

GERARDO M. SANTOS, IGLICERIA VDA. DE KARAAN, BONIFACIO A. SIASAT, EMMANUEL C. PEREZ, CONSORCIA ZAMORA, FRANCISCA VASQUEZ, JENNY FLORENDO, ASTEYA GONZALES SANTIAGO, NORBERTA REYE...

A.M. No. RTJ-00-1579. January 18, 2001

Ponente: PANGANIBAN, J.

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PANGANIBAN, J.:

Proper and efficient court management is the responsibility of a judge. In line with this principle, the responsibility for a writ of demolition that covers properties owned by persons who are not parties to a civil case cannot be evaded by the judge by invoking the negligence of the clerk of court.

The Case and the Facts

Herein complainants filed four separate letter-complaints[1] with essentially identical joint affidavits attached thereto, charging Judge Lorenzo R. Silva Jr. with serious or deliberate neglect of duty or conduct prejudicial to the best interest of the service; and Legal Researcher Marvin Soriano (designated as acting clerk of court) and Sheriffs Ruel de Guzman and Renato Robles, with grave misconduct, abuse of authority and conduct prejudicial to the best interest of the service.

The factual antecedents of this case are narrated by the Office of the Court Administrator (OCA) as follows:

"It appears from the records of this case that a complaint for accion publiciana was instituted by Salvador Aguinaldo, et. al. against Mario Amidao and eighty seven (87) other defendants docketed as Civil Case No. 5702, in the Regional Trial Court, Branch 2, Balanga, Bataan, presided then by Judge Vivencio S. Baclig.

"The plaintiffs having satisfactorily substantiated their allegations in the complaint through their evidences which remain uncontroverted, the court rendered a Judgment dated March 10, 1995 in their favor, the dispositive portion of which is hereunder quoted, thus:

`WHEREFORE, premises above considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants ordering the latter to remove, at their expense, illegally constructed structures on Lot Nos. 353 and 402 and to surrender possession of the same to plaintiffs.

x x x x x x x x

No award is given with respect to the prayers for damages for lack of sufficient evidence to substantiate the same.'

"On April 30, 1998, the Court ordered the issuance of a Writ of Execution. The writ was issued on May 6, 1998.

"On July 22, 1998, the Court gave the defendants a period of thirty (30) days to remove whatever improvements they have constructed in the land subject of the case.

"The grace period given to the defendants having expired without complying with the above Order of the Court, a writ of demolition was issued on November 12, 1998.

"The writ of demolition was not implemented because there was then a negotiation between the [m]ayor of Morong and the plaintiffs and for humanitarian consideration in the spirit of the yuletide season.

"An alias writ of demolition was issued on January 4, 1999, but the same remain[ed] unimplemented and the thirty (30) day period had expired.

"Thereafter, another alias Writ of Demolition was issued on February 11, 1999.

"An Urgent Ex-Parte Motion to Amend the Alias Writ of Demolition dated February 11, 1999 was filed by the plaintiffs. The Court issued an Order dated March 1, 1999 for the issuance of another alias Writ of Demolition to be directed against the defendants and all persons claiming rights under them. The Writ was issued on the same date.

"On March 11 and 12, 1999, with the assistance of the Philippine National Police, the structures/houses of the defendants and all persons claiming rights under them were demolished."[2]

Complainants claim to be the owners and proprietors of beach resorts with improvements thereon situated in Sitio Crossing, Barangay Nagbalayong, Morong, Bataan. They allege that from March 15 to 18, 1999, their properties were illegally demolished by Sergio Aguinaldo, who was accompanied by his "goons" and some agents of the police force.

According to complainants, they had vehemently opposed the alleged illegal destruction of their properties. However, the group of Aguinaldo did not heed their call, asserting that its acts were in accordance with the Order of Judge Silva.

They likewise allege that Aguinaldo's group was emboldened by Judge Silva's failure to supervise closely the acts of Sheriffs De Guzman and Robles in connection with the execution of the Writ of Demolition. As a result, even the properties of those not included in the subject case were destroyed. They further fault Judge Silva for allowing acting Clerk of Court Marvin Soriano to expand the coverage of the Demolition Order dated November 11, 1998.

They also assail Respondent Soriano for illegally expanding the coverage of the Demolition Order. They claim that he inserted therein the words "third parties," which had not been included in the Decision promulgated by the Regional Trial Court (RTC).

Furthermore, complainants assert that the illegal demolition was directed by Sheriffs De Guzman and Robles against the properties of parties to a case that had been decided by a different court (the RTC-Balanga, Bataan, Branch I) and was currently pending with the Court of Appeals.

In separate Indorsements from the OCA dated May 19, 1999,[3] respondents were required to comment on the Complaint.

Judge Silva states in his Comment[4] that the Demolition Order he issued was directed only against the defendants therein. He further alleges that he did not authorize acting Clerk of Court Soriano to expand the Writ. When an expanded Order was in fact issued, it was subsequently set aside and superseded by an alias Writ directed only against the defendants and others claiming rights under them. He adds that it was this later Order, not the earlier expanded Writ, that was implemented by respondent sheriffs.

For his part, acting Clerk of Court Soriano, in his Comment,[5] denies having deliberately caused the amendment of the assailed Writ to prejudice complainants. He relates that on November 12, 1998, he signed a Writ of Demolition issued in connection with Civil Case No. 5702. Before that Writ could be implemented, he discovered the inadvertent inclusion of third parties claiming rights belonging to the defendants therein. Immediately after, he reported the matter to Judge Silva, who instructed Sheriff De Guzman to hold the implementation of the Order.

Thereafter, an alias Writ dated February 11, 1999 was accordingly issued, this time minus the words "third parties." He claims that it was this corrected Writ that was actually implemented by the sheriff, and not the alleged expanded Writ.

Sheriff De Guzman explains in his Comment[6] that on March 11 and 12, 1999, he conducted the demolition only against the defendants named in the Writ. He maintains that he did not authorize or sanction the demolition conducted by the group of Aguinaldo from March 15 to 18, 1999. He also cites the affidavit of complainants, which made no mention of his presence during the alleged unlawful demolition. His final Return of Service[7] also shows that he was able to execute the Writ of Demolition on March 11 and 12, 1999.

In his Comment,[8] Sheriff Robles argues that he was requested by Sheriff De Guzman to accompany him in the implementation of the Writ of Demolition on March 11 and 12, but only against the defendants in Civil Case No. 5702. He further avers that the alleged illegal demolition conducted from March 15 to 18, 1999 was sanctioned neither by respondent sheriffs nor by the trial court. He likewise says that nowhere in the complainants' affidavit was it shown that he was ever present during the demolitions on March 15 to 18, 1999.

In a Resolution dated January 31, 2000,[9] this Court required the parties to manifest their intention to have the case submitted for resolution on the basis of the pleadings and the other records submitted. Complainants and three of the respondents stated their conformity in their respective Manifestations dated March 20, 2000[10] and February 29, 2000,[11]. Judge Silva, on the other hand, did not submit any manifestation, although the Registry Return Receipt showed that he had received the said Resolution on February 24, 2000. Hence, he is deemed to have submitted the case on the basis of the pleadings filed.

Recommendation of the OCA

In its Memorandum dated December 10, 1999,[12] the OCA recommended that respondent sheriffs be exonerated and that Judge Silva and acting Clerk of Court Soriano be held administratively liable. The recommendations are as follows:

"ACCORDINGLY, it is most respectfully recommended that:

a)

Respondent Marvin V. Soriano, legal researcher and designated officer-in-charge, be FINED five thousand pesos (P5,000.00) for grave abuse of authority and be further WARNED that a repetition of the same act in the future shall be dealt with more severely;

b)

Respondent Judge Lorenzo R. Silva, Jr. be FINED two thousand pesos (P2,000.00) for his failure to diligently exercise his administrative supervision over his personnel to be deducted from his retirement benefits, and after deduction all his benefits including his terminal leave pay be RELEASED to him, subject to the usual clearance procedure and the availability of funds; and

c)

The complaint against respondents Sheriffs Ruel De Guzman and Renato Robles be DISMISSED for lack of merit"[13]

The Court's Ruling

We agree with the findings and recommendation of the OCA regarding three of the respondents, but we hold that respondent judge should be reprimanded only.

Liability of Respondent Sheriffs

As explained by Sheriffs De Guzman and Robles, they participated only in the March 11 and 12, 1999 demolitions that were directed against the named defendants, not against herein complainants who were not parties to the civil case.

The records do not support complainants' claim that Respondents De Guzman and Robles participated in the illegal demolitions from March 15 to 18, 1999. Indeed, the sheriffs categorically denied any involvement, let alone presence, in what they characterized as an illegal demolition. In fact, one of the complainants, Jenny S. Florendo, executed an affidavit^[14] affirming their absence during the subsequent illegal demolition.

Thus, the OCA made the following observation as regards the role of respondent sheriffs:

"A careful reading of the allegations of the complainants will prove that both sheriffs were really not present [Neither were they] in the vicinity of the subject premises. They [did not] pinpoint with clarity the specific illegal acts committed by the latter. Apparently, what is clear from their allegations is that the alleged illegal demolitions [were] in fact conducted on March 15 to 18, 1999 and it was conducted by persons other than herein respondent sheriffs, x x x."

Clearly, we find no reason to hold the sheriffs administratively liable.

Liability of Respondent Acting Clerk of Court

Acting Clerk of Court Marvin Soriano, on the other hand, admitted to authoring the inclusion of the words "third parties" in the assailed Writ of Demolition dated November 12, 1999. By expanding the coverage of the above-mentioned Writ, he illegally arrogated unto himself the exercise of judicial discretion.

Rule 136, Sec. 4 of the Rules of Court provides as follows:

"Issuance by clerk of process. - The clerk of a superior court shall issue under the seal of the court all ordinary writs and process incident to pending cases, the issuance of which does not involve the exercise of functions appertaining to the court or judge only; and may, under the direction of the court or judge, make out and sign x x x all other writs and process issuing from the court." (italics supplied)

In the performance of the above-mentioned duties, a clerk of court should be guided by the express directive of the court or judge and refrain from exercising functions that are exclusive thereto. Before he or she can amend a writ, the court's order granting its issuance should first be amended.

By amending the Writ on his own initiative, Respondent Soriano clearly usurped a judicial function.^[15] Although he claims that such culpable act was merely the result of inadvertence, it cannot be overlooked. Under the circumstances, his claim of good faith cannot free him from administrative liability.^[16]

That a corrected alias Writ was issued subsequently cannot exculpate the acting clerk of court. The observation of the OCA on this point is apropos:

"Although another alias Writ of Demolition dated February 11, 1999 was issued and the subject phrase was now deleted x x x and the subsequent issuance of an Order by the court justifying the removal of the subject phrase and substituting it with the phrase "persons claiming rights under them" and [although] the latest Writ was the one actually enforced by the implementing sheriff, still, the fact remained that the respondent Clerk of Court was negligent in the issuance of the subject expanded Writ. It did not cure the negligence already committed by him."

Liability of Respondent Judge

We also agree with the OCA that respondent judge failed to exercise diligence in supervising the acts of respondent acting clerk of court who, as shown above, failed to discharge his responsibilities faithfully.

Verily, the preparation of a writ of execution is the duty of the clerk of court. But it should be stressed that the performance of such duty is under the supervision and control of the judge, who is responsible for proper and efficient court management. Court personnel, after all, are not the guardians of a judge's responsibility. In this case, the judge should have exercised greater supervision, considering that Respondent Soriano, who had prepared the expanded Writ, was merely an acting clerk of court. As the OCA pointed out, the judge cannot evade the clear mandate of Canon 3 of the Code of Judicial Conduct, which states:

"A judge should organize and supervise the Court personnel to ensure the prompt and efficient dispatch of business, and require at all times the observance of high standards of public service and fidelity."

In view of the established facts, we believe that the proper penalty for respondent judge is a reprimand.

WHEREFORE, the Court hereby RESOLVES to

- DISMISS the Complaint against Sheriffs Ruel de Guzman and Renato Robles for lack of merit.
- IMPOSE on acting Clerk of Court Marvin V. Soriano a FINE of five thousand pesos (P5,000) with a WARNING that a repetition of the same or a similar act will be dealt with more severely.
- REPRIMAND Judge Lorenzo R. Silva Jr. for failure to supervise his subordinate diligently. His retirement benefits shall hereafter be RELEASED to him, subject to the usual clearance procedure and the availability of funds, provided that there is no other legal order or cause requiring the withholding of such benefits.

SO ORDERED.

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

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- [1] Rollo at pp. 1, 40, 79 and 162, respectively.
- [2] Report and Recommendation of the Office of the Court Administrator, pp.1-3; rollo, pp. 336-338
- [3] Rollo, pp. 111-114.
- [4] Rollo, pp. 236-237.
- [5] Rollo, pp. 123-124.
- [6] Rollo, pp. 128-132.
- [7] Rollo, p. 151, Annex "K" of Sheriff De Guzman's Comment.
- [8] Rollo, pp. 115-116.
- [9] Rollo, p. 350.
- [10] Rollo, p. 363.
- [11] Rollo, p. 351.
- [12] Rollo, pp. 336-349
- [13] Ibid. at p. 349.
- [14] Rollo, p. 157.
- [15] Viray v. Court of Appeals, 286 SCRA 468, February 24, 1998.

[16] Office of the Court Administrator v. Benedicto, 296 SCRA 62, September 25, 1998.

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