

**MILA L. DACDAC, Complainant, vs. VICTOR C. RAMOS, Sheriff IV,
Regional Trial Court, Branch 26, Sta. Cruz, Laguna, Respondent.***A.M. No. P-05-2054 (Formerly A.M. No. 05-6-374-RTC). April 30, 2008*

Ponente: AZCUNA, J.

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This is an administrative case filed by Gemma Mila L. Dacdac against Victor C. Ramos, Sheriff IV, Regional Trial Court, Branch 26, Sta. Cruz, Laguna (the RTC), charging him with dereliction of duty for his alleged refusal to implement the trial court's order to issue a certificate of sale despite the absence of any restraining order or injunction from any court.

Vivien Kristel Dacdac Alvarado, minor, represented by her mother, complainant herein, filed an action for support against Mario A. Alvarado. The case was docketed as S.P. PROC. No. SC-1904 before the RTC. After trial, the court ruled in favor of the plaintiff. When the decision became final and executory, a writ of execution was issued on July 16, 2003. Upon service of the Notice of Levy on Execution and Sheriff's Sale, a public auction was held on November 14, 2003 over a 304 sq. m. parcel of land (together with improvements thereon) owned by the defendant, covered by TCT No. T-216819 and located at Barangay Biñan, Pagsanjan, Laguna. The property was sold in favor of the plaintiff, the lone bidder, in the amount of P1,585,000 representing the total support in arrears plus attorney's fees.

On November 2, 2004, the trial court issued an Order directing respondent to execute a certificate of sale in favor of the plaintiff. Respondent, however, withheld the issuance of said certificate pending the plaintiff's payment of the amount of P45,600 as legal fee pursuant to Section 9 (1) of Supreme Court A.M. No. 04-2-04.[1] The issue was submitted for resolution. When the trial court ruled that an action for support is not within the scope of the rule, it ordered, on February 23, 2005, respondent to execute the certificate within ten (10) days from his receipt of the Order.

Despite the directive, respondent refused to execute a certificate of sale. Consequently, on April 5, 2005, complainant wrote a letter-complaint addressed to the then Chief Justice Hilario Davide, Jr. The letter was thereafter indorsed to Deputy Court Administrator Jose P. Perez for appropriate action.

In his Explanation dated April 26, 2005, respondent commented that he deemed it proper not to comply with the February 23, 2005 Order of the trial court because of the Manifestation filed by the defendant's counsel on March 4, 2005 requesting to hold in abeyance the execution of said Order and, as to which, an Ex-Parte Motion to Strike Out the manifestation was also filed by plaintiff's counsel. Respondent alleged that he was awaiting the hearing and resolution of these motions before undertaking any action. He noted that the motions were set for hearing on May 30, 2005.[2]

In its July 6, 2005 Report, the Office of the Court Administrator (OCA) opined that:

Evidently, [respondent] was remiss in his duties when he failed to implement the 23 February 2005 order. He

is guilty of dereliction of duty as a sheriff when he failed to execute the writ within thirty (30) days from receipt of the order.

We find his explanation utterly wanting. His actuations constitute disrespect, if not outright defiance of the court's order. In the absence of instructions to the contrary, it was his duty to execute the certificate of sale with utmost diligence and dispatch in accordance with its mandate.

In the subject case, neither a temporary restraining order nor injunction was issued by the court. There was[,],therefore[,], no reason for [respondent] to wait for the resolution of the motion filed by [defendant's counsel].

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

On August 8, 2005, the Court resolved to re-docket the matter as a regular administrative case and to require the parties to manifest their willingness to submit the case for decision on the basis of the documents on record. Complainant filed her Manifestation to that effect while respondent informed the Court that, in compliance with the trial court's Order dated March 1, 2007, he already issued the corresponding certificate of sale on March 12, 2007.

We agree with the OCA findings as well as its proposed penalty.

Those who are tasked to implement court orders and processes must see to it that the final stage of the litigation process - the execution of judgment - should be carried out promptly. A sheriff, specifically, must exert every effort and should consider it his bounden duty to do so at all times, having at heart the genuine concern that a decision left unexecuted or delayed indefinitely would be nothing but an empty victory on the part of the prevailing party.[3] Hence, several times over, this Court has held that a sheriff's responsibility in the execution of a writ is mandatory and purely ministerial, not directory; once it is placed in his hands, it is his duty, unless restrained by the court, to proceed with reasonable speed to enforce the writ to the letter, ensuring at all times that the implementation of the judgment is not unjustifiably deferred.[4]

To note, the immediate issuance of a certificate of sale after the conduct of an execution sale is significant since it is only upon its registration with the appropriate Registry of Deeds that the one-year redemption period of the judgment debtor begins to run.[5] Unless the certificate of sale is issued and registered, and until the redemption period expires without the debtor exercising his right to redeem the property, all that the highest bidder could do is to wait. Unlike the rule on extrajudicial foreclosure of mortgage,[6] the purchaser in an execution sale has no right to possess the property by posting a bond during the period of redemption. A writ of possession may only be issued in favor of the winning bidder when the deed of conveyance has been executed and delivered to him after the period of redemption has expired and no redemption has been made.[7] This is plainly in accordance with the last paragraph of Section 33, Rule 39 of the Rules of Court.[8]

In this case, in spite of the fact that no restraining or injunction order was issued by the trial court, the certificate of sale was only issued by respondent on March 12, 2007, or almost four years after the execution sale was held on November 14, 2003. With the lapse of time brought about by respondent's adamant insistence to defer the issuance of the certificate, material prejudice had already been caused to the welfare of complainant's minor daughter, the plaintiff in S.P. PROC. No. SC-1904. To be precise, during the intervening period, complainant could not consolidate the plaintiff's ownership over the property and possess it to enjoy its fruits or sell the same to any interested buyer/s so as to conveniently use the cash payment to back up the expenses of her daughter's daily sustenance and education. In short, the timely realization of the action for support which complainant won in behalf of her minor child was unnecessarily delayed, if not almost defeated.

Awaiting resolution on a pending incident brought before the trial court is a defense that will not relieve respondent from administrative

liability. What counts is the evident lack of any court order proscribing the issuance of a certificate of sale. His good faith or lack of it is, therefore, wholly immaterial since a sheriff is chargeable with the knowledge that being an officer of the court it behooves on him to make compliance in due time.[9]

No doubt, respondent's deliberate omission only evinces that he was remiss in performing the duty of his office to diligently and expeditiously implement the writ of execution to the very end. Under the Revised Uniform Rules on Administrative Cases in the Civil Service,[10] he is guilty of simple neglect of duty, which is defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference. It is classified as a less grave offense which carries the penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense.[11] Considering that this is respondent's first administrative offense and taking into account this Court's pronouncements in a number of cases,[12] the Court deems it best, in the interest of justice, to impose a fine in the amount of P5,000.

WHEREFORE, respondent Victor C. Ramos, Sheriff IV, Regional Trial Court, Branch 26, Sta. Cruz, Laguna, is found GUILTY of simple neglect of duty and is FINED in the amount of Five Thousand Pesos (P5,000), with a STERN WARNING that a repetition of the same or similar act in the future shall be dealt with more severely.

Let a copy of this decision be attached to the personnel record of respondent in the Office of the Administrative Services, Office of the Court Administrator.

SO ORDERED.

Puno, CJ., (Chairperson), Carpio, Corona[*], and Leonardo-De Castro, JJ., concur.

[*]On Leave.

[1] Re: Proposed Revision of Rule 141, Revised Rules of Court (effective August 16, 2004).

[2] The May 30, 2005 hearing was cancelled and re-scheduled on June 29, 2005. On said date, the court heard the motions and considered the incidents submitted for resolution.

[3] Sps. Morta v. Judge Bagagñan, 461 Phil. 312, 322-323 (2003).

[4] Velasco v. Tablizo, A.M. No. P-05-1999, February 22, 2008, p. 5; Vargas v. Primo, A.M. No. P-07-2336, January 24, 2008, pp. 4-5; Cebu International Finance Corporation v. Cabigon, A.M. No. P-06-2107, February 14, 2007, 515 SCRA 616, 622; and Patawaran v. Nepomuceno, A.M. No. P-02-1655, February 6, 2007, 514 SCRA 265, 277.

[5] Section 25 (d), Rule 39 of the Revised Rules on Civil Procedure (See Landrito, Jr. v. Court of Appeals, G.R. No. 133079, August 9, 2005, 466 SCRA 107, 116).

[6] Section 7, Act No. 3135, as amended by Act No. 4118 (See Idolor v. Court of Appeals, G.R. No. 161028, January 31, 2005, 450 SCRA 396, 401).

[7] Cometa v. Intermediate Appellate Court, No. L-69294, June 30, 1987, 151 SCRA 563, 568.

[8] Section 33, Rule 39 of the Rules of Court states:

SEC. 33. Deed and possession to be given at expiration of redemption period; by whom executed or given.--If no redemption be made within one (1) year from the date of the registration of the certificate of sale, the purchaser is entitled to a conveyance and possession of the property; or, if so redeemed whenever sixty (60) days have elapsed and no other redemption has been made, and notice thereof given, and the time for redemption has expired, the last redemptioner is entitled to the conveyance and possession; but in all cases the judgment obligor shall have the entire period of one (1) year from the date of the registration of the sale to redeem the property. The deed shall be executed by the officer making the sale or by his successor in office, and in the latter case shall have the same validity as though the officer making the sale had continued in office and executed it.

Upon the expiration of the right of redemption, the purchaser or redemptioner shall be substituted to and acquire all the rights, title, interest and claim of the judgment obligor to the property as of the time of the levy. The possession of the property shall be given to the purchaser or last redemptioner by the same officer unless a third party is actually holding the property adversely to the judgment obligor.

(See also *Oliveros v. Presiding Judge, RTC, Br. 24, Biñan, Laguna*, G.R. No. 165963, September 3, 2007, 532 SCRA 109, 117).

[9] *Bunagan v. Ferraren*, A.M. No. P-06-2173, January 28, 2008, pp. 8-9.

[10] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 1999 and implemented by CSC Memorandum Circular No. 19, Series of 1999 (See *Aranda, Jr. v. Alvarez*, A.M. No. P-04-1889, November 23, 2007).

[11] See *Vargas v. Primo*, supra at 6; *Sy v. Binasing*, A.M. No. P-06-2213, November 23, 2007, p. 4; *De Leon-Dela Cruz v. Recacho*, A.M. No. P-06-2122, July 17, 2007, 527 SCRA 622, 631; *Jacinto v. Castro*, A.M. No. P-04-1907, July 3, 2007, 526 SCRA 272, 278; *Tiu v. Dela Cruz*, A.M. No. P-06-2288, June 15, 2007, 524 SCRA 630, 640; *Malsi v. Malana, Jr.*, A.M. No. P-07-2290, May 25, 2007, 523 SCRA 167, 174; and *Patawaran v. Nepomuceno*, supra at 278.

[12] See *Patawaran v. Nepomuceno*, id.

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