

CELESTINO A. GARCERA II, COMPLAINANT, VS. OTHELLO A. PARRONE, SHERIFF III, BRANCH III. MUNICIPAL TRIAL COURT IN CITIES OF NAGA CITY, RESPONDENT.

A.M. No. P-05-2030 [formerly A.M. OCA I.P.I. No. 04-1902-P]. July 15, 2005

Ponente: CARPIO MORALES, J.

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CARPIO MORALES, J.:

For unduly delaying the service of a writ of demolition, Celestino A. Garcera II (complainant) charged respondent Othello A. Parrone, Sheriff III of the Municipal Trial Court in Cities (MTCC), Naga City, by a verified letter-complaint dated March 24, 2004 which was received in the office of the addressee Court Administrator on April 14, 2004.[1]

The facts which spawned the filing of the present case are as follows:

In a complaint for unlawful detainer filed by complainant's aunt Salvacion Garcera (Salvacion) against one Ramon Muñoz (Muñoz), Branch III of the MTCC-Naga rendered a decision[2] dated January 29, 2001 in favor of Salvacion, ordering Muñoz to, among other things, vacate the premises subject of the complaint.

Muñoz appealed the decision to the Regional Trial Court of Naga which, however, dismissed his appeal on June 22, 2001 for failure to file a memorandum.

The January 29, 2001 Decision of the MTCC became final and executory. A writ of execution was thus issued on August 9, 2001.[3]

As there was an improvement on the property subject of the unlawful detainer case, Salvacion filed a motion for the issuance of a writ of demolition which was granted by the MTCC on March 4, 2003. A Writ of Demolition[4] was accordingly issued on April 15, 2003.

In his complaint at bar, complainant alleges that, as attorney-in-fact of his aunt Salvacion, he "made several representations to [respondent] for the service of the writ of demolition and [had] already made payments to him but the writ was not implemented";[5] there was even a time when complainant, together with other persons, "was already in the place for the scheduled demolition, but [respondent] did not show up";[6] and in fact, "the possession of the land in question has not yet been delivered" as the improvement thereon still stands on the property.[7]

The Office of Court Administrator (OCA), by Indorsement[8] of April 21, 2004, required respondent to comment on the complaint which the OCA found as one for "Non-Feasance and Conduct Prejudicial to the Best Interest of the Service."

By Comment[9] dated May 14, 2004, respondent, denying the charge against him, claims that he has been "religious in the performance of [his] assigned task as deputy sheriff"; the Writ of Demolition has been "fully satisfied" as evidenced by a Sheriff's Return[10] dated April 16, 2004; and if ever there was "a little delay" in the

implementation of the writ, it was because he acceded, for "humanitarian reason[s]," to Muñoz' plea to give him allowance within which to remove and/or demolish the house/structure he introduced on the lot subject of the case.

In a Report[11] dated July 20, 2004, the OCA found respondent guilty of dereliction of duty and recommended that he be fined in the amount of P5,000.00 with a warning that a repetition of the same or similar acts in the future shall be dealt with more severely.

By Resolution[12] of September 6, 2004, this Court required the parties to manifest whether they are submitting the case on the basis of the pleadings/records already filed and submitted.

Respondent, by letter[13] dated October 28, 2004, informed the Court "that [he] prepare[d] a joint manifestation to the effect that [he and respondent had] conformed to have the administrative matter . . . withdrawn or closed" but that complainant did not affix his signature thereon, the latter telling him that his silence and option not to respond to this Court's Resolution of September 6, 2004 would be considered as lack of interest on his part. Respondent, however, did not state in his letter whether he is submitting the case for decision based on pleadings/records already filed.

Upon the other hand, complainant, by letter[14] of November 28, 2004, informed this Court that contrary to respondent's October 28, 2004 letter, he is still interested in the further resolution of the merits of the present case.

Section 14 of Rule 39 of the Rules of Court directs an officer who is tasked to implement a writ of execution as follows:

SEC. 14. Return of writ of execution. - The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties. (Underscoring supplied)

A sheriff's duty to execute a valid writ is purely ministerial, not discretionary in connection with which this Court differentiates a ministerial act from a discretionary act in this wise:

The duty of the sheriff to execute a valid writ is ministerial and not discretionary. A purely ministerial act or duty is one which an officer or tribunal performs in the context of a given set of facts, in a prescribed manner and without regard to the exercise of his own judgment upon the propriety or impropriety of the act done. A discretionary act, on the other hand, is a faculty conferred upon a court or official by which he may decide the question either way and still be right. x x x[15] (Emphasis and underscoring supplied).

The duty of a sheriff to execute a writ being ministerial, he has no discretion to delay the execution thereof. Absent any instructions by a court to the contrary, he is mandated to proceed with reasonable celerity and promptness with the strict implementation of the writ.[16] If for any reason he cannot implement the writ in part or in full, his duty is outlined in the above-quoted provision of Section 14 of Rule 39.

The record does not show that respondent made periodic reports on the proceedings taken on the Writ of Execution or Writ of Demolition. And the Sheriff's Return filed only on April 16, 2004 reading:

Respectfully returned to the Court of origin the herein Writ of Demolition FULLY SATISFIED on the ground that said defendant have totally demolished his house and vacated the parcel of land in question as per

agreement made by the City Government and the undersigned Sheriff.

Hence, the said Writ is hereby returned to the Court of origin FULLY SATISFIED. (Underscoring in the original),

is devoid of any details of the proceedings taken on the writ from which the date when it was fully implemented and why the return was made only on such date can be gathered.

By acceding to judgment obligor Muñoz' plea to give him unlimited time to enable him to remove the improvement in the premises he was ordered to vacate, respondent violated his ministerial duty to enforce the writ.

The nature of the duty of court personnel including sheriffs to perform their assigned tasks promptly and with great care and diligence highlights the importance of their role in the administration of justice. This can never be overemphasized.

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 prejudiced thereby, condemnatory of the entire judicial system. x x x (Emphasis and underscoring supplied)[17]

Respondent is thus, as correctly found by the OCA, guilty of dereliction of duty.[18]

This is the second time respondent has been administratively found guilty of a similar offense. In A.M. No. P-00-1400, "Rosales v. Sta. Ana,"[19] a decision in which was promulgated on May 10, 2001, this Court found him, along with another sheriff, guilty of misfeasance when he delayed the implementation of a writ of execution because the judgment obligor did not have enough money to satisfy the judgment debt in full, and acceded to the judgment obligor's requests of deferring the payment of the judgment obligor until his means permitted him to do so. In rejecting respondent's and his therein co-respondent's justification for their delay in the implementation of the writ, this Court held:

Suffice it to say that a sheriff is responsible for the speedy and efficient implementation of writs of execution (Casal vs. Conception, Jr., 243 SCRA 369). A decision left unexecuted or delayed indefinitely due to the inefficiency, negligence, misconduct or ignorance of the law of sheriffs render the same inutile, and what is worse, the parties who are prejudiced tend to condemn the entire judicial system.[20] (Underscoring supplied).

Respondent, as well as his co-respondent in said case, was thus fined P1,000.00 pesos and warned that a repetition of the same or similar act in the future would be dealt with severely.

Having then been priorly fined for an act similar to the one at bar and warned that a repetition thereof would be dealt with severely, respondent's suspension from the service for a period of Six (6) Months is to this Court commensurate to his present culpability.

WHEREFORE, respondent Othello A. Parrone, Sheriff III of Branch III of the Municipal Trial Court in Cities, Naga City, is hereby found GUILTY of dereliction of duty, and since this is the second time he is guilty of a similar offense, he is hereby SUSPENDED for a period of Six (6) Months with WARNING that another repetition of the same or similar offense shall merit his dismissal from the service.

SO ORDERED.

Panganiban, Chairman, Sandoval-Gutierrez, Corona, and Garcia, JJ., concur.

[1] Rollo at 1-2.

[2] Id. at 4-5.

[3] Id. at 6-7.

[4] Id. at 8-9.

[5] Id. at 2.

[6] Ibid.

[7] Ibid.

[8] Id. at 10.

[9] Id. at 11.

[10] Id. at 13.

[11] Id. at 14-16.

[12] Id. at 17.

[13] Id. at 18.

[14] Id. at 19.

[15] *Sismaet v. Sabas*, 429 SCRA 241, 247-248 (2004).

[16] *Araza v. Garcia*, 325 SCRA 1, 8 (2000).

[17] *Añonuevo v. Rubio*, 435 SCRA 430, 433 (2004).

[18] *Garcia v. Magcalas*, 447 SCRA 285 (2004); *Fajardo v. Quitilig*, 400 SCRA 25 (2003); *Paner v. Torres*, 398 SCRA 381 (2003).

[19] 357 SCRA 688 (2001).

[20] Id. at 690.

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