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SECOND DIVISION

[A.M. No. P-99-1297. March 25, 1999]

LUDIVINA MARISGA-MAGBANUA, *complainant, vs.* **EMILIO T. VILLAMAR V, Sheriff IV, Regional Trial Court, Branch 45, San Jose, Occidental Mindoro,** *respondent.*

SYNOPSIS

Complainant, claiming ownership over the subject property by virtue of the Deed of Sale and Waiver of Rights executed in her favor by her co-heirs, filed a complaint against the spouses Cantonjos, Civil Case No. R-838. The RTC rendered judgment limiting its adjudication to complainant's claim of ownership and possession over the subject property wherein the latter was ordered to vacate the subject lot. Judgment was not, however, executed by respondent Sheriff notwithstanding the issuance of an alias writ of execution and order of demolition. Charged with dereliction of duty, respondent, for his defense, claimed that the property, subject of another case between complainant and her other co-heirs, requires a relocation survey to determine the portion owned by complainant before he can enforce the decision. He also submitted a joint affidavit executed by the other heirs allowing the Cantonjos to stay and occupy a portion of the lot.

Execution is the fruit and end of the suit and is the life of the law. A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party. It, therefore, behooves sheriffs to be zealous in the performance of their duties. Unless restrained by a court order to the contrary, they should see to it that the execution of judgment is not unduly delayed. It is respondent's ministerial duty to implement the decision and his failure to comply with this duty constitutes dereliction of duty.

SYLLABUS

1. CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT

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PERSONNEL; SHERIFF; SHOULD SEE TO IT THAT EXECUTION OF JUDGMENTS IS NOT UNDULY DELAYED UNLESS RESTRAINED BY COURT ORDER.— It is almost trite to say that execution is the fruit and end of the suit and is the life of law. A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party. It, therefore, behooves sheriffs to be zealous in the performance of their duties. Unless restrained by a court order to the contrary, they should see to it that the execution of judgments is not unduly delayed.

2. **ID.; ID.; ID.; ID.; ID.; FAILURE TO COMPLY WITH DUTY CONSTITUTES DERELICTION OF DUTY; CASE AT BAR.**— Respondent sheriff has failed in his duty, as spelled out in the alias writ of execution issued by the RTC, to "cause the execution of the Decision rendered by the Regional Trial Court, Branch 45, San Jose, Occidental Mindoro on August 11, 1994 and the Court of Appeals, Manila on March 5, 1996, in the above-entitled case, which has already become final and executory" and in the writ of demolition to "cause the demolition of whatever constructions/structures made by defendants Ignacio Cantonjos and Marietta Cantonjos, and all other person(s) claiming under their names, on the land and property of plaintiff Sps. Ludivina Marisga-Magbanua and Ricardo Magbanua, covered by TCT No. T-6804 of the Register of Deeds of Occ. Mindoro, located at Labangan, San Jose, Occ. Mindoro, containing an area of 400 sq. meters, more or less, after ten (10) days notice given to them and/or present occupants thereof; if and when they refused to vacate or remove voluntarily whatever constructions/structures they have made on the said lot mentioned above." Accordingly, as recommended by the Office of the Court of Administrator, respondent Sheriff Emilio T. Villamar V, is found guilty of dereliction of duty and is fined in the amount of Two Thousand Pesos (₱2,000.00). He is also warned that a repetition of the same or similar offense will be dealt with more severely.

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DECISION

MENDOZA, *J.*:

This is a complaint filed by Ludivina Marisga-Magbanua against respondent Sheriff Emilio T. Villamar V of the Regional Trial Court, Branch 45, San Jose, Occidental Mindoro for dereliction of duty in connection with the execution of the decision rendered by the RTC in Civil Case No. R-838, entitled "Ludivina Marisga-Magbanua, assisted by husband Ricardo Magbanua *vs.* Spouses Ignacio Cantonjos and Marietta Cantonjos." The dispositive portion of the decision in that case reads:

> ACCORDINGLY, therefore, the Court has to render judgment for the plaintiff as against the defendant spouses and orders the latter to vacate the subject lot covered by TCT No. 6804 and to stay ejectment, has to pay ₱500.00 rental a month to the plaintiff until defendants desire to pay off the plaintiff on the subject lot or until they vacate the same.[1]

After the decision had become final and executory, the RTC on October 24, 1996 issued a writ of execution. However, on January 14, 1997, complainant moved for the issuance of an alias writ of execution and order of demolition, alleging that the same was necessary in view of the sheriff's report showing that "there was failure in implementing the writ of execution" and also because she was in dire need of the property.[2] The RTC granted her motion and on April 17, 1997 issued the alias writ of execution and on May 19, 1997, a writ of demolition.[3]

In her complaint, complainant alleges that notwithstanding the foregoing, respondent sheriff still "failed to enforce/ implement said execution" when it was his ministerial duty to

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[1] RTC Decision dated August 11, 1994 in Civil Case No. R-838, p. 8; *Rollo*, p. 32.

[2] *Id.*, p. 45.

[3] *Id.*, pp. 6-7.

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do so. Complainant, therefore, prayed that "a proper administrative case be filed against" respondent sheriff.

In his comment, dated August 21, 1997,[4] respondent sheriff claimed that the property in question was owned in common by the heirs of the late Severino Marisga and Eleuteria de la Cruz-Marisga and that, as such, there was a need for a relocation survey of the property to determine the portion owned by complainant before he can enforce the said decision. Respondent sheriff attached to his comment a copy of TCT No. T-6804 showing the registered owners of the property to be as follows:

ELEUTERIA CRUZ MARISGA, widow; PRESENTACION MARISGA SUGUITAN, married to Fortunato Suguitan; CON[S]OLACION MARISGA, single; LUDIVINA MARISGA-MAGBANUA, married to Ricardo Magbanua; FLORA MARISGA MANGAHAS, married to Valentino Mangahas (but separated already for many years); SEVERINO MARISGA, JR., married to Erlinda Estrilla; FILONILA MARISGA CENDAÑA, married to Javier Cendaña and MAMERTO MARISGA, married to Remedios Pura, all Filipinos, of legal age, and residents of Labangan, San Jose, Occidental Mindoro, Philippines.[5]

He also filed a joint affidavit, dated May 26, 1997, of Severino Marisga, Jr., Mamerto Marisga, Jr., Ma. Victoria Marisga-Sincua (representing the heirs of Filonila Marisga-Cendaña), and Lilibeth Marisga Cendaña in which they state:

That, our sister [herein complainant] filed a case before the Regional Trial Court, San Jose, Occ. Mindoro entitled Ludivina Marisga-Magbanua *versus* Sps. Ignacio and Marietta Cantonjos without consulting us first considering that the residential lot subject of the case is a common property;

That, likewise, we subsequently filed a case against our sister Ludivina Marisga-Magbanua for completely disregarding our rights and interest over the aforesaid property entitled Severino Marisga, Jr., et al., *vs.* Sps. Ludivina Marisga-Magbanua for Recovery of Possession, Annulment of Deed of Sale and Waiver of Rights in Civil

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[4] *Id.*, p. 9.

[5] *Id.*, p. 13.

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Case No. 1018 which is still pending before the Regional Trial Court, Branch 46, San Jose, Occ. Mindoro for property adjudication;

That, during the pendency of the case we allowed the Sps. Ignacio and Marietta Cantonjos to stay and occupy a certain portion of the land;

That, in view of the present situation, we are requesting our sister Ludivina Marisga-Magbanua to conduct a resurvey of the property in order to determine our share being co-owners of the land;

That, at this point of time, we believe that the writ of execution and demolition is premature and off-tangent considering our rights and interest will be prejudiced, hence the same must have to be held in abeyance until after the termination of Civil Case No. 1018 filed against our sister Ludivina Marisga-Magbanua.[6]

Respondent sheriff also alleges that "some of the co-owners are willing to give or donate their shares in favor of the losing party considering that the defendant is a first cousin of [theirs]." He, therefore, prays that the instant complaint be dismissed for lack of merit.

In reply, complainant alleges that the joint affidavit of her alleged co-owners "has no leg to stand on" and that "nowhere in the dispositive portion of the decision sought to be enforced could be found that a relocation survey is needed to ascertain the portion owned by the complainant Ludivina Marisga-Magbanua."

In its memorandum, dated February 8, 1999, the Office of the Court Administrator recommends that the case be redocketed as an administrative matter and that respondent be ordered to pay a fine of ₱3,000.00 with a warning that repetition of a similar offense will be dealt with more severely.

Except for the amount of the fine, the Court finds the recommendation to be well taken.

A reading of the decision in Civil Case No. R-838 shows that complainant's cause of action is based on her claim that she is the owner of the property by virtue of the Deed of Sale

[6] *Id.*, p. 12.

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and Waiver of Rights executed in her favor by her co-heirs.[7] Thus, the RTC in rendering its decision limited its adjudication to complainant's claim of ownership and possession over the subject property *vis-à-vis* that of defendant spouses Cantonjos.

The decision being clear, it is respondent sheriff's ministerial duty to implement the same despite the claim of the other heirs of Severino Marisga that they own the subject property in common with complainant. Such a claim in any case apparently is still under litigation in another proceeding, and it does not appear that the other Marisgas have obtained any judicial writ or process to stay execution of the decision in Civil Case No. R-838.

Respondent Sheriff put up all sorts of excuses to justify his inaction. He did not enforce the first writ of execution on the pretext that defendant spouses had expressed willingness to amicably settle the case with complainant.[8] When handed an alias writ of execution and asked to enforce it, he demurred on the ground that a relocation survey was necessary to determine complainant's share in the subject lot.[9] There was no basis for all his excuses, and it was apparent that he was dragging his feet.

It is almost trite to say that execution is the fruit and end of the suit and is the life of law.[10] A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party.[11] It, therefore, behooves sheriffs to be zealous in the performance of their duties. Unless restrained by a court order to the contrary, they should see to it that the execution of judgments is not unduly delayed.[12]

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[7] RTC Decision in Civil Case No. R-838, p. 1; *id.*, p. 25.

[8] Sheriff's Report, dated November 28, 1996; *id.*, p. 46.

[9] Comment, dated August 21, 1997; *id.*, p. 10.

[10] *Villareal v. Rarama*, 247 SCRA 493 (1995); *Tan v. Herras*, 195 SCRA 1 (1991).

[11] *Jumio v. Egay-Eviota*, 231 SCRA 551 (1994).

[12] *National Bureau of Investigation v. Tuliao*, 270 SCRA 351 (1997); *Portes v. Tepace*, 267 SCRA 185 (1997); *Padilla v. Arabia*, 242 SCRA 227 (1995); *Elipe v. Fabre*, 241 SCRA 249 (1995).

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Respondent sheriff has failed in his duty, as spelled out in the alias writ of execution issued by the RTC, to "cause the execution of the Decision rendered by the Regional Trial Court, Branch 45, San Jose, Occidental Mindoro on August 11, 1994 and the Court of Appeals, Manila on March 5, 1996, in the above-entitled case, which has already become final and executory"[13] and in the writ of demolition to "cause the demolition of whatever constructions/structures made by defendants Ignacio Cantonjos and Marietta Cantonjos, and all other person(s) claiming under their names, on the land and property of plaintiff Sps. Ludivina Marisga-Magbanua and Ricardo Magbanua, covered by TCT No. T-6804 of the Register of Deeds of Occ. Mindoro, located at Labangan, San Jose, Occ. Mindoro, containing an area of 400 sq. meters, more or less, after ten (10) days notice given to them and/or present occupants thereof; if and when they refused to vacate or remove voluntarily whatever constructions/structures they have made on the said lot mentioned above."[14]

ACCORDINGLY, as recommended by the Office of the Court Administrator, respondent Sheriff Emilio T. Villamar V, is found GUILTY of dereliction of duty and is FINED in the amount of Two Thousand Pesos (₱2,000.00). He is also WARNED that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Bellosillo (Chairman), Puno, Quisumbing, and *Buena, JJ.,* concur.

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[13] *Rollo*, p. 9.

[14] *Id.*, p. 6.