Supreme Court E-Library

of duty and negligence for failure to comply with the final paragraph of Section 9, Rule 141, of the Rules of Court and hereby impose on him a fine of FIVE THOUSAND PESOS (₱5,000.00) with a stern warning that a repetition of the same or similar act shall be dealt with more severely. The complaint against respondent Sheriff IV Rogelio S. Molina is *DISMISSED* for lack of merit.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, Buena, and *De Leon, Jr., JJ.,* concur.

THIRD DIVISION

[A.M. P-No. 01-1501. September 4, 2001]

JOSEPHINE D. SARMIENTO, *complainant, vs.* **ALBERT S. SALAMAT, Sheriff IV,** *respondent.*

SYNOPSIS

Respondent Sheriff was charged by Josephine Sarmiento with failure to execute the writ of demolition issued against her in Civil Case No. 297-95. Respondent denied the charge against him claiming that the failure to implement the writ was due to the inaction of the plaintiff in the implementation of the writ. Evidence disclosed that respondent offered to the plaintiff the services of the demolition crew of the Office of the Provincial Sheriff, but the latter refused. The plaintiff insisted that he would provide the logistics needed and the expenses to be incurred, but, even after the filing of this complaint plaintiff has not coordinated with respondent to effect the demolition. The Office of the Court Administrator (OCA) found the complaint baseless since the non-implementation of the writ is not attributable to respondent who is not obliged to proceed with the

Supreme Court E-Library

implementation of the writ considering that the expenses had not yet been advanced to him.

Although this administrative complaint is obviously unmeritorious, the Court has resolved to issue this decision only to show that even in the handling of administrative cases, it is fair to all, including its employees.

In administrative proceedings, the complainant has the burden of proving by substantial evidence the allegation in his complaint. In the absence of contrary evidence, the presumption that sheriffs have regularly performed their official duties will prevail.

It is the ministerial duty of the sheriffs to proceed with celerity and promptness in the execution of writs. However, when party-litigants in whose favor the writs have been issued, frustrate the efforts of the sheriffs to implement those writs, the latter are relieved from such duty and incur no administrative liability therefor.

SYLLABUS

1. **ADMINISTRATIVE LAW; ADMINISTRATIVE PROCEEDINGS; COMPLAINANT HAS BURDEN OF PROVING ALLEGATIONS; CASE AT BAR.** — A review of the records of the case clearly shows that the administrative Complaint does not contain any material allegation that would indicate any liability on the part of respondent sheriff. In administrative proceedings, the complainants have the burden of proving, by substantial evidence, the allegations in their complaints. In the absence of contrary evidence, what will prevail is the presumption that the sheriffs have regularly performed their official duties.

2. **ID.; JUDICIARY; SHERIFFS; WITH MINISTERIAL DUTY TO EXECUTE WRITS PROMPTLY; NO LIABILITY WHERE DUTY WAS FRUSTRATED BY PARTY-LITIGANT.** — When writs are placed in the hands of sheriffs, it is their ministerial duty to proceed with reasonable celerity and promptness to execute such writs in accordance with their mandate. However, when party-litigants, in whose favor the writs have been issued, frustrate the efforts of the sheriffs to implement those writs, the latter are relieved from such duty and incur no administrative liability therefor.

Supreme Court E-Library

3. ID.; ID.; ID.; ID.; ID.; CASE AT BAR. — Under the facts, it appears that respondent sheriff was ready to undertake the demolition by offering to the plaintiff the services of the demolition crew of the Office of the Provincial Sheriff. The plaintiff refused to proceed with the demolition, insisting that he would use his own demolition crew, to whom he would provide the necessary logistics to carry out the Writ under the supervision of respondent. Even after the filing of this administrative case, the former has not coordinated with the latter as to the manner in which the Writ of Demolition could be effected. To be sure, respondent cannot be faulted for the non-implementation of the Writ, considering that the plaintiff himself has shown listlessness or lack of interest in the execution thereof. As correctly pointed out by the OCA, the Rules provide that the party requesting the execution of a writ or process *"shall pay the sheriff's expenses in serving or executing the process."* Accordingly, respondent sheriff was not obliged to proceed with the implementation of the Writ, considering that the expenses had not yet been advanced to him. Certainly, he could not be expected to shoulder personally the demolition expenses, which should be borne by the plaintiff.

4. ID.; ID.; SUPREME COURT; WILL NOT TOLERATE OR CONDONE CONDUCT, ACT OR OMISSION WHICH VIOLATES PUBLIC NORMS OR DIMINISHES PEOPLE'S FAITH IN JUDICIARY. — Let it be known that 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.

5. ID.; ID.; ID.; WILL NOT ALSO HESITATE TO SHIELD EMPLOYEES FROM UNFOUNDED SUITS. — 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.

6. REMEDIAL LAW; ACTIONS; SHALL BE PROSECUTED IN NAME OF PARTY ENTITLED TO RIGHT TO BE ENFORCED;

Supreme Court E-Library

CASE AT BAR. — A cause of action is an act or an omission of one party in violation of the legal rights of another and only arises at the moment such rights have been transgressed. Accordingly, an action shall be prosecuted in the name of the party, who by law is entitled to the right to be enforced. In this case, complainant cannot claim to be a party whose right has been violated by the sheriff's inaction or non-implementation of the Writ of Demolition. As a matter of fact, the suspended action on the Writ was beneficial to her, because she continued to remain in possession of the subject premises despite the trial court's unfavorable judgment against her. Indeed, complainant may not, under the circumstances, take the cudgels for and in behalf of the proper party entitled to file and prosecute an administrative complaint. Even assuming *arguendo* that complainant is the proper party, the allegations and the evidence presented in support of that assumption do not constitute, on the part of respondent, any culpable act or omission that would warrant administrative sanctions.

D E C I S I O N

PANGANIBAN, *J.*:

This Court shall 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.

The Case

In a sworn Letter-Complaint[1] dated May 17, 1999, addressed to the Office of the Court Administrator (OCA), Josephine D. Sarmiento instituted an administrative Complaint against Alberto S. Salamat, Sheriff IV, RTC, Branch 80 of Malolos, Bulacan. She alleged that respondent failed to execute the Writ of

[1] *Rollo*, p. 1.

Supreme Court E-Library

Demolition[2] issued by Judge Ricardo P. Liwanag of the Municipal Trial Court of San Jose del Monte, Bulacan, in Civil Case No. 297-95 entitled *"Benjamin U. Refugio v. Josephine D. Sarmiento, et al."*

Ironically, in the aforesaid civil case, complainant was the defendant against whom the Writ of Demolition was issued. In an uncommon and unlikely scenario, she faulted respondent for allegedly failing to implement or execute the said Writ, which was directed at the premises where she was residing. Incidentally, a Notice to Vacate[3] had already been issued against her, yet she continued to defy the judicial Order and insisted that respondent should proceed with the demolition of the premises.

Although this administrative Complaint is obviously unmeritorious, the Court has resolved to issue this Decision. It has done, if only to show that even in the handling of administrative cases, it is fair to all including its own employees. This action will also respond to some criticisms that administrative decisions of this Court are always tilted against its personnel.[4]

The Facts

The facts as alleged by complainant in her Complaint-Affidavit[5] are narrated as follows:

"1. That we are the defendants in Civil Case No. 297-95 for Illegal Detainer, entitled *BENJAMIN REFUGIO versus JOSEPHINE D. SARMIENTO, et al.*, of the Municipal Trial Court of San Jose del Monte, Bulacan;

"2. That on 07 April 1999, we received a WRIT OF DEMOLITION dated 09 March 1999 issued by Hon. Judge Ricardo P. Liwanag of the aforesaid Court and a NOTICE thereof was issued by ALBERT S. SALAMAT, Deputy Sheriff, Malolos, Bulacan;

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[2] *Rollo*, pp. 4-5.

[3] *Rollo*, p. 6.

[4] In fact, this Court in a Minute Resolution dated January 15, 2001 already adopted the recommendation of the Office of the Court Administrator to dismiss the Complaint.

[5] *Rollo*, pp. 2-3.

Supreme Court E-Library

xxx xxx xxx

"4. That the NOTICE TO VACATE attached to the Writ of Demolition received on 07 April 1999, stated that the Writ [would be] executed within five (5) days inclusive of its receipt which [fell] on 11 April 1999. Xerox copy of the NOTICE TO VACATE is hereto attached and made and integral part hereof as *Annex 'B';*

"5. That on 11 April 1999 until the present the Writ of Demolition on the above described lot was not executed by Deputy Sheriff Albert S. Salamat of Malolos, Bulacan;

"6. That on 28 April 1999, defendant JOSEPHINE D. SARMIENTO filed a formal request with the Honorable Supreme Court that the Writ of Demolition (Annex 'A') be executed by Deputy Sheriff ALBERT S. SALAMAT[;] however, the said WRIT OF DEMOLITION has not been executed until the present and its 60-day lifetime expired on 10 May 1999. Xerox copy of the formal request is hereto attached and made [an] integral part hereof and marked as Annex 'C';

"7. That we are executing this Affidavit in order to lodge [an] Administrative Complaint against Deputy Sheriff ALBERT S. SALAMAT of Malolos, Bulacan, for not having executed the WRIT OF DEMOLITION (Annex 'A') dated 09 March 1999 until it expired on 10 May 1999 even [if] he notified the herein defendants that the aforesaid WRIT [would] be executed on 11 April 1999;

xxx xxx xxx."[6]

In his Comment,[7] respondent denies the charges against him and explains that the delay and the failure to implement the Writ of Demolition are the fault of Benjamin Refugio, the plaintiff in the subject civil case. He also speculates on complainant's motive, adding that it is quite ironic that the defendant, who stands to be prejudiced by the execution of the Writ, should be the one interested in the execution thereof. Respondent relates the factual incidents of the case in this manner:

"That the aforesaid Writ of Demolition [was] received by our Office on March 19, 1999 and on April 7, 1999, upon the instance of plaintiff

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[6] *Ibid.*

[7] *Rollo*, pp. 9-10.

Supreme Court E-Library

Benjamin Refugio, who only talked with the undersigned by phone[;] the Notice of Demolition/Notice to Vacate was personally served by the undersigned to defendant Josephine Sarmiento and all persons claiming rights under her/residing at the premises subject matter of the above-captioned case for demolition and thereby gave notice to defendants to peacefully and voluntarily vacate the premises subject of demolition within five (5) days upon receipt of the said Notice[;] otherwise, the Writ of Demolition [would] be enforced by the undersigned;

"That it was agreed upon by the plaintiff and the undersigned that he, plaintiff Refugio, [would] be the one to provide the undersigned with the logistics needed in the implementation of the aforesaid Writ of Demolition (re: Demolition Crew, Transportation, food/meals) together with the police assistance if so required if the defendants fail[ed] to voluntarily and peacefully vacate the premises subject of demolition after the five (5) day Notice expire[d] considering that the undersigned [could] not by himself alone, demolish the concrete structures the defendants ha[d] erected at the premises subject of demolition. It will be noted that the Office of the Provincial Sheriff ha[d] its own contractual demolition crew and it was offered by the undersigned to plaintiff to handle the task of demolition but the plaintiff insisted that he ha[d] his own demolition crew that he [could] bring during the implementation of the aforesaid writ of demolition;

"That after the five day notice expired, the undersigned was contacted by plaintiff Refugio, again only by phone, [who] relayed to the undersigned that the defendants [had] refused and still refuse[d] to vacate the said premises subject of demolition voluntarily up to this date;

"That in view of the earlier agreement between the undersigned and plaintiff Refugio, that he, plaintiff Refugio [would] be the one to provide the logistics needed/agreed upon, the undersigned told plaintiff Refugio to start consolidating the services of his demolition crew and to notify the undersigned as well whenever he, plaintiff Refugio, ha[d] already prepared his own demolition crew so that the date of demolition m[a]y be set for implementation since the undersigned [would] not carry the burden of the hiring and organizing of the demolition crew;

"That up to this date, plaintiff Refugio failed to inform the undersigned and even failed to see the undersigned personally even

Supreme Court E-Library

for purposes of coordination with regards to the setting of the date of the implementation of the writ of demolition which the undersigned [found] very unusual on the part of plaintiff Refugio, who should be the one to be interested [in]/insistent [on] the [implementation of the] writ of demolition x x x [at] the soonest possible time and not *defendant* Josephine Sarmiento, who [was] the one complaining to this good Office on the non-implementation of the aforesaid writ of demolition;

"That it [was] also ironical on the person of *defendant* Josephine Sarmiento to complain o[f] the non-implementation of the writ of demolition since she, defendant Sarmiento, [was] the losing party in this particular case and how come x x x she, defendant Sarmiento, [was] the one interested/insistent to have her house demolished?

"That if so ever x x x the undersigned [was] remiss in his duties and responsibilities as a deputy sheriff with regards to this case, it should be plaintiff Refugio, who is the prevailing party [who should] be the one to complain since it [would] be prejudicial [to] him if ever the undersigned [was] really the one at fault in the non-implementation of the aforesaid writ of demolition;"[8]

Recommendation of the OCA

In its Report and Recommendation,[9] the OCA found the administrative Complaint baseless. Exculpating respondent from any administrative liability, it discussed the matter as follows:

"**EVALUATION:** The complaint against the respondent is devoid of merit. Perusal of the records of the case reveal[s] that the non-implementation of the writ of demolition is not attributable to the respondent but to the plaintiff. Rule 141 of the Rules of Court provides that:

> 'x x x. [I]n addition to the fees hereinabove fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expenses in serving or executing the process, or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, in an amount

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[8] *Ibid.*

[9] *Rollo*, pp. 11-12.

Supreme Court E-Library

> estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and *ex-oficio* sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.'

In this case, the plaintiff seem[ed] to be not interested in the implementation of the writ of demolition considering that he [was] the one prejudiced. It should be noted that the respondent and the plaintiff made an arrangement/agreement that the latter should provide for a demolition team plus the expenses to be incurred in implementing the writ of demolition but to no avail. Thus, the respondent sheriff should not be faulted [for] the non-implementation of said writ.

RECOMMENDATION: Respectfully submitted to the Honorable Court is our recommendation that the complaint against respondent Sheriff Albert S. Salamat of the Regional Trial Court, Branch 80, Malolos, Bulacan be DISMISSED for lack of merit."[10]

The Court's Ruling

We agree with the recommendation of the OCA.

Respondent's Administrative Liability

A review of the records of the case clearly shows that the administrative Complaint does not contain any material allegation that would indicate any liability on the part of respondent sheriff. In administrative proceedings, the complainants have the burden of proving, by substantial evidence, the allegations in their complaints.[11] In the absence of contrary evidence, what will prevail is the presumption that the sheriffs have regularly performed their official duties.[12]

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[10] *Ibid.*

[11] *Lorena v. Encomienda*, 302 SCRA 632, February 8, 1999; *Cortes v. Agcaoili*, 294 SCRA 423, August 20, 1998.

[12] *Onquit v. Binamira-Parcia*, 297 SCRA 354, October 8, 1998.

Supreme Court E-Library

Non-Implementation of the Writ Was Caused by Plaintiff's Own Inaction

When writs are placed in the hands of sheriffs, it is their ministerial duty to proceed with reasonable celerity and promptness to execute such writs in accordance with their mandate.[13] However, when party-litigants, in whose favor the writs have been issued, frustrate the efforts of the sheriffs to implement those writs, the latter are relieved from such duty and incur no administrative liability therefor.

Under the facts, it appears that respondent sheriff was ready to undertake the demolition by offering to the plaintiff the services of the demolition crew of the Office of the Provincial Sheriff. The plaintiff refused to proceed with the demolition, insisting that he would use his own demolition crew, to whom he would provide the necessary logistics to carry out the Writ under the supervision of respondent. Even after the filing of this administrative case, the former has not coordinated with the latter as to the manner in which the Writ of Demolition could be effected.

To be sure, respondent cannot be faulted for the non-implementation of the Writ, considering that the plaintiff himself has shown listlessness or lack of interest in the execution thereof. As correctly pointed out by the OCA, the Rules[14] provide that the party requesting the execution of a writ or process *"shall pay the sheriff's expenses in serving or executing the process."* Accordingly, respondent sheriff was not obliged to proceed with the implementation of the Writ, considering that the expenses had not yet been advanced to him. Certainly, he could not be expected to shoulder personally the demolition expenses, which should be borne by the plaintiff.

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[13] *Mamanteo v. Magumun*, 311 SCRA 259, July 28, 1999.

[14] Rule 141, §9.

Supreme Court E-Library

Complainant Has No Cause of Action and Is Not the Proper Party

A cause of action is an act or an omission of one party in violation of the legal rights of another[15] and only arises at the moment such rights have been transgressed.[16] Accordingly, an action shall be prosecuted in the name of the party, who by law is entitled to the right to be enforced.[17] In this case, complainant cannot claim to be a party whose right has been violated by the sheriff's inaction or non-implementation of the Writ of Demolition. As a matter of fact, the suspended action on the Writ was beneficial to her, because she continued to remain in possession of the subject premises despite the trial court's unfavorable judgment against her.

Indeed, complainant may not, under the circumstances, take the cudgels for and in behalf of the proper party entitled to file and prosecute an administrative complaint. Even assuming *arguendo* that complainant is the proper party, the allegations and the evidence presented in support of that assumption do not constitute, on the part of respondent, any culpable act or omission that would warrant administrative sanctions.

As to why complainant is so determined to effect the demolition of the subject premises can only be a subject for speculation, something the Court is not inclined to do.

Let it be known that 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.[18] However, when an administrative charge against

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[15] *Leberman Realty Corporation v. Typingco*, 293 SCRA 316, July 29, 1998; *Bachrach Corporation v. Court of Appeals*, 296 SCRA 487, September 25, 1998.

[16] *Delos Reyes v. Court of Appeals*, 285 SCRA 81, January 27, 1998.

[17] *Uy v. Court of Appeals*, 314 SCRA 69, September 9, 1999.

[18] *Re: Report on the Judicial Audit, RTC Br. 117, Pasay City*, 291 SCRA 1, June 18, 1998.

Supreme Court E-Library

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.[19]

WHEREFORE, the administrative Complaint is hereby *DISMISSED,* with a warning to complainant to be more circumspect in filing administrative cases against innocent people.

SO ORDERED.

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

SECOND DIVISION

[A.M. No. P-01-1502. September 4, 2001]

CRESENCIO N. BONGALOS, *complainant, vs.* **JOSE R. MONUNGOLH and VICTORIA D. JAMITO, Clerk of Court II and Court Interpreter I, respectively of MCTC, DAUIS, BOHOL,** *respondents.*

SYNOPSIS

Complainant is the private complainant in the criminal cases for attempted homicide and for illegal possession of firearms against one Francisco Micabani. Both criminal cases were tried

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[19] *Francisco v. Leyva,* 304 SCRA 365, March 10, 1999.