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[A.M. P-99-1343. June 28, 2001]

ORLANDO T. MENDOZA, *petitioner, vs.* **SHERIFF IV ROSBERT M. TUQUERO, and SHERIFF IV ANTONIO V. LEANO, JR.,** *respondents.*

SYNOPSIS

Respondent sheriffs were charged with manifest negligence and gross misfeasance in delaying the implementation of writs of demolition in an ejectment case. Evidence disclosed that respondents for 4 years failed to execute the writ of demolition and that it was only on the fourth *alias* writ, during the pendency of this administrative case, that execution was implemented.

The duty of sheriffs to promptly execute a writ is mandatory and ministerial. Failure to execute it for four (4) years constitutes gross neglect of duty and serious misconduct in office punishable by dismissal. Both respondent sheriffs were dismissed from the service.

SYLLABUS

1. **ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERIFFS; PROMPT EXECUTION OF WRIT, MANDATORY.**— The nud for a fourth alias writ of execution eloquently evinces the unnecessary delay in its implementation. In *Smith Bell and Co. v. Saur*, we held that the duty of sheriffs to promptly execute a writ is mandatory and ministerial. Sheriffs have no discretion on whether or not to implement a writ. There is no need for the litigants to "follow-up" its implementation.
2. **ID.; ID.; ID.; ROLE IN ADMINISTRATION OF JUSTICE.**— Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its order, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. In *Moya v. Bassig*, we dismissed respondent sheriff for his failure to execute the trial court's decision.

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3. **ID.; ID.; FAILURE TO EXECUTE WRIT FOR FOUR YEARS CONSTITUTES GROSS NEGLECT OF DUTY.**— In the case at bar, the classic line "justice delayed is justice denied" finds relevance. The decision of the municipal trial court has become final. It was imperative to execute it. Respondent-sheriffs' failure to execute it for four (4) years constitutes gross neglect of duty.
4. **ID.; ID.; ID.; CONDUCT AND BEHAVIOR OF EVERYONE SHOULD BE CIRCUMSCRIBED WITH HEAVY BURDEN OF RESPONSIBILITY.**— The conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion.
5. **ID.; ID.; ID.; PENALTY; UNREASONABLE DELAY.**— In *Gonzales Yao v. Hatab,* we dismissed respondent sheriff for his unreasonable delay in executing the judgment of the trial court in an ejectment case. In this case, respondent sheriff's folly is no less different, thus warranting the same punishment meted out to the deputy sheriff involved in the afore-cited "Bassig" case and in the "Hatab" case.

RESOLUTION

PER CURIAM:

The case is an administrative complaint against Sheriff IV Rosbert M. Tuquero and Sheriff IV Antonio V. Leano, Jr., (hereafter, "respondent-sheriffs") both of the Office of the Provincial Sheriff, Province of Tarlac, for "manifest negligence and gross misfeasance" in delaying the implementation of writs of demolition in an ejectment case.[1]

Complainant Orlando T. Mendoza (hereafter, "Orlando") is the attorney-in-fact of Lolita Casila P. Mendoza, plaintiff in a civil case for ejectment[2] before the Municipal Trial Court, Tarlac, Tarlac.[3]

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[1] Civil Case No. 5747, Municipal Trial Court, Tarlac, Tarlac.

[2] Civil Case No. 5747.

[3] Letter Complaint, *Rollo*, pp. 1-3, at p. 1.

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Plaintiff Lolita P. Casila Mendoza averred that defendants[4] occupied her lot located at San Rafael, Tarlac, Tarlac, without any color of title thereto. Plaintiff prayed that defendants remove the houses they constructed on the land, pay her compensatory damages and restore the possession of the land to her.[5]

On April 12, 1994, the Municipal Trial Court, Tarlac, Tarlac, rendered a decision[6] in favor of plaintiff and against defendants, thus:[7]

"WHEREFORE, decision is hereby rendered in favor of the plaintiff ordering:

"1. the defendants and all persons claiming rights under them to vacate the premises by removing their houses constructed thereon;

"2. to pay plaintiff the amount of ₱10,000.00 as attorney's fees and litigation expenses;

"3. to pay the amount of ₱500.00 a month as compensatory damages counted from the time they occupied the premises until the possession thereof is restored to the plaintiff;

"4. and to pay the costs.

"SO ORDERED."

No appeal was taken by the parties and the decision became final and executory on April 29, 1994.[8]

On May 2, 1994, Orlando filed with the municipal trial court, a "motion for writ of execution" of the aforequoted decision. We quote the motion:[9]

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[4] Maria Vda. Tolentino, Sps. Efren Reyes and Magdalena Tolentino, Sps. Ricardo Pineda and Gloria Tolentino, Sps. Eulogio Tolentino and Lucila Tolentino.

[5] Letter-Complaint, Annex "A", Decision of the Municipal Trial Court, *Rollo*, pp. 3-5, at p. 4.

[6] Judge Panfilo V. Valdez, presiding.

[7] Letter Complaint, Annex "A", Decision of the Municipal Trial Court, *Rollo*, pp. 3-5, at p. 5.

[8] Letter Complaint, Annex "A", Decision of the Municipal Trial Court, *Rollo*, p. 6.

[9] Letter Complaint, Annex "A", Decision of the Municipal Trial Court, *Rollo*, p. 6.

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"Plaintiff states:

"1. That defendants were served with a copy of the decision in the above-entitled case on April 14, 1994 and until now, no appeal has been taken therefrom.

"2. That the time to appeal has expired, and said decision is already final, unapppealable and executory.

"WHEREFORE, plaintiff prays that a writ of execution be issued on (*sic*) this case."

On May 16, 1994, the trial court issued a writ of execution.[10]

On June 10, 1994, complainant filed with the trial court a motion for demolition for failure of the defendants to comply with the decision.[11]

On June 13, 1994, the trial court granted the motion and issued a writ of demolition commanding the Sheriff of Tarlac, Tarlac:[12]

"....xxx...to demolish the improvements erected by the defendants on the premises in question.

"This writ shall be returned by you to this Court within ten (10) days from the date of receipt hereof, together with your proceedings indorsed thereon."

Complainant Orlando alleged that the writ of demolition was not implemented because the defendants pleaded with plaintiff that the case be settled amicably.[13] However, the amicable settlement did not materialize.[14]

On August 31, 1995, the trial court granted complainant Orlando's motion[15] for the issuance of an *alias* writ of demolition.[16]

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[10] As stated in the Writ of Demolition issued on June 13, 1994, p. 7, Letter-Complaint, Annex "B", *Rollo*, p. 7.

[11] As stated in the Writ of Demolition issued on June 13, 1994, Letter Complaint, Annex "B", *Rollo*, p. 7.

[12] Letter Complaint, Annex "B", Writ of Demolition, *Rollo*, p. 7.

[13] Letter-Complaint, *Rollo*, pp. 1-3 at p.1. See also Sheriff's Return, 1st Indorsement dated November 10, 1994, Letter-Complaint, Annex "C", *Rollo*, p. 8.

[14] Letter-Complaint, *Rollo*, pp. 1-3, at p. 1.

[15] Dated August 23, 1995.

[16] As stated in the Resolution of the Trial Court, *Rollo*, p. 10.

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The Provincial Sheriff of Tarlac did not implement the *alias* writ of demolition.

On February 5, 1997, upon motion of complainant,[17] the trial court issued a second *alias* writ of demolition.[18]

Again, the Provincial Sheriff of Tarlac did not implement the second *alias* writ of demolition. In a "sheriff's return of service" dated April 14, 1997, respondent-sheriffs stated that the second *alias* writ of demolition was not effected because defendants filed with the trial court a motion for a temporary restraining order.[19]

On April 10, 1997, the trial court denied defendant's motion for a temporary restraining order.[20]

On April 18, 1997, on motion of complainant,[21] the trial court issued a third *alias* writ of demolition.[22] This writ was likewise not implemented as evidenced by the Sheriff's Return dated May 12, 1997.[23]

On July 4, 1997, the trial court granted complainant's fourth motion[24] and issued a fourth *alias* writ of demolition.[25]

On November 21, 1997, Orlando wrote the Court Administrator, Supreme Court,[26] a letter-complaint against respondent-sheriffs.[27] Orlando alleged that respondent-sheriffs were deliberately

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[17] Dated January 14, 1997, Letter-Complaint, Annex "E", *Rollo*, p. 13.

[18] Letter-Complaint, Annex "F", *Rollo*, p. 14.

[19] To restrain the municipal trial court from enforcing the second *alias* writ of demolition.

[20] Letter-Complaint, *Rollo*, p. 19.

[21] Dated April 16, 1997, *Rollo*, p. 20.

[22] Letter-Complaint, Annex "H", *Rollo*, pp. 21-22.

[23] Letter-Complaint, Annex "I", *Rollo*, p. 24.

[24] Dated June 19, 1997, Letter-Complaint, Annex "K", *Rollo*, p. 27.

[25] Letter-Complaint, Annex "K", *Rollo*, p. 28.

[26] Addressed to Justice Alfredo L. Benipayo.

[27] Letter-Complaint, *Rollo*, pp. 1-3.

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deferring the implementation of the writ of demolition to favor the defendants.[28]

In the meantime, on February 27, 1998, respondent – sheriffs implemented the fourth *alias* writ of demolition.[29]

Hence, respondents-sheriffs prayed that complainant's letter-complaint be set aside and that they be relieved of any liability arising from non-implementation of the fourth *alias* writ of demolition.[30]

On November 22, 1999, the Court resolved to refer the case to Executive Judge Arsenio P. Adriano of the Regional Trial Court, Tarlac City, for investigation, report and recommendation within ninety (90) days from notice.[31]

On January 5, 2000, Executive Judge Adriano recommended that the administrative case against respondent-sheriffs be dismissed given that the fourth *alias* writ of demolition was eventually executed.[32]

On January 27, 2000, Executive Judge Adriano submitted another report and recommendation. He found that there was delay in the implementation of the writ of demolition. Every time a demolition was scheduled, the plaintiff and her attorney-in-fact had to secure the services of carpenters and policemen to effect the demolition, causing them to incur unnecessary expenses. He found that respondent-sheriffs were guilty of neglect in the performance of their duties and recommended that they be ordered to pay a fine of at least one thousand pesos (₱1,000.00) each.[33]

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[28] *Ibid.*, p. 3.

[29] *Rollo*, pp. 34-35.

[30] *Rollo*, p. 33.

[31] *Rollo*, p. 51.

[32] Report and Recommendation, *Rollo*, pp. 59-60, at p. 60.

[33] Recommendation of Executive Judge Arsenio P. Adriano, *Rollo*, pp. 53-54.

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On February 23, 2000, the Court resolved to refer the case to the Office of the Court Administrator for evaluation, report and recommendation within thirty (30) days from notice.[34]

On May 8, 2000, the Office of the Court Administrator[35] submitted the following recommendation:[36]

"IN VIEW OF THE FOREGOING, the undersigned respectfully recommends that a FINE in the amount of Five Thousand Pesos (₱5,000.00) each be imposed against respondents with a STERN WARNING that a repetition of the same or similar act in the future shall be dealt with more severely."

We agree with the findings of the Office of the Court Administrator, except as to the recommended penalty. True, after four (4) years, respondent-sheriffs finally implemented the fourth *alias* writ of demolition. However, this will not exculpate them from liability. The need for a fourth *alias* writ of execution eloquently evinces the unnecessary delay in its implementation. In *Smith Bell and Co. v. Saur*,[37] we held that the duty of sheriffs to promptly execute a writ is mandatory and ministerial. Sheriffs have no discretion on whether or not to implement a writ. There is no need for the litigants to "follow-up" its implementation.

Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its order, they cannot afford to err without affecting the integrity of their office

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[34] *Rollo*, p. 57.

[35] Through Officer in Charge, Office of the Court Administrator Bernardo T. Ponferrada and OIC – Legal Office of the Court Administrator Danilo L. Mendoza.

[36] Memorandum for Hon. Hilario G. Davide, Jr., *Rollo*, pp. 78-81, at p. 81.

[37] 96 SCRA 667, 671 (1980) and *Duenas v. Mandi*, 151 SCRA 530, 543 (1987).

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and the efficient administration of justice.[38] In *Moya v. Bassig*,[39] we dismissed respondent sheriff for his failure to execute the trial court's decision. There, we held:

"It is indisputable that the most difficult phase of any proceeding is the execution of judgment. Hence the officers charged with the delicate task of the enforcement and/or implementation of the same must, in the absence of a restraining order, act with considerable dispatch so as not to unduly delay the administration of justice; otherwise, the decisions, orders or other processes of the courts of justice and the like would be futile. Stated differently, the judgment if not executed would be just an empty victory on the part of the prevailing party."

In the case at bar, the classic line "justice delayed is justice denied" finds relevance. The decision of the municipal trial court has become final. It was imperative to execute it. Respondent-sheriffs' failure to execute it for four (4) years constitutes gross neglect of duty.

The conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion.[40]

In *Gonzales La'o v. Hatab*,[41] we dismissed respondent sheriff for his unreasonable delay in executing the judgment of the trial court in an ejectment case.

In this case, respondent-sheriff's folly is no less different, thus warranting the same punishment meted out to the deputy sheriff involved in the afore-cited "Bassig" case and in the "Hatab" case.

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[38] *Teresa T. Gonzales La'o & Co., Inc. v. Sheriff Jadi T. Hatab*, A.M. No. P-99-1337, April 5, 2000.

[39] 138 SCRA 49, 52-53 (1985).

[40] *Neeland v. Villanueva*, 317 SCRA 652, 658 (1999).

[41] A.M. No. P-99-1337, April 5, 2000.

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WHEREFORE, the Court finds respondents Sheriff IV Rosbert M. Tuquero and Sheriff IV Antonio V. Leano, Jr. both of the Office of the Provincial Sheriff of Tarlac, Tarlac, guilty of gross neglect of duty and serious misconduct in office, and accordingly, orders their *DISMISSAL* from the service with forfeiture of all leave credits and retirement benefits, if any, with prejudice to reemployment in any branch of the government or any of its agencies or instrumentalities including government-owned and controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.*, concur.

THIRD DIVISION

[A.M. No. RTJ-00-1576. June 28, 2001]
(formerly OCA IPI No. 99-647 RTJ)

SIMPLICIO ALIB, for himself and in behalf of the members of the MANDALAGAN SMALL FARMERS COOPERATIVE, *complainants, vs.* **JUDGE EMMA C. LABAYEN of the Regional Trial Court, Bacolod City, Branch 46,** *respondent.*

SYNOPSIS

In the instant administrative complaint, complainants averred that respondent Judge Labayen was administratively liable for issuing an illegal warrant of arrest after admitting that she had no jurisdiction over the case. Respondent Judge Labayen, however, alleged that there was no malice nor bad faith in her signing the warrant of arrest because as pairing judge of Branch 45 it was ministerial on her part to sign warrants of arrest coming from that