



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

**LUCIA NAZAR VDA. DE
FELICIANO,**

Complainant,

- versus -

**ROMERO L. RIVERA, SHERIFF
IV, REGIONAL TRIAL COURT,
OFFICE OF THE CLERK OF
COURT, VALENZUELA CITY,**

Respondent.

A.M. No. P-11-2920

(Formerly OCA I.P.I. No. 09-3300-P)

Present:

SERENO, C.J.,
Chairperson,
LEONARDO-DE CASTRO,
BRION,*
BERSAMIN, and
REYES, JJ.

Promulgated:

19 SEP 2012

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DECISION

LEONARDO-DE CASTRO, J.:

This is an administrative complaint¹ for dishonesty, gross neglect of duty, and misconduct, filed by complainant Lucia Nazar vda. de Feliciano against respondent Romero L. Rivera, Sheriff IV of the Regional Trial Court (RTC), Office of the Clerk of Court, Valenzuela City, relative to Civil Case

^{*} Per Special Order No. 1305 dated September 10, 2012.

¹ Rollo, pp. 1-5.

No. 174-V-07, entitled *Lucia Nazar vda. de Feliciano (Plaintiff/Appellee) v. Vitaliano Lota (Defendant/Appellant)*.

Civil Case No. 174-V-07 was an appeal to the RTC, Branch 172, Valenzuela City of the Decision of the Metropolitan Trial Court (MeTC), Branch 81, Valenzuela City in Civil Case No. 9316, an ejectment case instituted by complainant against Vitaliano Lota (Lota).

In Civil Case No. 9316, the MeTC rendered on October 10, 2007 a Decision in complainant's favor. The dispositive portion of the MeTC Decision reads:

WHEREFORE, in view of the foregoing, judgment is hereby rendered ordering the Barangay Council of Barangay Ugong, Valenzuela City, represented by their Barangay Chairman Vitaliano Lota and all barangay officials and persons claiming rights from them to immediately vacate the subject premises and restore peaceful possession thereof to the [herein complainant].²

On appeal, the RTC rendered a Decision on May 11, 2009 affirming the assailed MeTC judgment. The RTC decreed:

WHEREFORE, premises considered, the Court hereby AFFIRMS the decision dated October 10, 2007 of the Metropolitan Trial Court, Branch 81, City of Valenzuela, in Civil Case No. 9316.³

Complainant filed a motion for execution pending appeal which was granted by the RTC in an Order⁴ dated September 4, 2009.

² Id. at 6.

³ Id.

⁴ Id. at 7.

Accordingly, Atty. Levi N. Dybongco, Branch Clerk of Court, issued a Writ of Execution with the following directive to respondent, as the Acting Sheriff of RTC-Branch 172:

NOW, THEREFORE, you are hereby commanded to execute and make effective the above-quoted decision and orders, in accordance with law and make a return of this writ immediately upon compliance hereof.⁵

On October 12, 2009, respondent served a notice⁶ dated October 9, 2009 addressed to the *Barangay* Council of *Barangay* Ugong, represented by their *Barangay* Chairman Lota, and all *barangay* officials and persons claiming rights from them, which stated, as follows:

You are hereby notified to vacate within ten (10) days upon receipt hereof the subject properties covered by T.C.T. Nos. (T-115916) T-83728 and 124243 together with all the improvements existing thereon pursuant to the Writ of Execution dated October 5, 2009 issued by Atty. Levi N. Dybongco, Clerk of Court of this court, copy of which is hereto attached.⁷

The above-quoted notice to vacate was received by Edwin de la Rosa, a *barangay* official.

Thereafter, no other action was undertaken by respondent to implement the subject Writ of Execution.

Thus, complainant filed the instant Complaint-Affidavit dated November 26, 2009 against respondent, alleging, among other things, that:

1.03. On October 21, 2009, through my counsel, I asked that the implementation of the writ be made either on October 26 or 27 of 2009 because I have yet to raise the amount which might be needed for the implementation of the writ. The respondent acceded

⁵ Id. at 6-7.

⁶ Id. at 8.

⁷ Id. at 27.

to my request and the implementation of the writ on October 22, 2009 was postponed.

- 1.04. To my surprise however, when I made a follow up of the implementation through my counsel on October 26, 2009, I had been told that the respondent was on leave and would not be back until October 30, 2009. It came as a surprise because the respondent never told me or my counsel and her representative of his intention to take a leave. Besides, we had an agreement that he would implement the writ either on the 26th or 27th of October 2009.
- 1.05. The foregoing notwithstanding, I patiently waited for his return from vacation and so on October 30, 2009, I inquired anew for the date when he would implement the writ issued by the court. On said date however, the respondent told me that he would not implement the writ because the defendant in the civil case had filed a motion to quash the writ.
- 1.06. When I got home, I received information from well meaning friends in Ugong, Valenzuela City that defendant Lota had given money to [respondent] as a sort of “consolation” for desisting from continuing with the implementation of the writ issued by the Honorable Court. Then, the said information was followed up by another report given to me by my granddaughter who told me that Mr. Lota had boasted that he will not be removed from the premises subject matter of Civil Case No. 174-V-07.
- 1.07. I immediately reported these incidents to my counsel who, through Ms. Yolanda P. Arca, persisted on calling the respondent on November 2, 2009 to talk about the implementation of the writ. On the said occasion, Ms. Arca, told the respondent that it is his ministerial duty to proceed with the implementation of the writ there being no temporary restraining order having been issued by any court. Ms. Arca also reminded the respondent that he has no authority to desist from implementing the writ of execution by the mere filing of a motion to quash by the defendant. During their conversation, the respondent told Ms. Arca to give him until Thursday, or November 5, 2009, to implement the writ but when the said date came, the respondent was nowhere to be found.
- 1.08. From morning until afternoon of November 5, 2009, Ms. Arca called the office of the respondent but to no avail. Whenever she would call him, respondent would always be out of the office and even when he is there, he would give instruction to the person taking the call to inform Ms. Arca to call back on a certain time and day but when the [here complainant's] representative would call, still, he would not be there.

x x x x

- 1.09. It appearing that the respondent had no intention to implement the writ of execution, the complainant was constrained to file a motion to designate another sheriff to implement the writ.

x x x x

- 1.10. A copy of the said motion was served upon the respondent who even belligerently instructed my granddaughter - who happened to drop by the RTC, Valenzuela City to follow up on my other case with Branch 171 - to order my counsel to withdraw the motion as it might allegedly affect his pending application as sheriff with the RTC, Branch 172. Also, the respondent even tried to convince my granddaughter to just follow up the motion to quash filed by Mr. Lota with the court claiming that it was the reason why he did not implement the writ of execution.⁸

In his Comment⁹ dated January 18, 2010, respondent categorically and vehemently denied complainant's allegations. First, respondent did not coordinate with complainant's counsel before serving the notice to vacate upon Lota. To serve the notice to vacate, respondent only coordinated with the sheriff of another RTC branch. Second, respondent did not talk to complainant and the latter's counsel on October 21, 2009. In addition, respondent could not have agreed to complainant's request that respondent implement said Writ of Execution on October 26 or 27, 2009, since as early as October 10, 2009, respondent had already booked a flight to Cagayan de Oro for October 27, 2009 to implement the Writ of Execution issued in another case, Civil Case No. 218-V-00. Third, respondent did not receive any money from Lota. The information that reached complainant about respondent accepting money from Lota and Lota boasting that he would never be removed from the disputed properties were hearsay and inadmissible. Respondent never said that he had no intention to implement the subject Writ of Execution. In fact, respondent had already begun implementing the Writ of Execution by serving a notice to vacate upon Lota, but respondent failed to complete the eviction because Lota filed a motion to

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Id. at 2-4.

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Id. at 15-22.

quash the Writ. Respondent admitted deferring the implementation of the subject Writ of Execution until a final determination by the RTC of Lota's motion to quash. Respondent cited *Quilo v. Jundarino*,¹⁰ where the Court ruled that the prudent course of action of the Sheriff was to defer implementation of the writ of execution until a determination of the motion to quash. In the end, respondent prayed that he be absolved from any administrative liability.

On January 9, 2011, the Office of the Court Administrator (OCA) submitted its report¹¹ with the following recommendations:

RECOMMENDATION: Respectfully submitted, for the consideration of the Honorable Court, are our recommendations that:

1. the instant matter be RE-DOCKETTED as a regular administrative matter against respondent Romero L. Rivera, Sheriff IV, Regional Trial Court, Office of the Clerk of Court, Valenzuela City; and
2. Sheriff Romero L. Rivera be found GUILTY of Simple Neglect of Duty and be FINED in the amount of Five Thousand (P5,000.00) Pesos and STERNLY WARNED that a repetition of the same or similar acts will be dealt with more severely.¹²

In a Resolution¹³ dated March 14, 2011, the Court re-docketed the administrative complaint against respondent as a regular administrative matter and required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.

Complainant did not file any manifestation.

¹⁰ A.M. No. P-09-2644, July 30, 2009, 594 SCRA 259.

¹¹ *Rollo*, pp. 39-42.

¹² *Id.* at 42.

¹³ *Id.* at 43-44.

Respondent initially submitted a Manifestation¹⁴ dated June 6, 2011, stating that he was submitting the case for resolution based on the pleadings filed. However, Atty. Leven S. Puno (Puno) made a formal appearance as respondent's counsel on August 24, 2011. Respondent, through Atty. Puno, moved to withdraw his Manifestation dated June 6, 2011 and to be allowed to file a Memorandum within 15 days from August 23, 2011 or until September 7, 2011. The Court granted respondent's motion in a Resolution¹⁵ dated November 21, 2011. Respondent, through Atty. Puno, later filed a Manifestation and Motion dated January 31, 2012, averring that he received a copy of the Resolution dated November 21, 2011 only on January 27, 2012, and that the period requested and granted for the filing of respondent's Memorandum already lapsed on September 7, 2011. Hence, respondent prayed for another 15 days from January 31, 2012 or until February 15, 2012 within which to file his Memorandum. Respondent finally submitted his Memorandum dated March 9, 2012, which was admitted by the Court in a Resolution dated July 2, 2012.

After review of the case records, the Court completely agrees with the findings and recommendations of the OCA.

In *Lacambra, Jr. v. Perez*,¹⁶ the Court described the solemn duties of sheriffs:

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 orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. (Citation omitted.)

¹⁴ Id. at 45.

¹⁵ Id. at 51-52.

¹⁶ A.M. No. P-08-2430, July 14, 2008, 558 SCRA 36, 42.

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. When writs are placed in their hands, it is their ministerial duty to proceed with reasonable celerity and promptness to execute them in accordance with their mandate. Unless restrained by a court order, they should see to it that the execution of judgments is not unduly delayed. x x x. (Citations omitted.)

Indeed, sheriffs ought to know that they have a sworn responsibility to serve writs of execution with utmost dispatch. They must comply with their mandated ministerial duty as speedily as possible.¹⁷ Good faith on their part, or lack of it, in proceedings to properly execute their mandate would be of no moment, for they are chargeable with the knowledge that being officers of the court tasked therefore, it behooves them to make due compliances. Their unreasonable failure or neglect to perform such function constitutes inefficiency and gross neglect of duty.¹⁸

In the instant case, the Court perceives the respondent’s indifferent attitude in the enforcement of the Writ of Execution in Civil Case No. 174-V-07. The Writ of Execution was issued on October 5, 2009. Respondent served notice on October 12, 2009 giving Lota and those claiming rights from Lota only 10 days from date of receipt or until October 22, 2009 within which to vacate the disputed properties and remove all improvements thereon. October 22, 2009 came to pass and Lota and those claiming rights from Lota were still occupying the disputed properties. Upon follow-up, complainant learned that respondent was not at the office on October 27, 2009 and was in Cagayan de Oro to implement the Writ of Execution in another case. When respondent returned, he explained to complainant that he was not taking further action to implement the Writ of Execution because Lota already filed a motion to quash said writ. More than

¹⁷ *Pesongco v. Estoya*, 519 Phil. 226, 241 (2006).

¹⁸ *Escobar vda. de Lopez v. Luna*, 517 Phil. 467, 475-476 (2006).

two months from its issuance, the Writ of Execution remained unsatisfied, thus, prompting complainant to file the instant administrative complaint against respondent.

The Court reiterates that it is the mandatory and ministerial duty of the sheriff to execute judgments without delay “unless restrained by a court order.” *Quilo* is an exception to the general rule, but respondent’s reliance on the case is misplaced. There are particular circumstances in *Quilo* which justified the pronouncement of the Court that it would have been more prudent for Sheriff Jundarino to defer implementation of the writ of execution until a determination of the motion to quash the same. Sheriff Jundarino was liable for misconduct for his unreasonable insistence on implementing the writ of execution on March 27, 2008 despite the fact that Quilo’s motion to quash said writ was already scheduled for hearing the very next day, March 28, 2008. Moreover, Quilo was precisely questioning in his motion to quash the proper address where the writ should be implemented, whether at No. 2519 Granate St., Sta. Ana, Manila or at No. 2518 Granate St., San Andres Bukid, Manila.

No such compelling circumstances exist in the case at bar. Lota had just filed a motion to quash the Writ of Execution, and the motion was not yet even set for hearing. Also, the only basis for Lota’s motion to quash¹⁹ was his pending appeal before the Court of Appeals. It is worthy to note that once the RTC has rendered a decision in the exercise of its appellate jurisdiction, such decision shall, under Rule 70, Section 21²⁰ of the Rules of Court, be immediately executory, without prejudice to an appeal *via* petition

¹⁹ *Rollo*, pp. 31-33.

²⁰ Rule 70, Section 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.

for review before the Court of Appeals and/or Supreme Court.²¹ More specifically, the 1991 Revised Rule on Summary Procedure, governing ejectment cases, clearly provides:

SEC. 21. *Appeal.* – The judgment or final order shall be appealable to the appropriate regional trial court which shall decide the same in accordance with Section 22 of Batas Pambansa Blg. 129. The decision of the regional trial court in civil cases governed by this Rule, including forcible entry and unlawful detainer, shall be immediately executory, without prejudice to a further appeal that may be taken therefrom. Section 10 of Rule 70 shall be deemed repealed.

In the absence of a court order, it was incumbent upon respondent to proceed without haste and to employ such means as necessary to implement the subject Writ of Execution and to put complainant, as the prevailing party in Civil Case No. 174-V-07, in possession of the disputed properties. Respondent could hardly be considered as having discharged his duty by serving a notice to vacate upon Lota but nothing more for the two months following the issuance of the Writ of Execution.

Respondent's unreasonable delay in implementing the Writ of Execution in Civil Case No. 174-V-07 constitutes simple neglect of duty, defined as the failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference. Civil Service Commission Memorandum Circular No. 19, series of 1999, classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months for the first offense. However, the penalty of fine may be imposed instead of suspension.²² This being respondent's first

²¹ *Uy v. Santiago*, 391 Phil. 575, 580 (2000).

²² Civil Service Commission Memorandum Circular No. 30-89 dated July 20, 1989.


offense in his twenty-four (24) years in government service, the penalty recommended by the OCA of a fine of ₱5,000.00 is appropriate.²³

WHEREFORE, respondent Romero L. Rivera is found **GUILTY** of simple neglect of duty and is ordered to pay a fine of Five Thousand Pesos (₱5,000.00). He is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

WE CONCUR:


MARIA LOURDES P. A. SERENO
Chief Justice
Chairperson


ARTURO D. BRION
Associate Justice


LUCAS P. BERSAMIN
Associate Justice


BIENVENIDO L. REYES
Associate Justice