

ORIEL G. GONZALES, ACTING IN HIS OWN BEHALF AND IN BEHALF OF HIS CO-HEIRS TO THE ESTATE OF THE LATE POLICARPIO (PIO) GONZALES JOINED BY THE TENANTS IN CIVIL CASES NOS. 288-MN TO...*A.M. NO. P-06-2194 [OCA-IPi NO. 05-2342-RTJ]. August 31, 2006*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/aafd115c13a1/>**YNARES-SANTIAGO, J.:**

In a sworn complaint[1] dated August 19, 2005, complainant Oriel G. Gonzales (complainant) charged Hon. Emmanuel D. Laurea, Presiding Judge of Branch 169 and Pairing Judge of Branch 74, Regional Trial Court, Malabon City with grave abuse of authority and violation of the Code of Professional Responsibility, and Arnaldo V. Cabigao, Sheriff IV, Regional Trial Court, Branch 74, Malabon City with grave abuse of authority relative to Civil Case Nos. 288-MN to 294-MN entitled "Susana Realty, Inc. vs. Mauro V. Dionisio, et al." for Recovery of Possession.

On July 5, 2006, we issued a Resolution[2] dismissing the charge against Judge Laurea for insufficiency of evidence and directing the re-docketing of the complaint against Sheriff Cabigao as a regular administrative matter. Hence, the instant administrative case.

Complainant alleges that he is one of the heirs of Pio Gonzales who was one of the defendants in Civil Case Nos. 288-MN to 294-MN for Recovery of Possession; that he is representing the other heirs of Pio Gonzales and the other defendants in said civil case in the present complaint; that, on October 5, 1990, a Joint Decision[3] was rendered in the said civil case in favor of the plaintiff, Susana Realty, Inc., which ordered the defendants to vacate the subject properties and remove the structures that they built thereon; that after the judgment became final and executory, plaintiff moved for execution which was granted by the trial court through the issuance of a Joint Writ of Execution[4] dated August 1, 2000; that, on September 21, 2004, plaintiff moved for the issuance of a Writ of Demolition which was likewise granted by the trial court in an Order[5] dated July 7, 2005 followed by the issuance of a Writ of Demolition[6] dated July 8, 2005; that defendants filed a joint motion[7] to set aside the Order dated July 7, 2005; that during the hearing on the said motion on July 21, 2005, the trial court issued an Order[8] directing the sheriff to defer the implementation of the Writ of Demolition dated July 8, 2005 until after the court has acted on all the pending incidents of the case; and, that, on July 22, 2005, respondent in collusion with plaintiff's counsel, Atty. Rico Bolangaita, proceeded with the demolition of the subject properties in violation of the said Order and despite the entreaties from complainant for respondent to respect the trial court's Order. Complainant prays that respondent be dismissed from service.

In his Comment[9] dated September 26, 2005, respondent asserts that the demolition of the structures on the subject properties was ministerial on his part in order to implement the Joint Decision dated October 5, 1990 and the Joint Writ of Execution dated August 1, 2000; that the demolition was done only after the defendants failed to comply with the two Notices to Vacate served upon them; and that the complaint is an obvious attempt to re-litigate the issues that has been passed upon by the trial court.

On October 27, 2005, respondent filed a Supplemental Comment[10] where he averred that the trial court, in an Order[11] dated September 27, 2005, denied defendants' joint motion to set aside the Order dated July 7, 2005 (which granted the motion for the issuance of the writ of demolition) for lack of merit.

On June 6, 2006, the Office of the Court Administrator (OCA) submitted its Report[12] finding respondent liable for disobeying the lawful order of the trial court which directed him to defer the implementation of the writ of demolition. It found that while respondent had the duty to execute the writ according to its mandate, he likewise had the obligation to desist from implementing the same in light of the trial court's order to defer the implementation of the writ. Thus, it recommended that respondent be fined in the amount of P2,000.00 for said misconduct with a warning that a repetition of similar acts shall be dealt with more severely.

We agree with the findings of the OCA.

It is not disputed that on July 21, 2005, the trial court issued an Order directing the sheriff to defer the implementation of the Writ of Demolition dated July 8, 2005. However, the following day or on July 22, 2005, respondent proceeded with the demolition of the subject properties, despite the pleas of complainant and other occupants of the subject properties that the court has issued an Order which directed the sheriff to defer the implementation of the Writ of Demolition.

In his defense, respondent lamely denies having been confronted by the complainant and other occupants of the subject properties with the said Order. We find respondent's claim unbelievable. Under such circumstances, respondent should have at least checked the veracity of the Order to defer the implementation of the Writ of Demolition before proceeding with the demolition of the subject properties.

Time and again, we have stressed that sheriffs and their deputies are officers of the court and agents of the law. As such, they should discharge their duties with utmost care and diligence, particularly in implementing orders and processes of the court. For hardly can they err without affecting the efficiency of the process by which justice is administered. Sheriffs and their deputies are the front-line representatives of the justice system, and if, through their lack of care and diligence in implementing judicial writs, they lose the trust reposed on them, they inevitably diminish likewise the faith of the people in the judiciary.[13] Thus, for having acted in contravention of the trial court's Order directing him to defer the implementation of the Writ of Demolition, respondent is liable for simple misconduct.

WHEREFORE, respondent Arnaldo V. Cabigao, Sheriff IV, Regional Trial Court, Branch 74, Malabon City, is found GUILTY of simple misconduct and is ORDERED to pay a FINE of Two Thousand Pesos (P2,000.00) with a WARNING that a repetition of the same or similar infraction will be dealt with more severely.

SO ORDERED.

Panganiban, C.J., (Chairperson), Austria-Martinez, Callejo, Sr. and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-52.

[2] Id. at 167-168.

[3] Id. at 116-123.

[4] Id. at 133-135.

[5] Id. at 128-132.

[6] Id. at 126-127.

[7] Id. at 78-85.

[8] Id. at 109.

[9] Id. at 112-115.

[10] Id. at 158.

[11] Id. at 159-160.

[12] Id. at 161-166.

[13] Amor v. Leyva, A.M. No. P-02-1536, January 27, 2006, 480 SCRA 236, 241-242.

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