

TRINIDAD SUNGLAO VDA. DE CORONEL, COMPLAINANT, VS. HON. CONRADO T. DANAN, PRESIDING JUDGE OF THE MUNICIPAL TRIAL COURT, BRANCH II, GUAGUA, PAMPANGA, AND DEPUTY SHERIFF CARLOS PU...*A.M. No. MTJ-91-530. August 09, 1993*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/82aaeae30a86/>

Per Curiam:

In her Complaint-Affidavit filed on 16 April 1991, complainant charges the respondent Judge with grave abuse of discretion for knowingly rendering an unjust order. The order alleged to be unjust is a writ of demolition the latter issued on 16 June 1989 for the demolition of the complainant's house purportedly in enforcement of his decision in an ejectment case, Civil Case No. 2551, entitled "Salud Romero versus Trinidad Coronel." The writ was issued not upon motion of the plaintiff, Salud Romero who had died on 28 December 1986, but on motion of Tarcila Romero, the plaintiff's alleged successor-in-interest who did not obtain a formal substitution of parties. Complainant likewise charges the respondent sheriff for implementing the said order on 6 September 1989.

Complainant further alleges that Atty. Arturo Rivera -- Tarcila's counsel who prepared the motion for demolition -- and Engineer Rogelio Herrera -- the person Tarcila hired to undertake a resurvey of the questioned premises, the result of which was made the basis for the issuance of the demolition order -- are "compadres" of Tarcila Romero.

In a verified Joint Comment received by the Office of the Court Administrator on 6 July 1992, respondent Judge admits having issued the writ of demolition on 29 May 1989 "after due notice and hearing, and after having not taken cognizance of a raised new matter pertaining to the existence or non-existence of a right of way on the affected realty," but denies having stood as godfather to one Jack Magtoto, claiming that he (respondent Judge) is "unaware why his name appears on the 'Certificate of Confirmation.'" He likewise denies "having been partial in favor of one party and against the other in the disposition of the subject case." Respondent sheriff, on the other hand, admits "having implemented the 'Writ Of Demolition' x x x after the same was assigned to him by the Office of the Clerk of Court (OCC), Regional Trial Court stationed at Guagua, Pampanga," but asseverates that he did so "solely in accordance of (sic) its expressed order"; he additionally maintains that he "has not committed acts of partiality in favor of one party and against the other in the process of its implementation."

On 15 October 1992, we required the parties to inform the Court, within ten days from their receipt of a copy thereof, whether or not they would be submitting this case for resolution on the basis of the pleadings.

In their Compliance with Statement received by this Court on 23 December 1992, respondents agreed to have the case resolved on the basis of the pleadings. Complainant, on the other hand, failed to comply with our 15 October 1992 Resolution despite her receipt of a copy thereof on 2 December 1992.

From the parties' pleadings, the following facts are duly established:

Salud Romero instituted in 1983 an ejectment case, Civil Case No. 2551, against complainant Trinidad Sunglao

vda. de Coronel with Branch II of the Municipal Trial Court of Guagua, Pampanga; the former amended the complaint in the said case on 3 June 1983. On 13 June 1983, the parties entered into an amicable settlement wherein they (a) acknowledged that portions of their respective houses encroached upon the other's property, (b) mutually agreed and undertook to remove and demolish such portions of their houses which encroached on the other's property, and vacate the latter within nine (9) months from 3 June 1983 -- or on or before 31 March 1984, (c) mutually agreed that the failure on the part of either to comply with their undertaking would entitle the aggrieved party to the ex-parte issuance of a writ of execution for the enforcement of the decision to be rendered in accordance with the Compromise Agreement and (d) waived forever all their other claims against each other.

On 19 July 1983, the court, per the respondent Judge, handed down a decision approving the compromise agreement. Complainant thereupon performed her obligation as provided therein by removing the portion of her house which encroached on the property of Salud Romero. Only the comfort room of the former's house remained as a result thereof. Later, from the pooled resources of her children, the complainant was able to construct a new 2-bedroom bungalow at a cost of P150,000.00.

As stated in the second and third paragraphs of the Writ of Demolition, a writ of execution for the enforcement of the decision was issued by the respondent Judge on 9 May 1986 and was implemented by deputy sheriff Florencio Razon on 23 May 1986 by serving a copy thereof to the complainant and giving her two weeks to remove the structure which encroached on the plaintiff's property.

On 23 June 1986, Salud Romero filed a motion for demolition on the ground that the complainant's house allegedly encroached on her property. It appears that "another survey" of Salud Romero's property conducted by Engr. Rogelio Herrera was used as the basis for the said motion. Herrera was the same engineer who conducted the survey which served as the basis of the parties' extrajudicial partition executed on 11 November 1981. In her opposition thereto, the complainant alleged that she had already demolished the subject portion of her house in accordance with the compromise agreement. Hearings were had on both the motion and opposition. For reasons not disclosed in the pleadings, the court failed to resolve the said motion for demolition. On 28 December 1986, Salud Romero died.

On 7 June 1987, respondent Judge stood as sponsor during the confirmation of Jack Magtoto, son of the spouses Tarcila Romero and Jesus Magtoto, Sr. A little over a year earlier, during confirmation rites held on 14 May 1986, Atty. Arturo Rivera, counsel of Tarcila Romero, stood as Jesus Magtoto, Jr.'s sponsor while Engr. Rogelio Herrera stood as Regina Magtoto's sponsor. Both Jesus Jr. and Regina are the children of Jesus Magtoto, Sr. and Tarcila Romero.

Tarcila Romero, representing herself to be the successor-in-interest of Salud Romero, pursued the motion for demolition.

As also disclosed in the writ of demolition, the respondent Judge handed down on 29 May 1989 a resolution directing the issuance of a writ of demolition "to be enforced and implemented conformably with the mandate of the aforesaid Decision of July 19, 1983."

Pursuant thereto, the respondent Judge issued on 16 June 1989 a writ of demolition which was then referred to the respondent sheriff for enforcement. The latter implemented the same and demolished the questioned structure; he made his return on 25 September 1989.

In its evaluation, report and recommendation, the Office of the Court Administrator "sees no grave abuse of discretion committed by respondent Judge in the issuance of the questioned writ of demolition" for he conducted a hearing thereon on 16 May 1988, acceded to the parties' request for him to conduct an ocular inspection of the

premises and even summoned the geodetic engineer who prepared the subdivision plans. Thus, respondent Judge "had exercised due care in the issuance of the writ." The Office faults him, however, for issuing the writ of demolition without the proper substitution of parties. According to the report, the respondent Judge "should have denied the motion in view of [the] lack of legal personality of the movant." The Office nevertheless opines that this alone does not indicate the respondent Judge's bias in favor of Tarcila Romero, especially since the complainant "was also obligated to inform the trial court of the impropriety of the motion due to lack of proper substitution of parties." As to the respondent Judge's acting as Jack Magtoto's godfather during the boy's confirmation, the Office concludes that this "newly found relationship with the movant" was a compelling reason for him to have voluntarily inhibited himself from resolving the motion.

As regards the respondent deputy sheriff, the Office of the Court Administrator "finds no basis of (sic) the charges against" him. It then recommends:

"x x x that respondent Judge be severely reprimanded for his act of indiscretion which wittingly or unwittingly may have favored a party to a case with a warning that a repetition of the same or similar omission will be dealt with more severely."

We agree with the finding of the Office of the Court Administrator that there is no basis for the charge against deputy sheriff Carlos Puno as he merely enforced and implemented the writ of demolition which, to him, had been validly issued.

We are, however, unable to concur with the finding that the respondent Judge exercised due care in the issuance of the writ of demolition because the movant therefor was not a party to the case and was not substituted for the deceased plaintiff. This irregularity cannot be extenuated by the complainant's failure to inform the court of the said infirmity. Nor can we subscribe to the conclusion that the respondent Judge's relationship to Tarcila Romero -- as a "compadre" -- was sufficient justification for him "to have voluntarily inhibited himself from resolving the motion," and that for failing to do so, he be disciplinarily punished with a severe reprimand.

While it is beyond dispute that the above suggested ground is not one for the mandatory disqualification of the respondent Judge under the first paragraph of Section 1, Rule 137 of the Revised Rules of Court, he could, of course, have voluntarily inhibited himself pursuant to the second paragraph thereof which provides as follows:

"A judge may, in the exercise of his sound discretion, disqualify himself from sitting in a case, for just or valid reasons other than those mentioned above."

The respondent Judge opted not to disqualify himself. Considering, however, that the relationship per se was not raised in issue before he acted on the motion, this Court cannot hold him liable for indiscretion in not inhibiting himself from the case, particularly with respect to his resolution of the motion. We may, however, consider the influence of such a relationship in connection with his actuations relative to the issuance of the writ of demolition.

The trial court's 19 July 1983 Decision in Civil Case No. 2551 was based on a Compromise Agreement. This being the case, it became immediately executory (*Samonte vs. Samonte*, 64 SCRA 524 [1975]; *Arkoncel vs. Lagamon*, 204 SCRA 560 [1991]) and could have been executed on motion within five (5) years from 19 July 1983 -- particularly, on or before 19 July 1988. Thereafter, but not later than ten (10) years from 19 July 1983, the same can be enforced only by a separate action. (Section 6, Rule 39 of the Revised Rules of Court in relation to Article 1144(3) of the Civil Code). While it is true that in the instant case a writ of execution was issued on 9 May 1986, or within the prescribed 5-year period, the same was not effectively implemented because deputy sheriff Razon merely served it on the complainant who was then given two weeks to remove the structure. It was only on 16 June 1989, or more than five (5) years after the finality of the judgment, that a writ of demolition was issued to enforce the 19 July 1983 decision. Clearly, therefore, the trial court had lost its authority to enforce its judgment

on the basis of a mere motion.

Furthermore, respondent Judge does not deny the fact that plaintiff Salud Romero died on 28 December 1986 and was not substituted by her legal representative as decreed by Section 17, Rule 3 of the Revised Rules of Court. Such a representative could have validly applied for the issuance of an alias writ of execution or a writ of demolition pursuant to Section 7, Rule 39 of the same Revised Rules of Court.

Then too, the structure to be demolished was not the same structure which was earmarked for removal under the compromise agreement in Civil Case No. 2551.

If the respondent Judge, upon the solicitation of a party (Tarcila Romero) who had not yet acquired legal standing in the case, issued the writ of demolition despite the fact that his court had ceased to have authority to enforce the decision by motion, then the least possible explanation therefor could be that he was unaware of the aforesaid rules. If he was cognizant of the said rules, then he deliberately ignored them to extend benefit to a party who happened to be his "comadre." In such a case, he had allowed a relationship to influence his action to the prejudice of the complainant.

Thus, we do not hesitate to rule that the respondent Judge committed grave abuse of authority in the performance of his functions. He violated Canons 3 and 18 of the Canons of Judicial Ethics which respectively mandate that a "judge's official conduct should be free from the appearance of impropriety, and his personal behavior, not only upon the bench and in the performance of judicial duties, but also in his every day life, should be beyond reproach," and that he "should administer his office with a due regard to the integrity of the system of the law itself, remembering that he is not a depository of arbitrary power, but a judge under the sanction of law."

ACCORDINGLY, the Court hereby imposes upon the respondent Judge a fine of Five Thousand Pesos (P5,000.00) and warns him that a repetition of the same act or a commission of similar acts would be dealt with more severely.

The case against deputy sheriff Carlos Puno is dismissed for lack of merit.

SO ORDERED.

Narvasa, C.J., Cruz, Feliciano, Padilla, Bidin, Griño-Aquino, Regalado, Davide, Jr., Romero, Nocon, Bellosillo, Melo, Quiason, Puno, and Vitug, JJ., concur.

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