

REYNALDO SEBASTIAN, COMPLAINANT, VS. SHERIFF ALBERTO A. VALINO, RESPONDENT.

A.M. No. P-91-549. July 05, 1993

Ponente: QUIASON, J.

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QUIASON, J.:

Marblecraft, Inc., represented by its Assistant General Manager, Reynaldo Sebastian, charges Alberto A. Valino, Senior Deputy Sheriff, Office of the Regional Sheriff, Pasig, Metro Manila, with (1) gross abuse of authority committed in connection with the implementation of the writ of seizure issued by the Regional Trial Court, Makati, Metro Manila, in Civil Case No. 89-3368, and (2) refusal to enforce the trial court's orders for the return of the seized items.

Complainant alleges that:

1. On March 3, 1989, Private Development Corporation of the Philippines (PDCP) filed a replevin suit against Marblecraft, Inc. in Civil Case No. 89-3368, in order to foreclose the chattels mortgaged by Marblecraft. On March 30, 1989, the Regional Trial Court, Makati, issued a writ of seizure directed against Marblecraft covering the chattels sought to be replevied.
2. The enforcement of the writ of seizure was delayed because of the writ of preliminary injunction enjoining PDCP from proceeding with the foreclosure sale issued by the Regional Trial Court, Pasig, Metro Manila in Civil Case No. 58006. It was only on October 31, 1990, when the Regional Trial Court, Pasig, dissolved the writ of preliminary injunction.
3. On November 9, 1990, at around 10:37 A.M., respondent, accompanied by several policemen and PDCP employees, went to the office of Marblecraft at Barrio Santolan, Pasig, to implement the writ of seizure. Respondent and his companions forcibly opened the lockers and desk drawers of the employees of complainant and took their personal belongings, as well as some office equipment issued to them. The employees filed with the Office of the Provincial Prosecutor of Rizal two criminal complaints for robbery against respondent and his companions.
4. Respondent only showed to complainant's counsel a copy of the writ but did not furnish him with a copy of the application for the writ, the supporting affidavit and the bond.
5. In the course of the implementation of the writ, which lasted for four days, several pieces of machinery and equipment were destroyed or taken away by respondent.
6. Respondent turned over the seized articles to the counsel of PDCP and allowed these items to be stored in PDCP's warehouse in Taguig, Metro Manila.
7. On November 14, 1990, complainant posted a counterbond. In an order issued on the same day, the Regional Trial Court, Makati, approved the bond and directed the immediate return of the seized items. After denying

PDCP's motion to set aside the November 14 Order, the trial court reiterated the directive for the return of the seized items in its November 26 Order. Respondent did not implement the orders.

8. PDCP filed a motion for reconsideration of the November 26 Order, which was denied in an Order dated December 11, 1990.

In his comment, respondent branded the administrative complaint against him as pure harassment filed by Marblecraft after he had refused to defer the implementation of the writ of seizure. He said that if he did not implement the writ, he would have been accused by PDCP of non-performance of his duties as a sheriff. He pointed out that the criminal complaints for theft filed against him by the employees of complainant were dismissed by the Provincial Prosecutor of Rizal.

The administrative complaint was referred to Judge Martin S. Villarama, Jr. of the Regional Trial Court, Pasig, for investigation, report and recommendation.

In his report, Judge Villarama found respondent guilty of partiality when he immediately turned over the seized items to PDCP, and of wilful refusal to enforce the November 14, 26 and December 11, 1990 Orders of the Regional Trial Court, Makati.

Under the Revised Rules of Court, the property seized under a writ of replevin is not to be delivered immediately to the plaintiff. The sheriff must retain it in his custody for five days and he shall return it to the defendant, if the latter, as in the instant case, requires its return and files a counterbond (Sec. 4, Rule 60, Revised Rules of Court). In violation of said Rule, respondent immediately turned over the seized articles to PDCP. His claim that the Office of the Regional Sheriff did not have a place to store the seized items, cannot justify his violation of the Rule. As aptly noted by the Investigating Judge, the articles could have been deposited in a bonded warehouse.

Respondent must serve on Marblecraft not only a copy of the order of seizure but also a copy of the application, affidavit and bond (Sec. 4, Rule 60, Revised Rules of Court). Respondent did not furnish defendant with a copy of the application, affidavit and bond. By his own admission, he only served it with a copy of the order of seizure (Rollo, p. 37).

The more serious infraction of respondent is his refusal to implement the orders of the Regional Trial Court, Makati for him to return to complainant the articles seized pursuant to the writ of seizure dated March 30, 1990.

The Order dated November 14, 1990 directed him "to immediately return to defendant all its properties seized and taken from its premises pursuant to the writ of seizure of March 30, 1989, from receipt of this order (sic)" (Rollo, p. 42).

The Order dated November 26, 1990, directed him "to implement the Order of this Court dated November 14, 1990 and to immediately return to defendant all its properties seized and taken from its premises pursuant to the writ of seizure dated March 30, 1989 from receipt of this Order (sic)" (Rollo, p. 44).

The Order dated December 11, 1990 directed him "to implement the Order of this Court dated November 26, 1990, within three (3) days from receipt hereof, otherwise this Court will be constrained to appoint and deputize another sheriff to implement the order dated November 26, 1990" (Rollo, p. 47).

The only action taken by respondent to implement the Order dated December 11, 1990 was to write a letter on December 12, 1990, addressed to the counsel of PDCP, requesting the turnover of seized articles. As expected, PDCP's counsel refused to part with the possession of the seized articles and to issue a letter of authorization to withdraw the same from the warehouse. Instead of taking possession of the articles, respondent merely reported to the Regional Trial Court that "[i]t is now clear that the undersigned cannot implement the Court order dated

December 11, 1990 by reason of the refusal of PDCP to accept or to honor said Court order" (Rollo, p. 48).

The petition for certiorari of PDCP to question the orders of the Regional Trial Court, Makati, was filed with the Court of Appeals only on December 17, 1990. The Court of Appeals issued a temporary restraining order only on December 21, 1990. Respondent therefore had more than seven days within which to enforce the orders of the trial court if he was minded to do so.

Respondent could have avoided getting into his present predicament had he not turned over the possession of the seized goods prematurely to the PDCP.

The complainant cannot be blamed if it harbored the suspicion that respondent was beholden to PDCP. The zeal with which respondent enforced the order of seizure in favor of PDCP was in sharp contrast with his inaction in enforcing the three orders of the trial court directing him to return the seized items to complainant.

It is not for respondent to question the validity of the orders of the trial court. It is for him to execute them. As observed by the Investigating Judge, "[t]here is therefore no excuse for respondent's wilful refusal to implement the Order of the Court" (Report and Recommendation, p. 10). Disobedience by court employees of orders of the court is not conducive to the orderly administration of justice. The display of a partiality in favor of a party as against the other party erodes public confidence in the integrity of the courts.

IN VIEW OF THE FOREGOING, the Court finds respondent guilty of serious misconduct and RESOLVED to impose upon him the penalty of FOUR (4) MONTHS SUSPENSION without pay, the period of which should not be charged to his accumulated leave, with a WARNING that a repetition of the same or of acts calling for disciplinary action will be dealt with more severely. This resolution is IMMEDIATELY EXECUTORY, and respondent is hereby ordered to forthwith desist from performing any further official functions appertaining to said office.

SO ORDERED.

Cruz, (Chairman), and Griño-Aquino, JJ., concur.

Bellosillo, J., No part. Court administrator when the case was evaluated.

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