have been continued on 26 January 2001, a Friday. But, the house of Willie de Guzman was demolished only on 9 March 2001, more than a month after the initial implementation.

Respondents claim that they scheduled the continuation of the demolition on 8 and 9 March 2001 because of "heavy load of cases assigned to us for execution coming from the different Municipal Trial Courts of Cagayan within our jurisdiction."[10] As aptly pointed out by the OCA, respondents' accomplishment report[11] belies their allegation that they had a heavy load of cases assigned for execution. The bulk of their accomplishments was merely preparing, posting, and serving notices in Tuguegarao City.

Time and again, we have reminded court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice. With respect to sheriffs, they are to implement writs of execution and similar processes mindful that litigations do not end merely with the promulgation of judgments. Being the final stage in the litigation process, execution of judgments ought to be carried out speedily and efficiently since judgments left unexecuted or indefinitely delayed are rendered inutile and the parties are prejudiced thereby, reflecting adversely on the entire judicial system.
As court employees, sheriffs are obliged to conduct themselves with propriety and decorum and to ensure that their actions are above suspicion at all times. The Court cannot countenance - it in fact condemns - any conduct, act or omission that violates the norm of public accountability and diminishes, or even just tends to diminish, the faith of the people in the judiciary.[12]

As correctly found by the OCA and the Investigating Judge, respondents' failure to execute the writ of demolition within a reasonable period was tantamount to a "failure to attend to anyone who wants to avail himself of the services of the office or to act promptly and expeditiously on public transactions."[13]

The penalty for failure to attend to anyone who wants to avail himself of the services of the office or act promptly and expeditiously on public transactions is reprimand for the first offense; suspension of one to thirty days for the second offense; and dismissal for the third offense.[14] Considering that this is not the first administrative case of respondent Malana having been previously suspended for one month and one day for simple neglect of duty in A.M. No. P-07-2290 and sternly warned that a repetition of the same or similar offense would be dealt with more severely, the penalty of suspension of two months without pay, as recommended by the OCA, is in order.

As regards respondent Verbo, reprimand, as recommended by the OCA, could no longer be imposed in view of his death on 10 May 2008.

WHEREFORE, we find respondents guilty of delay in the performance of their duty. We SUSPEND respondent Silvino R. Malana, Jr., Sheriff IV, Regional Trial Court, Office of the Clerk of Court, Tuguegarao City, for two months without pay, and sternly warn him that a repetition of the same or similar offense shall be dealt with more severely. As regards respondent Cipriano B. Verbo, Jr., the case, as to him, is dismissed and considered closed and terminated.

SO ORDERED.

Puno, C.J., (Chairperson), Corona, Azcuna, and Leonardo-De Castro, JJ., concur.

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[1] Rollo, pp. 013-015.

[2] Id. at 012.

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[3] Id. at 004-007.

[4] Id. at 22.

[5] Id. at 56-57.

[6] Id. at 78.

[7] Id. at 226-229.

[8] Id. at 247.

[9] Id. at 248-258.

[10] Id. at 006.

[11] Id. at 230-233.

[12] De Leon-Dela Cruz v. Recacho, A.M. No. P-06-2122 , 17 July 2007, 527 SCRA 622.

[13] Rule IV, Section 52, C.15, Uniform Rules on Administrative Cases in the Civil Service (took effect on 27 September 1999).

[14] Id.

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