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EN BANC

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

TERESA T. GONZALES LA'O & CO., INC., thru counsel JOSE P. O. ALILING IV, *complainant, vs.* **Sheriff JADI T. HATAB,** *respondent.*

SYNOPSIS

Complainant was a winning party in an unlawful detainer case it filed against defendant Eduardo Vicente with the Metropolitan Trial Court of Makati, Branch 66 involving a leased apartment in Consolidated Mansion Condominium, South Superhighway, Makati City. On appeal, the Regional Trial Court affirmed the municipal trial court's judgment ousting defendant Vicente from the subject premises. However, the latter refused to surrender possession of the premises. This prompted the complainant to file an urgent motion for execution pending appeal with the Regional Trial Court which granted the motion in an order dated September 1, 1997. Notwithstanding the September 1, 1997 order and despite repeated follow-ups made by complainant for about one (1) month after the Regional Trial Court had rendered its August 4, 1997 decision, respondent failed to execute the judgment, thus prompting the complainant to file an administrative complaint against respondent. In his defense, respondent claimed that he held in abeyance the execution of the Regional Trial Court's judgment upon learning of the pendency of an urgent motion to reconsider and by reason of the re-raffle of the case after Judge Lucia Violago Isnani inhibited herself from further acting thereon.

The Supreme Court upheld the recommendation of the Office of the Court Administrator that respondent sheriff be held administratively liable for delaying without valid reason the execution of the decision of the Regional Trial Court in Civil Case No. 97-1067. Respondent's claim that the pendency of defendant Vicente's motion for reconsideration and the re-raffle of the case to another sala does not justify his failure to enforce the writ of execution issued by the court. The Court stressed that when a writ is placed in the hands of a sheriff, it is his duty to proceed with reasonable celerity and promptness to execute it according to its mandate. He has no discretion whether or not to execute the judgment. Respondent Sherriff was dismissed from the service.

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APPEARANCES OF COUNSEL

Jose P. O. Aliling for complainant.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERIFFS; MINISTERIAL DUTY TO IMPLEMENT WRITS OF EXECUTION PROMPTLY AND EXPEDITIOUSLY.—** Respondent's claim that the pendency of defendant Vicente's motion for reconsideration and the re-raffle of the case to another sala does not justify his failure to enforce the writ of execution issued by the court. When a writ is placed in the hands of a sheriff, it is his duty to proceed with reasonable celerity and promptness to execute it according to its mandate. He has no discretion whether or not to execute the judgment. Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of courts. If not enforced, such decisions are empty victories of the prevailing parties. They must therefore comply with their mandated ministerial duty to implement writs promptly and expeditiously. 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.

2. **ID.; ID.; ID.; ID.; PENDENCY OF APPEAL FILED BY THE JUDGMENT DEBTOR WITH THE APPELLATE COURT DOES NOT JUSTIFY SHERIFF'S FAILURE TO EXECUTE THE WRIT OF EXECUTION.—** In *Moya vs. Bassig,* we dismissed Deputy Sheriff Renato A. Bassig from the service on the findings that he failed to enforce a writ of execution for the sale at public auction of property of the judgment debtor, brushing aside his explanation that there was a pending appeal filed by the judgment debtor with the Court of Appeals. In calling for respondent Bassig's separation from the service, we justified the same in this wise: "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

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

RESOLUTION

PER CURIAM:

This administrative case arose from a verified complaint filed on September 17, 1997 by complainant Teresa T. de Gonzales La'O & Co., Inc. against respondent Sheriff Jadi T. Hatab of the Regional Trial Court, Branch 59, Makati for grave misconduct.

Complainant was a winning party in an unlawful detainer case it filed against defendant Eduardo Vicente with the Metropolitan Trial Court of Makati, Branch 66 involving a leased apartment in Consolidated Mansion Condominium, South Superhighway, Makati City.

During the pendency of the appeal of the case in the Regional Trial Court, Branch 59, Makati,[1] complainant moved for the issuance of a writ of preliminary injunction which the Regional Trial Court granted in its decision[2] dated August 4, 1997[3] affirming the municipal trial court's judgment ousting defendant Vicente from the subject premises.

Accordingly, on August 7, 1997, the trial court issued a writ of preliminary mandatory injunction[4] and on August 8, 1997, a notice to vacate,[5] duly served upon defendant Vicente. However, the latter

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[1] Docketed as Civil Case No. 97-1067.

[2] *Rollo*, Annex "A".

[3] Penned by Judge Lucia Violago Isnani, now retired.

[4] *Rollo*, Annex "B".

[5] *Rollo*, Annex "C".

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refused to surrender possession of the premises. This prompted the complainant to file an urgent motion for execution pending appeal with the Regional Trial Court which granted the motion in an order[6] dated September 1, 1997, the decretal portion of which reads:

"Premises considered and finding the motion for execution to be meritorious and in order, the same is granted. Let the corresponding writ of execution in accordance with the decision of this Court, affirming *in toto* the decision of the trial court, in favor of the plaintiff-appellee be issued."

Notwithstanding the September 1, 1997 order and despite repeated follow-ups made by complainant for about one (1) month after the Regional Trial Court had rendered its August 4, 1997 decision, respondent failed to execute the judgment, thus prompting the complainant to file an administrative complaint against respondent.

On August 14, 1997, the defendant Vicente filed with the Court of Appeals a petition for *certiorari,* prohibition and *mandamus* assailing the September 1, 1997 order of the Regional Trial Court. On October 9, 1997, the Court of Appeals dismissed the petition.

In his defense, respondent claims that he held in abeyance the execution of the Regional Trial Court's judgment (1) upon learning of the pendency of an urgent motion to reconsider the September 1, 1997 order of the Regional Trial Court (granting complainant's motion for execution pending appeal) and (2) by reason of the re-raffle of the case after Judge Lucia Violago Isnani inhibited herself from further acting thereon.

This Court agrees with the Office of the Court Administrator's recommendation that respondent sheriff be held administratively liable for delaying without valid reason the execution of the decision of the Regional Trial Court in Civil Case No. 97-1067.

Section 21, Rule 70 of the 1997 Rules of Civil Procedure provides:

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[6] *Rollo*, Annex "E".

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"Sec. 21. Immediate execution on appeal to Court of Appeals or Supreme Court. — The judgment of the Regional Trial Court against the defendant shall be immediately executory, without prejudice to a further appeal that may be taken therefrom."

Unlike Rule 70 of the 1964 Revised Rules of Court where the defendant, after perfecting his appeal, could prevent the immediate execution of the judgment by taking an appeal and making a periodic deposit of monthly rentals during the pendency of the appeal thereby preventing the plaintiff from taking possession of the premises in the meantime, the present wording of Section 21, Rule 70 explicitly provides that the judgment of the regional trial court in ejectment cases appealed to it shall be immediately executory and can be enforced despite the perfection of an appeal to a higher court.

Consequently, respondent's claim that the pendency of defendant Vicente's motion for reconsideration and the re-raffle of the case to another sala does not justify his failure to enforce the writ of execution issued by the court. When a writ is placed in the hands of a sheriff, it is his duty to proceed with reasonable celerity and promptness to execute it according to its mandate.[7] He has no discretion whether or not to execute the judgment.[8]

Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of courts. If not enforced, such decisions are empty victories of the prevailing parties.[9] They must therefore comply with their mandated ministerial duty to implement writs promptly and expeditiously. 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

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[7] *Onquit vs. Binamira-Parcia,* 297 SCRA 354 [1998]; *Villareal vs. Rarama,* 247 SCRA 493 [1995]; *Padilla vs. Arabia,* 242 SCRA 227 [1995]; *Young vs. Momblan,* 205 SCRA 33 [1992].

[8] *Aristorenas vs. Molina,* 246 SCRA 134 [1995]; *Smith Bell & Company vs. Saur,* 96 SCRA 667 [1980].

[9] *Dilan vs. Dulfo*, A.M. No. P-99-1293, March 11, 1999, 304 SCRA 460.

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affecting the integrity of their office and the efficient administration of justice.[10]

In *Moya vs. Bassig*,[11] we dismissed Deputy Sheriff Renato A. Bassig from the service on the finding that he failed to enforce a writ of execution for the sale at public auction of property of the judgment debtor, brushing aside his explanation that there was a pending appeal filed by the judgment debtor with the Court of Appeals. In calling for respondent Bassig's separation from the service, we justified the same in this wise:

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

WHEREFORE, the Court *DISMISSES* respondent Sheriff Jadi T. Hatab, Regional Trial Court, Branch 59, Makati City from the service for grave misconduct, with forfeiture of all retirement benefits and leave credits, if any, and with prejudice to reinstatement or reemployment in any branch, instrumentality or agency of the government including government-owned or controlled corporations.

SO ORDERED.

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

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[10] *Mamanteo vs. Magumun*, A.M. No. P-98-1264, July 28, 1999, citing *Bernasal, Jr. vs. Montes*, 280 SCRA 181 [1997].

[11] 138 SCRA 49 [1985].