

ATTY. MANUEL M. ROSALES, COMPLAINANT, VS. GIL STA. ANA, OTHELO PARRONE, DEPUTY SHERIFFS, MUNICIPAL TRIAL COURT IN CITIES, NAGA CITY, BRANCHES 2 AND 3, RESPECTIVELY, RESPONDENTS.

A.M. No. P-00-1400. May 10, 2001

Ponente: VITUG, J.

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VITUG, J.:

In a verified letter complaint, dated 01 April 1998, Attorney Manuel M. Rosales has charged Gil Sta. Ana and Othelo Parrone, both deputy sheriffs of the Municipal Trial Court in Cities, Naga City, Branch 2 and Branch 3, respectively, with misfeasance in failing to enforce the writ of execution in Civil Case No. 10340, entitled "La Perla Industries, Inc., vs. Julian Lavadia, Jr."

Complainant counsel represented La Perla Industries, Inc., in obtaining a favorable judgment in Civil Case No. 10340, a case decided by the Municipal Trial Court in Cities, Branch 3, of Naga City. On 28 May 1997, a writ of execution was issued by the trial court where respondent Othelo Parrone was the assigned deputy sheriff. Respondent Parrone allegedly refused, despite repeated requests, to enforce the writ of execution that constrained Attorney Rosales to lodge a letter-complaint, dated 26 November 1997, before Mrs. Lilia S. Buena, City Ex-Officio Sheriff of Naga City. No disciplinary action was taken against respondent Parrone. On 05 December 1997, complainant sought to have the case referred to another sheriff. The trial court granted the request, and respondent Sta. Ana was assigned to take over from Parrone in the enforcement of the writ of execution. Respondent Sta. Ana also failed to enforce the writ of execution.

In their joint comment, respondents denied the allegations of complainant that they had refused to enforce the writ of execution.

Respondent Parrone asserted that upon receiving the writ of execution, he promptly located the defendant, Julian Lavadia, Jr., who did not deny his obligation of P5,000.00 but just did not have the money to settle it. After several follow ups, respondent Parrone was able to collect from Lavadia, on 09 December 1997, a partial payment of P2,500.00.

Respondent Sta. Ana explained, in his case, that when he was assigned to enforce the writ of execution, he tried to communicate with Lavadia several times to collect the balance of the judgment award but his efforts were unsuccessful. He admitted that he was not able to immediately attend to the enforcement of the writ because he was busy with the preparation for the National Convention and Seminar Workshop of Sheriffs held on March 12-14, 1998. Nevertheless, he said, he was able to collect on 03 April 1998, another partial payment of P1,000.00 from Lavadia.

Respondent sheriffs stated that the writ of execution did not indicate any leviable or attachable property that they could have proceeded against. The sheriffs invited attention to the other important court duties they had to

likewise attend to and to the fact that they were able to collect at least P3,500.00 of the judgment award of P5,000.00.

The case was referred for evaluation, report and recommendation to the Office of the Court Administrator. In its memorandum, dated 14 April 2000, the OCA said:

"Respondents admitted that they failed to implement the writ of execution to the satisfaction of the complainant because the judgment obligor did not have enough money to satisfy the judgment debt in full. The law mandates that if the judgment obligor can not pay all or part of the obligation in cash x x x, the officer(s) implementing the writ should levy on the personal or real properties of the former. The excuse proffered by the respondents that the judgment obligor did not indicate any leviable property is untenable. As the court stressed in *Padilla vs. Arabia* (242 SCRA 227) that:

"When a writ is placed in the hands of a sheriff it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. He is to execute the order of the court strictly to the latter. He has no discretion, much less authority to grant a judgment debtor a grace period within which to settle his obligation."

"Respondent sheriffs clearly violated the law when they acceded to the judgment obligor's requests of deferring the payment of the judgment debt until his means permits him to do so. It bears stressing that a sheriff is not required to give the judgment debtor some time to raise cash. If time be given, the property may be placed in danger of being lost or absconded (*Torres vs. Cabling*, 275 SCRA 329).

"Respondent Sta. Ana's explanation that he failed to immediately execute the writ because he was busy preparing for a sheriff's workshop, is simply unacceptable. Suffice it to say that a sheriff is responsible for the speedy and efficient implementation of writs of execution (*Casal vs. Concepcion, 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."

The OCA so recommended that the case be re-docketed as an administrative matter and that respondents be FINED in the amount of P2,000.00 each, with a stern warning that a repetition of similar acts would be dealt with severely.

The Court does find a bit of lackluster attitude on the part of respondent sheriffs in the enforcement of the writ of execution in Civil Case No. 10340. It would appear that respondent sheriffs, aside from their failure to forthwith act on the writ, also failed to exercise due diligence in determining whether the judgment debtor had other property with which to satisfy the decreed obligation. The claim of respondents that they had other official functions to perform should not have deterred them from exercising circumspection in the performance of their duties. A judgment, if left unattended, would be but an empty victory for the prevailing party.

Nevertheless, the Court notes that respondents have been able to collect through their efforts the sum of P3,500.00 which is greater than half of the judgment award of P5,000.00.

Given the circumstances, the Court deems it appropriate to have the OCA recommended fine of P2,000.00 on each respondent reduced to P1,000.00 on each of them.

WHEREFORE, the Court, finding Gil Sta. Ana and Othelo Parrone, Deputy Sheriffs of the Municipal Trial Court in Cities, Naga City, Branch 2 and 3 respectively, guilty of misfeasance, hereby imposes on each of them a FINE of ONE THOUSAND (P1,000.00) PESOS and warns that a repetition of the same or similar act in the future will be dealt with severely.

SO ORDERED.

Melo (Chairman), Panganiban, Gonzaga-Reyes, and Sandoval-Gutierrez, JJ., concur.

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