

**TEODORA A. CAPACETE AND RODOLFO CAPACETE,
COMPLAINANTS, VS. JOEL O. ARELLANO, SHERIFF IV, REGIONAL
TRIAL COURT, BRANCH 25, BIÑAN, LAGUNA, RESPONDENT.**

A.M. No. P-03-1700 (formerly OCA IPI No. 01-1205-P). February 23, 2004

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

This administrative complaint^[1] filed by spouses Rodolfo and Teodora Capacete charges Joel O. Arellano, sheriff IV, assigned in the Regional Trial Court (RTC), Branch 25, Biñan Laguna, with grave misconduct and harassment.

The antecedent facts that gave rise to the complaint are as follows:

Complainant Rodolfo Capacete is one of the plaintiffs in Civil Case No. 89, entitled “Alejandro Capacete and Rodolfo Capacete vs. Venancia Baroro, et. al.” for illegal detainer filed with the Municipal Trial Court (MTC), Cabuyao, Laguna.

On June 4, 1989, the MTC rendered its Decision holding that as between the opposing parties, the defendants have the right of possession over Lot 88 with an area of 909 square meters situated at Barangay Marinig, Cabuyao, Laguna; and ordering the plaintiffs to vacate the premises and to pay the defendants jointly and severally the sum of P57,266.00 as rentals,^[2] P100,000.00 as moral damages, and P30,000.00 as attorney’s fees. On appeal,^[3] the RTC affirmed the MTC Decision in toto, prompting the plaintiffs to file with the Court of Appeals a petition for review. But it was dismissed. Upon the finality of the Court of Appeals Decision and upon defendants’ motion, the RTC issued a “Writ of Execution.”

In their affidavit-complaint, spouses Capacete alleged that on March 15, 2001, respondent sheriff issued a Notice of Levy, not on Lot 88, but on a parcel of land covered by Transfer Certificate of Title (TCT) No. 378033 in the name of complainant Rodolfo Capacete with an area of 168 square meters, also situated at Barrio Marinig, Cabuyao, Laguna. By levying on the wrong property and by repeatedly enforcing the writ, respondent sheriff is administratively liable for grave misconduct and harassment.

In his comment,^[4] respondent sheriff denied the charges which he considers malicious. He explained that in enforcing the final Decision, he merely complied with the “Writ of Execution” issued by the RTC on January 4, 2001. He served the “Notice to Vacate” upon the plaintiffs but they defied it.

On March 15, 2001, he caused the registration of the “Notice of Levy” on TCT No. T-378033 to satisfy the money judgment.

On August 31, 2001, he filed with the RTC the “Sheriff’s Return.”

In his Report and Recommendation dated March 21, 2003,^[5] Court Administrator Presbitero J. Velasco, Jr. found respondent sheriff guilty of gross negligence in the performance of his duty, thus:

“Respondent Sheriff erred in implementing the Writ of Execution issued by the Branch Clerk of Court of Branch 25, RTC, Biñan, Laguna. Respondent levied the property owned by spouses Rodolfo Capacete and Teodora Aguinaldo which was not the subject of the Writ of Execution. Paragraph (b) of the Writ of Execution issued to respondent to implement reads:

(b) As between plaintiffs Alejandro and Rodolfo Capacete, on one hand, and Venancia Baroro, on the other hand, declaring the latter to be the legitimate owners of Lot 88, Cad No. 455-D, with an area of 909 square meters, and located at Barangay Marinig, Cabuyao, Laguna (p. 17, Rollo).

In the Notice of Levy, respondent Sheriff levied, to satisfy the Writ of Execution, the property herein below described.

TCT No. T-378033

“A parcel of land (Lot 24-B of subd. Plan Psd-043404-04-7582, being a portion of Lot 24, Blk. 3 (LRC), Psd-728859, LRC Rec. No.) situated in the Bo of Marinig, Mun. of Cabuyao, Prov. of Laguna. Bounded on the x x x containing an area of One Hundred Sixty Eight (168) square meters, more or less.

After respondent issued a Notice of Levy addressed to the Register of Deeds of Calamba, Laguna on March 15, 2001, Atty. Oscar A. Reyes, counsel for the complainant, wrote the Register of Deeds requesting that the annotation at the back of TCT No. T-378033, by reason of the Notice of Levy be cancelled for the said property was not the subject of the Writ of execution dated January 4, 2001 issued by the RTC of Biñan, Laguna (p. 009, Rollo). Respondent received a copy of the letter on April 20, 2001. Despite the receipt of the said letter, respondent did not mention or explain the relation between the property that he levied and the property described in paragraph (b) of the Writ of Execution, despite their differences in land areas and in numbers of the lots.

The presumption of regularity in the performance of official functions does not apply where it is patent that the sheriff erred in implementing the writ of execution. Respondent sheriff, therefore, is guilty of gross negligence.”

Court Administrator Velasco recommended that respondent sheriff be suspended from the service for three (3) months without pay.

Subsequently, this Court resolved to re-docket the complaint as a regular administrative matter. Pursuant to the Resolution of this Court dated April 28, 2003, the parties manifested that they are submitting this case for decision on the basis of the pleadings/records filed.

At the outset, it bears stressing that “sheriffs play an important part in the administration of justice because they are tasked to execute the final judgments of courts. If not enforced, such decisions are empty victories on the part of the prevailing parties.”[6]

Here, the “Writ of Execution” specifically directed respondent sheriff to evict the plaintiffs from the property. The directive that they vacate the premises is consistent with Section 10 (c), Rule 39 of the 1997 Rules of Civil Procedure, as amended, which provides:

“SEC. 10. Execution of judgments for specific act. —

xxx xxx xxx

(c) Delivery or restitution of real property.— The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within the three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by

the judgment shall be satisfied in the same manner as a judgment for money.”

The “Writ of Execution” likewise directed respondent sheriff to demand from the plaintiffs payment of rentals, moral damages and attorney’s fees, but they also refused to pay. Pursuant to the above provisions, such amounts shall be satisfied in the same manner as a judgment for money. This is the reason why respondent sheriff levied upon the lot covered by TCT No. T-378033.

The duty of a sheriff in enforcing writs of execution is ministerial and not discretionary.[7] Well settled is the rule that when a writ is placed in the hands of the sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute in accordance with its mandate.[8] We hold that respondent sheriff acted within the bounds of his ministerial duty.

Incidentally, the RTC erred in issuing the “Writ of Execution” after the finality of the Decision. It should have remanded the case to the MTC for execution of the judgment. In *City of Manila vs. Court of Appeals*,[9] we held:

“The rule is that if the judgment of the metropolitan trial court is appealed to the regional trial court and the decision of the latter is itself elevated to the Court of Appeals, whose decision thereafter became final, the case should be remanded through the regional trial court to the metropolitan trial court for execution [Regalado, Remedial Law Compendium, Vol.1, p. 276]. The only exception is the execution pending appeal, which can be issued by the regional trial court under Sec. 8 of Rule 70 or the Court of Appeals or the Supreme Court under Sec. 10 of the same Rule.”

On another tack, it is noteworthy that the award of moral damages is likewise erroneous. The only damages that can be recovered in an ejectment suit are the fair rental value or the reasonable compensation for the use and occupation of the property.[10]

However, the RTC’s erroneous directives in the “Writ of Execution” do not necessarily mean that its execution by respondent sheriff is similarly erroneous. Respondent was just zealous in the performance of his duty pursuant to the court’s mandate.

In administrative proceedings, the complainant has the burden of proving by substantial evidence the allegations in his complaint.[11] In the absence of contrary evidence, what will prevail is the presumption that respondent sheriff has regularly performed his official duties,[12] as in this case.

As we held in *Sarmiento vs. Salamat*: [13]

“x x x this Court will never tolerate or condone any conduct, act or omission that would violate the norm of public accountability or diminish the people’s faith in the judiciary. However, when an administrative charge against a court personnel holds no basis whatsoever in fact or in law, this Court will not hesitate to protect the innocent court employee against any groundless accusation that trifles with judicial processes.

“As a final note, this Court will not shirk from its responsibility of imposing discipline upon employees of the judiciary, but neither will it hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.”

WHEREFORE, the instant administrative complaint against Joel O. Arellano, sheriff IV, Regional Trial Court, Branch 25, Biñan, Laguna, is DISMISSED.

SO ORDERED.

Vitug (Chairman), Corona, and Carpio-Morales, JJ., concur.

[1] Rollo at 3-5.

[2] From March 14, 1977 up to the time they vacate the premises.

[3] Docketed as Civil Case No. B-3433.

[4] Id. at 14-15.

[5] Rollo at 63 to 66.

[6] San Juan, Jr. vs. Sangalang, Adm. Matter No. P-00-1437, February 6, 2001, 351 SCRA 210.

[7] Eduarte vs. Ramos, A.M. No. P-94-1069, November 9, 1994, 238 SCRA 36, 40.

[8] Onquit vs. Binamira-Parcia, A.M. MTJ-96-1085, October 8, 1998, 297 SCRA 354, 364, citing Jumio vs. Egay-Eviota, 231 SCRA 551.

[9] G.R. No. 100626, November 29, 1991, 204 SCRA 362, 269.

[10] De Guzman vs. Court of Appeals, G.R. No. 83959, April 8, 1991, 195 SRA 715, citing Felisida vs. Judge Villanueva, 139 SCRA 431; Reyes vs. Court of Appeals, 38 SCRA 138; Ramirez vs. Chit, 21 SCRA 1364.

[11] Sarmiento vs. Salamat, supra, citing Lorena v. Encomienda, 302 SCRA 632, 641 (1999); Cortes vs. Agcaoili, 294 SCRA 423 (1998).

[12] Id., citing Onquit vs. Binamira-Parcia, 297 SCRA 354 (1998).

[13] Id.

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