

WENCESLA VALERA, COMPLAINANT, VS. BENJAMIN BELARMINO, RESPONDENT.*Adm. Mat. No. P-159. February 21, 1975*

Ponente: MUÑOZ PALMA, J.

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This administrative case against respondent Benjamin Belarmino, Deputy Sheriff of the Court of First Instance of Abra, Branch I, arose out of a letter-complaint filed with the Office of the President of the Republic of the Philippines on July 13, 1973, by Wencesla Valera, a resident of Bangued, Abra, for "grave abuse of authority and use of unnecessary physical force and violence" on her person in the execution or enforcement of a writ of possession issued in Civil Case No. 64 R-1 of the above-mentioned court, entitled "Intestate Estate of Francisco Valera y Verzosa; Celso Valera, petitioner; Adoracion Valera de Bringas, administratrix".

The complaint was indorsed to this Court on July 19, 1973, for appropriate action. (p. 24, rollo) On November 18, 1973, respondent sheriff was required to comment on the complaint (p. 23, *ibid.*) and after compliance (pp. 1-3, *ibid.*, the Court in a Resolution of July 16, 1974, referred the case to the Executive Judge of the Court of First Instance of Abra for investigation, report and recommendation. (p. 32, *ibid.*). The Honorable Juan P. Aquino, Executive Judge, set the case for investigation after which, in a report dated September 25, 1974, he submitted his findings and recommendation that the complaint be dismissed for lack of merit. (pp. 42-50, *ibid.*)

The factual background of the present complaint follows:

In Civil Case 64 R-1 the Court of First Instance of Abra issued an order directing the heirs of Celso Valera, a brother of the deceased Francisco Valera, to deliver certain properties to the administratrix of the latter. The complainant herein, Wencesla Valera, is a daughter of Celso Valera, and the residential house and lot occupied by the complainant was one of the properties ordered delivered to the administratrix, Mrs. Adoracion Valera Bringas. This order of the Court of First Instance of Abra was appealed to the Court of Appeals (Case No. not given) and later to the Supreme Court (G.R. No. L-35392 "Celso Valera vs. Court of Appeals, et al.") but it was affirmed in both instances. After the judgment on appeal had become final and executory, Judge Leopoldo B. Gironella of the lower court issued an order dated December 15, 1972 granting the issuance of a writ of possession and designating deputy provincial sheriff Benjamin Belarmino, now respondent, to implement the writ. (pp. 5-6, rollo) Copies of the order and writ of possession were served on the heirs of Celso Valera, one of whom as We said earlier is the complainant Wencesla Valera. Because of the belligerent attitude of Wencesla Valera, respondent Belarmino sent a letter dated January 9, 1973, to her and to the other heirs giving them until January 20, 1973, to vacate the residential house and lot with the warning that should they still fail to vacate he would be constrained to employ such means available within his authority to eject them. (Exh. 1, p. 8, *ibid.* Copy of this letter was received by the complainant. (Exh. 1-A, p. 7, *ibid.* On January 20, 1973 Wencesla Valera still refused to leave the premises and so in another letter dated January 23 respondent Belarmino gave the party concerned another extension up to February 10, 1973, to relinquish possession with the same warning given in his first letter. (Exhs. 2, 2-A, p. 10, *ibid.* Again Wencesla Valera refused to obey the aforesaid orders of the court which led Judge Juan

P. Aquino to issue on March 29, 1973 an order of the following tenor:

"The motion dated March 10, 1973, filed by counsel for the administratrix came up for hearing today and considering that there has been a delay in, the implementation of the writ directed by the appellate court and considering further that Atty. Demetrio V. Pre manifested that he is abandoning bringing the matter on certiorari to the appellate court, let the writ be implemented as previously ordered, by placing the administratrix Adoracion Valera de Bringas into the possession of all the properties covered by the said writ, and to arrest any and all persons who may resist, defy and prevent the implementation of the writ...." (p. 11, rollo; italics supplied)

Respondent wrote once more to the heirs of Celso Valera informing them this time that in the afternoon of May 8, 1973, he would "seize the premises of Bowen corner McKinley Streets, Bangued, Abra, to be delivered to the administratrix of Francisco Valera" and that "as directed by the order of the Court of First Instance of Abra dated March 29, 1973, I am going to arrest any and all persons who may desist, defy and prevent the implementation of the writ." (Exh. 3, p. 12, *ibid.* Came May 8, but Wencesla Valera continued to resist the order to vacate. With this inability of respondent to execute the writ of possession, Judge Gironella issued an order on May 9, 1973 directing the provincial sheriff to assign two of his deputies, and the provincial commander, to assign four of his men, to assist the sheriffs to carry out its orders and to arrest any person resisting or defying the same. (Exh. 4, p. 15) Armed with this order of the court, in the afternoon of May 9 respondent, in the company of four Philippine Constabulary soldiers, the barrio captain and a councilman, went to the property in question.

As to what transpired on May 9 and 10, 1973, is the crux of the present complaint.

During the investigation of this case complainant, Wencesla Valera, testified that between 2:00 and 3:00 o'clock in the afternoon of May 9 respondent came to her house and asked her to go with him to the court as she repeatedly refused to vacate the house; because she resisted, respondent took hold of her hand and dragged her for a distance of about five meters; she told respondent that she would go with him if he had a warrant for her arrest, and as there was none respondent told her "wait" and then left; the following afternoon, May 10, respondent came back to the house with four Philippine Constabulary (PC) soldiers and a son of Atty. Romeo Bringas; respondent showed her "something" and told her to come along pulling her by the hand at the same time; she explained that she was willing to vacate the house but she had not found a place where to transfer her belongings; she pleaded with respondent not to use force upon her as she had a heart ailment and might suffer from an attack; although she was not feeling well at that time, she told respondent that she would change her clothes and go with them, but while dressing, her physical condition became worse and she had to go to bed instead; her sister called her physician, Dr. Petronilo Seares who, after examining her, advised respondent not to take her unless she was accompanied by a government doctor. Dr. Seares and the PC soldiers left the house but respondent remained behind; after a while Dr. Alzate of the Abra Provincial Hospital arrived and entered her room with the respondent and the four constabulary men; after examining her, the doctor said that because she was suffering from cardiac trouble the court ordered her transfer to the Provincial Hospital where a room had been prepared for her; while she was being taken to the ambulance she saw respondent and his companions removing her belongings from the house and throwing them out on the road, and because it was raining at the time, her things were drenched, and for a week her things remained in the street unguarded and exposed to the elements and as a result some of them were damaged while others were lost. (t.s.n., Sept. 9, 1974, pp. 4-15)

On the incident, respondent's explanation follows:

Respondent was assigned by the trial court to carry out a writ of possession against the heirs of Celso Valera but he met with persistent opposition from complainant herein so much so that the trial judge had to assign two other deputy sheriffs and four Constabulary soldiers to assist him in enforcing the writ and which he finally,

accomplished after a lapse of around six months from the date of the issuance of the writ. In the morning of May 9, respondent went to the residence of Wencesla Valera, showed her a copy of the order of the court marked Exhibit 4, and asked her to vacate the house, and again she refused, so he held her by the hand to lead her away from the premises but, definitely, he did not drag her as claimed. When the complainant pleaded that she was sick and suffering from a heart ailment respondent did not insist and he left. On the following day, May 10, respondent returned to the house of Wencesla Valera accompanied by four PC soldiers, a doctor of the Provincial Hospital, the barrio captain, and a councilman. The doctor examined the complainant who was told that upon order of the court she was to be brought to the hospital where a room had been prepared for her. Complainant was then placed on a wheelchair but after a while she stood up and with the help of her nieces she walked to the waiting ambulance car. During the whole incident, the complainant was never dragged by respondent or by anyone. After Wencesla Valera had left, her belongings were brought out and placed along the street and because there was a slight drizzle respondent had to place a cover on some of the things. For around six days and nights respondent and the four PC soldiers guarded complainant's belongings until they were all removed from the street. (t.s.n., *ibid.*, pp. 42-50)

An evaluation of the evidence presented by both the complainant and the respondent leads Us to agree with the investigating Judge that the present complaint is unfounded.

The record clearly shows that for a period of five months or so the herein complainant refused to surrender the possession of the house and lot occupied by her which is one of the properties ordered by the trial court, affirmed by the Court of Appeals and this Court, to be delivered to the administratrix of the estate of the deceased Francisco Valera. This stubborn and contemptuous refusal prompted the trial court to use its coercive process by ordering the arrest of any person who continued to defy its orders. Inasmuch as the trial court had ordered the arrest of persons defying its writ of possession, respondent was justified in taking hold of the hand of complainant who was resisting compliance with the court's order, to produce her before the trial court. It is to respondent's credit that he did not insist in arresting complainant and locking her up in jail, but instead, upon complainant's plea that she was sick, sought the help of a doctor of the Provincial Hospital to examine and bring complainant to the hospital where a room was prepared for her.

Respondent vehemently denied dragging the herein complainant either on May 9 or May 10, and claimed that his actuations in implementing the writ of possession were witnessed by four PC soldiers, a barrio captain, a councilman, and a doctor of the Provincial Hospital. Although these persons were not called upon to corroborate the testimony of the respondent, the fact, however, is that none of them was called by the complainant to belie the testimony of respondent nor did she present any witness of her own to overthrow respondent's evidence.

As to the alleged loss of and damage to the personal effects of complainant, We find no truth to her claim. It was incumbent upon complainant to remove her belongings from the house subject of the writ of possession, and if respondent had to move them out himself it was due to complainant's own unreasonable and unyielding attitude. Respondent denied having thrown out complainant's things. As a matter of fact, Demetrio Pre, lawyer of the complainant in the court below, upon being called as a rebuttal witness, testified that he was present while respondent was moving out the belongings of complainant, and this witness did not mention at all that they were damaged as a result. Atty. Pre even declared that several pieces of furniture were taken to his residence while others were placed in the house of his secretary. (t.s.n., *ibid.*, pp. 59-60) Respondent also testified that because there was a slight drizzle at the time, he had to put a covering over some of the things placed on the street, and to avoid any loss he and the PC soldiers guarded for six days and nights what had not been removed.

Obviously, the filing of this complaint is the outcome of a resentment and ill-feeling harbored by complainant towards the respondent sheriff on whose shoulders fell the unpleasant task of enforcing a writ of possession

against her. Just as We will not countenance any abusive and unnecessary use of force in the implementation of judicial orders, (see *People vs. Hernandez*, 59 Phil. 343, 354-355) We shall likewise not look with favor upon one who makes a mockery of court orders and processes by the simple expediency of adopting a hostile and belligerent attitude towards their execution.

IN VIEW OF THE ABOVE CONSIDERATIONS, We find this complaint against respondent, Benjamin Belarmino, without merit and We dismiss the same.

SO ORDERED.

Castro, Acting C.J., Teehankee, Makasiar, and Esguerra, JJ., concur.

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