

ALFREDO YAESO, COMPLAINANT, VS. LEGAL RESEARCHER/OFFICER-IN-CHARGE REYNALDO R. ENOLPE AND SHERIFF IV GENEROSO B. REGALADO, BOTH OF THE REGIONAL TRIAL COURT, BRANCH 16, CEBU CITY...

A.M. No. P-08-2584. November 15, 2010

Ponente: NACHURA, J.

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NACHURA, J.:

This is an administrative complaint filed by Alfredo Yaeso (Yaeso) against respondents Reynaldo R. Enolpe (Enolpe), Acting Branch Clerk of Court, Regional Trial Court (RTC), Branch 16, Cebu City; Generoso B. Regalado (Regalado), Sheriff IV of the same RTC Branch; and Constancio V. Alimurung (Alimurung), Sheriff IV, RTC, Branch 18, Cebu City, for Abuse of Authority, Grave Misconduct, and Ignorance of the Law.

The case stemmed from the following facts:

A case for ejectment was filed with the Municipal Trial Court in Cities (MTCC), Branch 1, Cebu City, docketed as Civil Case No. R-50920, entitled "Teodorico P. Oliva, Jr. v. Maria C. Yaeso and Alfredo Yaeso." [1] On August 2, 2006, the MTCC rendered a decision, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendants-spouses Alfredo Yaeso and Maria C. Yaeso, as follows:

1. Directing defendants-spouses Alfredo Yaeso and Maria C. Yaeso, including all other persons in the premises claiming rights under them, to vacate from the premises/residential building in question;
2. Directing the defendants to pay plaintiff the following amounts:
 - a) P5,000.00 monthly rental for the use and occupation of the premises, to be reckoned from September 6, 2005 until defendants-spouses Alfredo and Maria Yaeso will vacate the premises;
 - b) P5,000.00 as attorney's fees; and
 - [c)] Costs of suit.

Defendants' Counterclaim is hereby DISMISSED for lack of merit.

SO ORDERED.[2]

Spouses Yaeso appealed to the RTC, Branch 16, docketed as Civil Case No. CEB-32855. During the pendency of the appeal, Teodorico Oliva, Jr. (Oliva), plaintiff-appellee therein, filed a motion for execution pending appeal on the ground that spouses Yaeso failed to post a supersedeas bond and to periodically deposit the monthly rentals.

In the Order[3] dated June 15, 2007, the RTC granted the motion for execution pending appeal. The corresponding Writ of Execution[4] was issued on June 18, 2007 by Enolpe. In the said writ, Regalado, as the

RTC Sheriff, was commanded to facilitate the issuance of the notice to vacate and to forcibly eject spouses Yaeso from the subject premises; and to satisfy the judgment debt, first through the goods and chattels of the spouses, then through their lands and buildings not exempt from execution.[5] Pursuant thereto, Regalado issued a Notice to Vacate[6] the subject premises. In the Order[7] dated June 27, 2007, Alimurung was appointed as Assisting Sheriff and was tasked to implement the writ of execution.

In the course of the implementation of the writ, Alimurung demolished spouses Yaeso's house without a court order for the purpose.

Hence, the affidavit-complaint.

Yaeso faults Enolpe for issuing the writ of execution despite the pendency of the appeal before the RTC; Regalado, for directing the spouses to vacate the premises, and to pay Oliva sums of money and attorney's fees; and Alimurung, for demolishing spouses Yaeso's house without a special order to do so.[8]

After Enolpe, Regalado, and Alimurung filed their respective comments, we referred the instant administrative complaint to Executive Judge Meinrado P. Paredes (Judge Paredes) of the RTC, Cebu City, for investigation, report, and recommendation.[9]

On July 30, 2009, Judge Paredes recommended the dismissal of the complaint against Enolpe and Regalado as they merely performed their official duties in issuing the writ of execution and in implementing the said writ, respectively. He, however, recommended that Alimurung be held liable for simple misconduct and be suspended for two months.[10] Judge Paredes found that there was overwhelming evidence showing that Alimurung caused the demolition of spouses Yaeso's house without any writ of demolition.

Upon referral of the case to the Office of the Court Administrator (OCA) for evaluation, the OCA adopted Judge Paredes' findings and made these recommendations:

WHEREFORE, in view of the foregoing, respectfully submitted, for the consideration of the Honorable Court, are the following recommendations:

- that the REPORT, dated 30 July 2009, of Executive Judge Meinrado Paredes, Regional Trial Court, Cebu City, be NOTED;
- that respondent Constancio V. Alimurung, Sheriff IV, Regional Trial Court, Branch 18, Cebu City, be found guilty of simple misconduct and be SUSPENDED for TWO (2) MONTHS, with STERN WARNING that a repetition of the same or similar act shall be dealt with more severity;
- that the charges against respondent Reynaldo R. Enolpe, Legal Researcher/Officer-in-Charge, Regional Trial Court, Branch 16, Cebu City, be DISMISSED for lack of merit; and
- that the charges against respondent Generoso B. Regalado, Sheriff IV, Regional Trial Court, Branch 16, Cebu City, be DISMISSED for lack of merit.[11]

Time and again, this Court has emphasized that the conduct or behavior of all officials and employees of an agency involved in the administration of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. Their conduct must at all times be characterized by, among others, strict propriety and decorum in order to earn and maintain the respect of the public for the judiciary.[12]

All employees of the judiciary should be examples of responsibility, competence, and efficiency. As officers of the court and agents of the law, they must discharge their duties with due care and utmost diligence. Any conduct they exhibit tending to diminish the faith of the people in the judiciary will not be condoned.[13]

The Court has even higher expectations from its sheriffs. Sheriffs play an important role in the administration of justice, and they should always invigorate and hold inviolate the tenet that a public office is a public trust. Being at the grassroots of our judicial machinery, sheriffs and deputy sheriffs are in close contact with the litigants; hence, their conduct should all the more maintain the prestige and the integrity of the court. By the very nature of their functions, sheriffs must conduct themselves with propriety and decorum, so as to be above suspicion. Sheriffs cannot afford to err in serving court writs and processes and in implementing court orders, lest they undermine the integrity of their office and the efficient administration of justice.[14]

It is undisputed that the most difficult phase of any proceeding is the execution of judgment. The officer charged with this delicate task is the sheriff. Despite being exposed to hazards that come with the implementation of the judgment, the sheriff must perform his duties by the book.[15]

Before the removal of an improvement from the subject premises, there must be a special order, hearing, and reasonable notice to remove. Section 10(d), Rule 39 of the Rules of Court provides:

Sec. 10. Execution of judgment for specific act.

x x x x

(d) Removal of improvements on property subject of execution. - When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court.[16]

The above-stated rule is clear and needs no interpretation. The requirement of a special order of demolition is based on the rudiments of justice and fair play. It frowns upon arbitrariness and oppressive conduct in the execution of an otherwise legitimate act. It is an amplification of the provision of the Civil Code that every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.[17] Sheriff Alimurung's compliance with the Rules of Court, especially in the implementation of judgments, is not merely directory but mandatory. He is expected to know the rules of procedure, particularly when they pertain to his function as an officer of the court.[18]

The culpability of Sheriff Alimurung is clear, given the facts of the case. It appears that he demolished the improvements on the subject property on the strength of a writ of execution alone. As an assisting sheriff, he was bound by the same duties as Sheriff Regalado. As clearly provided in the writ of execution, he was merely directed to facilitate the issuance of the notice to vacate and to forcibly eject spouses Yaeso from the subject premises; and to satisfy the judgment debt, first through the goods and chattels of the spouses, then through their lands and buildings not exempt from execution. Since there was no order in the writ for the demolition of the improvements on the land subject of the ejectment case, Alimurung's failure to observe the procedure set forth in the Rules of Court constitutes abuse of authority.[19] His ignorance of the Rules is inexcusable. His failure to strictly comply with the prescribed procedure has left a stain not only on himself but, more importantly, in the office he holds which may lead to the erosion of the people's faith and confidence in the judicial system.[20]

Sheriffs, as officers of the court and agents of the law, are bound to use prudence, due care, and diligence in the discharge of their official duties. Where rights of individuals are jeopardized by the sheriffs' actions, they may be properly fined, suspended, or dismissed from office by virtue of this Court's administrative supervision over the judicial branch of the government.[21]

We have consistently held that when a respondent's inefficiency springs from a failure to consider so basic and elemental a rule, a law, or a principle in the discharge of his duties, he is either too incompetent and undeserving

of the position and title he holds, or he is too vicious that the oversight or omission was deliberately done in bad faith and with grave abuse of judicial authority.[22]

On the penalty to be imposed, we are guided by *Guariño v. Ragsac*,[23] which is on all fours with this case. Sheriff Alimurung should be meted the penalty of suspension from office for six months and one day.

As to the cases against Enolpe and Regalado, the Court finds the recommendation of the OCA well-taken. Accordingly, the complaint against them should be dismissed.

WHEREFORE, premises considered, respondent Constancio V. Alimurung is **SUSPENDED** for **SIX (6) MONTHS** and **ONE (1) DAY**, and is **STERNLY WARNED** that a repetition of the same or similar act will be dealt with more severely.

The complaint against respondents Reynaldo R. Enolpe and Generoso B. Regalado is **DISMISSED** for lack of merit.

SO ORDERED.

Carpio, (Chairperson), Peralta, Abad, and Mendoza, JJ., concur.

[1] Rollo, Vol. I, pp. 252-256.

[2] Id. at 88-89.

[3] Id. at 6.

[4] Id. at 12-13.

[5] Id. at 13.

[6] Id. at 11.

[7] Id. at 7.

[8] Id. at 1-5.

[9] Id. at 117-118.

[10] Id. at 282-304.

[11] Memorandum, p. 7; rollo, Vol. II.

[12] *Quilo v. Jundarino*, A.M. No. P-09-2644, July 30, 2009, 594 SCRA 259, 278.

[13] Id. at 279.

[14] Id. at 279-280; *Caja v. Nanquil*, 481 Phil. 488, 518 (2004).

[15] *Caja v. Nanquil*, supra, at 518-519.

[16] Emphasis supplied.

[17] *Guariño v. Ragsac*, A.M. No. P-08-2571, August 27, 2009, 597 SCRA 235.

[18] *Katipunan ng Tinig sa Adhikain, Inc. (KATIHAN) v. Maceren*, A.M. No. MTJ-07-1680, August 17, 2007, 530 SCRA 395, 404.

[19] *Guariño v. Ragsac*, supra note 17, at 238-239.

[20] *Caja v. Nanquil*, supra note 14, at 519.

[21] *Metro Manila Transit Corp. v. Santiago*, 489 Phil. 1, 10 (2005); *V.C. Ponce Co., Inc. v. Eduarte*, 397 Phil. 498, 514 (2000).

[22] *Torres v. Sicat, Jr.*, 438 Phil. 109, 117 (2002).

[23] Supra note 17.

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