

**MARTIN V. BRIZUELA, COMPLAINANT, VS. DEPUTY SHERIFFS
JOSEPH ANTONIL OF BRANCH 63; ERIBERTO DE CASTRO AND
VILLAMOR VILLEGAS OF THE OFFICE OF THE CLERK OF COURT OF
THE REGIONAL TR...**

A.M. No. P-97-1256. June 22, 1998

Ponente: VITUG, J.

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VITUG, J.:

Joseph Antonil, Eriberto de Castro and Villamor Villegas, all Deputy Sheriffs assigned to the Regional Trial Court of Makati,[1] were charged by Martin V. Brizuela with grave misconduct, oppression and dishonesty in connection with the alleged wrongful implementation of a writ of possession and an alias writ of possession issued in LRC Case No. M-3510. Brizuela, the respondent in the LRC case, averred that respondent Sheriffs implemented a writ of possession, dated 24 May 1995, on 24 August 1995 which was well beyond the sixty-day period provided for by the Rules of Court within which the writ could be enforced. The complainant claimed that no one was in his house when the writ was implemented and respondent Sheriffs merely broke open the steel gates of the premises, entered the house, took out the personal belongings thereat and placed the items on the garage. He and his family, however, were able to later gain possession of the premises but only after the security guards posted thereat were told of the pending cases with the Court of Appeals involving the property. The complainant admitted that the temporary restraining order issued by the Court of Appeals had already expired but he maintained that respondent Sheriffs should have accorded due courtesy to the appellate court where a motion for the reconsideration of the denial of his motion for the issuance of an injunctive writ was filed. The complainant added that the irregular actuations of respondent Sheriffs were repeated on 01 September 1995 when the latter returned, accompanied by about a hundred personnel, to implement an alias writ of possession without bothering to wait for the resolution of his pending motion for reconsideration with the appellate court. This second time around, respondent Sheriffs took personal belongings worth about P5,000,000.00.

Respondent Sheriff de Castro, in his comment, dated 12 January 1996, explained that he only had taken part in the implementation of the alias writ of possession. He sought assistance from the Station Commander of Block 3, Bangkal, Makati City, because the complainant had hired seven heavily armed security guards from the ACD Investigation Security Agency in an attempt to thwart the enforcement of the writ. De Castro said that he and his fellow respondents did not attempt to implement the writ, until after complainant's lawyer arrived at about five o'clock in the afternoon, in order to give complainant a chance to secure a restraining order. Finally, de Castro maintained, the writ had been implemented in accordance with the rules prescribed therefor.

Respondent Sheriff Villegas, in his comment of 12 January 1996, informed the Court that he, like his co-respondent de Castro, had only taken part in the implementation of the alias writ of possession. He reiterated, in substance, the statements of de Castro in the latter's comment of even date.

Respondent Sheriff Antonil, in his comment, likewise dated 12 January 1996, stated for his part that after the

issuance of the writ of possession by Judge Ruben A. Mendiola of the Regional Trial Court of Makati City, he promptly went on to serve it upon the spouses Brizuela who were given eight days from receipt thereof within which to vacate the premises. Due to the petition to stay the implementation of the writ filed by the spouses, he had to hold in abeyance any further action on the writ until after the petition was acted upon. The petition was denied on 19 June 1995. On 23 June 1995, respondent Antonil served on the spouses a notice to vacate the premises. He tried to implement the writ on 27 June 1995 only to find out that the premises had been padlocked. The Brizuela spouses, in the meantime, sought a reconsideration of the denial of their petition to stay the implementation of the writ while the counsel for Integrated Credit and Corporate Services Company ("Integrated Credit"), the plaintiff in LRC Case No. M-3510, filed a motion to break open the premises. On 05 July 1995, the trial court, without ruling on the motion to break open the premises, denied the spouses' motion for reconsideration. The Brizuelas went to the Court of Appeals for relief. On 07 July 1995, the appellate court issued an order temporarily restraining respondent Antonil from implementing the writ of possession. Then, in its resolution of 07 August 1995, the Court of Appeals denied the Brizuelas' prayer for the issuance of a preliminary prohibitory injunction. On 24 August 1995, after giving the spouses sufficient time within which to voluntarily vacate the premises, respondent Antonil finally implemented, in the presence of security guards of Magallanes Village and with the help of members of the Magallanes PNP Detachment Unit, the writ of possession. The property of the spouses were inventoried and thereafter turned over to the security guards of Magallanes Village and the Integrated Credit for safekeeping. On 29 August 1995, the trial court issued an alias writ of possession which respondent Antonil, together with respondents de Castro and Villegas, implemented on 01 September 1995. Respondent Sheriffs sought the assistance of the Station Commander of Block 3, Bangkal, Makati, after discovering that the Brizuelas had hired seven heavily armed security guards from ACD Investigation Security Agency to prevent the enforcement of the alias writ. The alias writ was implemented only after the counsel for the Brizuelas had failed to secure another restraining order.

In the Court's resolution, dated 05 June 1996, acting upon the recommendation of the Office of the Court Administrator ("OCA"), the complaint was dismissed for lack of merit.

Complainant forthwith moved for a reconsideration. The Court, in its resolution of 11 November 1996, required respondents to comment on the motion for reconsideration. In its resolution of 22 October 1997, the Court, after deliberating on the motion for reconsideration and the comments thereon, resolved to so docket the case as an administrative matter. The parties were also required to manifest whether or not they would be willing to submit the case for resolution on the basis of pleadings and documents theretofore filed.

To date, the parties have yet to file the required manifestations, which the Court will now dispense with.

Respondent Antonil did implement the writ of possession only on 24 August 1995 or 93 days from the date of its issuance on 23 May 1995. Even if, indeed, the Court of Appeals issued a temporary restraining order on 17 July 1995, it only tolled the running of the 60-day period for 20 days. Nevertheless, respondent Sheriff Antonil could not be said to have acted in bad faith. He put off the implementation of the writ of possession while complainant and his spouse were filing one pleading after another in the hope of suspending the enforcement of the writ. These circumstances considered, the imposition of a fine of P1,000.00 recommended by the OCA would be severe. The Court deems it proper to instead administer a reprimand on respondent Joseph Antonil. There being no irregularity established in the implementation of the alias writ of possession, respondent Eriberto De Castro and respondent Villamor Villegas are absolved from any liability therefor.

WHEREFORE, respondent Sheriff Joseph Antonil is REPRIMANDED and cautioned to be more circumspect than he has heretofore shown. The administrative charges against respondent Eriberto De Castro and respondent Villamor Villegas are dismissed.

SO ORDERED.

Davide, Jr., Belossillo, Panganiban, and Quisumbing JJ., concur.

[1] Antonil is assigned to Branch 63 while de Castro and Villegas are assigned to the Office of the Clerk of Court.

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