

PATERNO R. PLANTILLA, COMPLAINANT, VS. RODRIGO G. BALIWAG, SHERIFF IV, REGIONAL TRIAL COURT OF SAN PABLO CITY (BRANCH 30), RESPONDENT.

A.M. No. P-00-1446. June 06, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Before placing a writ of execution in the hands of a sheriff, the judge issuing the writ - not the sheriff enforcing it - must compute to the last centavo the exact amounts due thereunder, including interests, costs, damages, rents or profits. For determining the rate of interest himself, respondent sheriff must be sanctioned.

The Case

Before us is an Administrative Complaint filed by retired Col. Paterno R. Plantilla, charging Rodrigo G. Baliwag (Sheriff IV, Regional Trial Court of San Pablo City, Branch 30), with serious irregularities in the implementation of the Writ of Execution dated January 16, 1998.[1]

Pertinent portions of the subject Writ addressed to respondent sheriff are reproduced hereunder:

"NOW, THEREFORE, you are hereby commanded to enforce and execute the dispositive portion of the Decision, particularly paragraphs 1, 2, 3 and x x x paragraph 4, ordering all the defendants to pay, jointly and severally, the sum of P8,000.00 as attorney's fees and to pay the costs of suit. You are further directed to make a return of your proceedings thereon within (30) days thereafter until the judgment is fully satisfied.

"WITNESS the Honorable MARIVIC T. BALISI-UMALI, Judge of this Court, this 16th day of January, 1998 at the City of San Pablo.

Sgd.

MARISSA L. GOZO

Acting Branch Clerk of Court"

The dispositive portion of the Decision subject of the Writ reads as follows:

`WHEREFORE, premises considered, in the interest of justice, this Court hereby renders judgment in favor of Milagros Suiza, one of the plaintiffs herein, married to Teodoro Cautivo, the other plaintiff herein, and against Mariano L. Orga and Eva R. Plantilla, Valeriano R. Plantilla, Jr. and Vicente Castillo, the defendants herein, by, to wit:

"1. declaring the existence of a tenancy relationship, under the share tenancy system, over the parcel of land, consisting of 10.2198 hectares, which is the landholding in question in this case, as hereinabove described, between Mariano L. Orga and Eva R. Plantilla, husband and wife to each other, as landholders, and Milagros Suiza, married to Teodoro Cautivo, as share-tenant thereof, with aid of labor available from the members of her immediate farm household;

"2. ordering Mariano L. Orga and Eva R. Plantilla, husband and wife to each other, as landholders of the aforementioned landholding in question in this case, being the present and actual owners thereof, to reinstate and/or maintain Milagros Suiza, married to Cautivo, as share-tenant thereof, with aid of labor available from members of her immediate farm household, in peaceful possession and cultivation thereof;

"3. ordering the five (5) defendants herein, Oscar Chipongian, Mariano L. Orga and Eva R. Plantilla, husband and wife to each other, Valeriano R. Plantilla, Jr. and Vicente Castillo, to pay, jointly and severally, Milagros Suiza, married to Teodoro Cautivo, the latter's unrealized shares from the harvests of coconut fruits in the landholding in question in this case from the month of August 1979 until she shall have been reinstated [in] the amount of One Thousand Pesos (P1,000.00), Philippine Currency per harvest, with legal interest thereon until fully paid;

"4. ordering the five (5) defendants herein, Oscar Chipongian, Mariano L. Orga and Eva R. Plantilla, husband and wife to each other, Valeriano R. Plantilla, Jr. and Vicente Castillo, to pay, jointly and severally, to plaintiffs attorney's fees in the amount of [e]ight [t]housand [p]esos (P8,000), Philippine [c]urrency; and to pay the costs of suit."

In his Letter-Complaint dated May 11, 1999, Colonel Plantilla averred that he was the administrator of Spouses Mariano L. Orga and Eva R. Plantilla, the judgment debtors. Complainant further stated:

"On September 7, 1998 and after placing the plaintiff Milagros Suiza in possession of the subject landholding, Sheriff Rodrigo G. Baliwag served the Writ of Execution upon me. He did not serve the Writ on the defendants Mariano L. Orga and Eva R. Plantilla, although he knows their present address.

"Sheriff Baliwag also gave me a letter dated September 22, 1998, copy of which is attached as Annex 'B', to which is attached a statement of the account purportedly payable by defendants Mariano L. Orga and Eva R. Plantilla in the total amount of P481,340.00, allegedly representing the share of plaintiff Milagros Suiza in the coconut harvest from August 1979 until January 1998 at P1,000.00 with eight (8) harvests per year, with interest at the rate of 12% per annum or a total of 222%, plus attorney's fees in the amount of P8,000.00.

"Sheriff Baliwag also formally demanded [from] me the payment of the amount of P481,340.00 per letter dated January 25, 1999, copy of which is attached as Annex 'C'. Per Notice of Levy On Execution, also dated January 25, 1999, copy of which is attached as Annex 'D', Sheriff Baliwag levied upon the rights, interests and participation of defendants Mariano L. Orga and Eva R. Plantilla in the subject landholding registered in their names under Transfer Certificate No. T-87223 issued by the Office of the Register of Deeds of Laguna. The levy was annotated on T.C.T. No. T-87223 on January 26, 1999.

"Sheriff Baliwag certified to having served the questioned Writ of Execution upon me, not upon defendants Mariano L. Orga and Eva R. Plantilla, having made demands upon me for payment, and causing the levy on T.C.T. No. T. 87223, per Partial Sheriff's Return (Levy on Execution) dated February 10, 1999, copy of which is attached as Annex 'E'.

"Sheriff Baliwag set the public auction of the sale of the land covered by T.C.T. No. T. 87223 on May 12, 1999 at 10:00 o'clock in the morning at the main entrance of Don Tomas Dizon Hall of Justice, San Pablo City, per Notice of Auction of Sale dated March 2, 1999, copy of which is attached as Annex 'F'.

"Both the dispositive portion of the Decision and the writ of execution do not state that there are eight (8) harvests per year. However, Sheriff Baliwag took it upon himself to specify the number of harvests to be eight (8) per year.

"Sheriff Baliwag also imposed on the amount of P1,000.00 at eight (8) harvests per year or a total of P8,000.00 interest at the rate of 12% per annum from the month of August beginning 1979 and every year thereafter. But the dispositive portion of the decision merely directs the payment of P1,000.00 per harvest with legal interest thereon until fully paid, without specifying whether it should be 6% or 12% per annum, and the date from

which the said interest should be computed. Since the amount of P1,000.00 per harvest adjudged in favor of plaintiff Milagros Suiza is in the form of damages, the rate of interest should be 6% per annum, not 12% as assessed by Sheriff Baliwag.

"Since the harvest of the coconut is made about every 2 months, the legal interest on the amount of P1,000.00 should be computed from the time of each harvest, not from the month of August. However, Sheriff Baliwag imposed legal interest at the rate of 12% per annum on the full amount of P8,000.00 from August of each yearly period to cover the subsequent harvests extending until the month of July of the next year. In effect, the share of P1,000.00 already earns interest even it is made [sic].

"Sheriff Baliwag also failed to give defendants Mariano L. Orga and Eva R. Plantilla or myself as their Administrator the option to choose the property or part thereof which may be levied upon sufficient to satisfy the judgment. Immediately upon making a demand for payment of the amount of P481,340.00, Sheriff Baliwag levied upon the subject landholding covered under T.C.T. No. T-87223, with an area of more than ten (10) hectares. The land is worth millions of pesos much more than the amount of P481,340.00.

"Sheriff Baliwag did not give the defendants Mariano L. Orga and Eva R. Plantilla the notice of auction sale, opting to give the notice to me only.

"Although Sheriff Baliwag formally demanded from me the payment of the total amount of P481,340.00, he failed to state in the Notice of Levy On Execution, Annex `D', and the Notice of Auction Sale, Annex `F', the amount for which the subject landholding has been levied, and for which the same shall be sold at public auction. I do not know if the Notice of Auction Sale has been published in a newspaper of general publication in Laguna."

In his Comment, respondent denied the charges against him. His averments were summarized by the Office of the Court Administrator (OCA) as follows:

"a) a copy of the Writ of Execution was sent to the defendants-spouses in their residence in the U.S.A. However, it was returned to him due to insufficient address. The address of the defendants was admitted in their answer to the complaint;

"b) notice to the complainant even without notice to the defendants-spouses is sufficient by reason of the General Power of Attorney granted by the latter to the former;

"c) he did not take it upon himself to specify the number of harvests as eight (8) per year. The issue of the number of harvest[s] per year was raised during the hearing in the RTC which pronounced that there were eight (8) harvests per year. Defendants even brought this issue before the Honorable Court of Appeals which sustained the RTC's findings. The decision of the Court of Appeals was affirmed by the First Division of the Honorable Supreme Court (Annex `2' and `3');

"d) as regards the imposition of 12% interest, he believes that there being no more usury law, the amount of 12% interest per annum is legal and that the computation thereof should start from August 1979 considering that the plaintiffs were ejected from the subject land immediately after its sale in July 1979;

"e) as to his alleged failure to give the defendants or the complainant as the administrator the option to choose which portion of the subject land will be levied upon to satisfy the judgment and [as to] the value of the levied property [being] much more than the monetary judgment, he explains that a demand letter has been sent to Col. Plantilla as Administrator. However, complainant failed to communicate with him relative to this matter. Moreover, the assessed value of the subject landholding is not sufficient to satisfy the judgment of P481,340.00;

"f) the notice of auction sale has been published in Laguna Newsworld, a newspaper of general publication in the Province of Laguna starting from June 10, 1999 (Annex `5' and `6'); and

"g) he was merely performing his duty when he implemented the subject Writ of Execution and the enforcement thereof was done in good faith."[2]

OCA Report and Recommendation

Finding respondent liable for fixing the interest rate at 12 percent per annum starting from August 1979, the OCA recommended that he be fined P5,000. It found the other charges devoid of merit. Pertinent portions of the OCA Report are reproduced below:

"As to the charge that respondent, on his own, specified the number of harvests to be eight (8) per year, the same is untenable.

"It has been clearly established during the proceedings of the case in the trial court that the number of harvests were eight per year. Dissatisfied, the defendants appealed to the Court of Appeals. In a decision promulgated on December 22, 1994 in CA G.R. SP. No. 30205-CAR, the Court of Appeals affirmed the lower court's decision minus the award of moral and exemplary damages.

"Undaunted, the defendants went to the Honorable Supreme Court on a petition for review on certiorari which the High Court denied in a resolution promulgated on September 4, 1995. This resolution became final and executory on December 29, 1995, per Entry of Judgment on that date.

"In a desperate attempt to escape the mandate of the final executory judgment, defendants filed with the Court of Appeals a petition for certiorari arguing that the dispositive portion of the decision, more specifically that which awards P1,000.00 per harvest and the number of harvests defendants have made per year is vague and ambiguous. On February 25, 1997, the Court of Appeals denied the petition.

"With regard to the complaint that respondent failed to give the defendant[s]-spouses or herein complainant, as administrator, the option to choose the property or part thereof that should be levied and that it was sold far below the zonal value, we find respondent's act to be in accordance with the Rules of Court on the matter of execution of judgment. Respondent demanded from the complainant, as the administrator of the properties of the defendants, the total obligation which the latter ha[d] to pay to the plaintiffs. Since the complainant failed to produce the money, respondent sheriff was justified in levying the subject property for sale at public auction. As to the inadequacy of the purchase price, there is no evidence adduce[d] by the complainant to support such allegation.

"Under Section 9 (b) of Rule 39 of the 1997 Rules of Civil Procedure, a sheriff is under obligation to enforce the execution of a money judgment by levying on all the property, real and personal of every name and nature whatsoever, and which may be disposed of for value, of the judgment debtor not exempt from execution, sufficient to satisfy the judgment. In the exercise of this mandate, a sheriff performs only a ministerial function.

"Finally, the allegations of the complainant that respondent failed to furnish defendants a copy of the notice of auction sale and to publish said notice in a newspaper of general circulation in Laguna deserve scant consideration. Records reveal that the said notice was mailed to the defendants-spouses in their residence in the United States but was returned due to insufficient address. Said notice was likewise served on the complainant as administrator. Notice to the complainant is sufficient being the administrator of the properties of the defendants-spouses. Furthermore, said notice of auction sale was published in the Laguna Newsweek, a newspaper of general circulation in Laguna.

"We however find fault on the part of respondent in imposing 12% interest and in decreeing that this shall be computed from August 1979. The obligations to pay the unrealized share of the harvest as decreed in the dispositive portion of the decision in SP 8264 does not constitute a loan or forbearance of money. The obligation is in the nature of damages for delayed payment, hence the interest should have been 6% only.

Similarly, the interest shall accrue only from the date of the judgment (*Eastern Shipping Lines vs. Court of Appeals*, 234 SCRA 78, 96).

"RECOMMENDATION: Respectfully submitted for the consideration of the Honorable Court is our recommendation that the instant administrative case be REDOCKETED as a regular administrative matter and that respondent be FINED in the amount of Five Thousand Pesos (P5,000.00) with a WARNING that a repetition of the [same or a] similar offense shall be dealt with more severely."

This Court's Ruling

We agree with the OCA.

Respondent Sheriff's Responsibility and Liability

Admittedly, and clearly from the records, the Writ of Execution addressed to respondent sheriff did not specifically state the exact total amount of interests, costs, damages, rents or profits due. Despite its lack of specificity, the Writ directed the sheriff to execute paragraph 3 of the dispositive portion of the Decision.

In order to implement the said provision which was also mentioned in the Writ, respondent sheriff, on his own, computed the exact total amount due from the defendants. He, however, erred by computing at 12 - instead of 6 -- percent per annum the interest on the plaintiffs' total share of the harvest from 1979.

The question now is, should respondent be penalized for not knowing that the rate applicable in this case was 6 percent, not 12 percent? And for then uniformly applying it from 1979, without regard for the exact time when each P1,000 share was to be given?

In *Windsor Steel Mfg. Co., Inc. v. Court of Appeals*,^[3] this Court dealt with this question in this wise:

"Leaving to the Sheriff, as held by the Court of Appeals, the determination of the exact amount due under the Writ would be tantamount to vesting such officer with judicial powers. He would have to receive evidence to determine the exact amount owed. In his hands would be placed a broad discretion that can only delay and open the door to possible abuse. The orderly administration of justice requires x x x the amount on execution to be determined judicially and the duties of the Sheriff confined to purely ministerial ones."

Section 8, Rule 39 of the 1997 Rules of Civil Procedure, categorically provides that a writ of execution must specifically state the amount of interest.

"Sec. 8. Issuance, form and contents of a writ of execution.

x x x x x x x x

"(e) In all cases, the writ of execution shall specifically state the amount of the interest, costs, damages, rents, or profits due as of the date of the issuance of the writ, aside from the principal obligation under the judgment. For this purpose, the motion for execution shall specify the amounts of the foregoing reliefs sought by the movant." (Emphasis supplied.)

The Court is aware that, during the execution stage, matters dealing with the correct computation of amounts due from one party to another are commonly known causes of disputes that have often resulted in the filing of more lawsuits. Specifically, computations of amounts due under the writ are not always cut and dried. There is often, as in this case, a need to refer to provisions of law, jurisprudence and evidence in order to arrive at the correct amount due under a writ of execution. Thus, the judge who rendered the decision, being in possession of the evidence and the requisite knowledge of the law, was in the best position to determine the correct computation of such amount.

Necessarily, the computation of the amount due under the writ is not the duty of the sheriff. Such amount should have already been specifically stated in the writ of execution issued by the court. All that the sheriff should do upon receipt of that writ is the ministerial duty of enforcing it.

Accordingly, we cannot penalize respondent sheriff for arriving at an erroneous amount due under the Writ by applying the wrong rate of interest. Nonetheless, he is guilty of malfeasance. The determination of the amount due under the Writ properly pertained to the judge. Yet, respondent assumed that task. For doing so instead of pointing out to the court the deficiency in the Writ, respondent should be sanctioned. He should not have arrogated unto himself judicial functions that were to be performed only by the judge. In so doing, he acted arbitrarily and without any semblance of authority, to the prejudice of complainant.

WHEREFORE, Respondent Rodrigo G. Baliwag is hereby found guilty of malfeasance and is fined P5,000, with a warning that a repetition of the same or a similar offense shall be dealt with more severely.

SO ORDERED.

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

[1] Issued in Civil Case No. SP-8260, entitled "Spouses Teodoro Cautivo and Milagros Suiza vs. Spouses Mariano L. Orga and Eva R. Plantilla et al.

[2] As summarized in the report of the Office of the Court Administrator.

[3] 102 SCRA 275, 282, January 27, 1981, per Melencio-Herrera, J.

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