

FIRST DIVISION

[A.M. No. P-02-1628, August 14, 2002]

NICANOR T. SANTOS, COMPLAINANT, VS. DELILAH GONZALES-MUNOZ, CLERK OF COURT, RTC-OCC, BAGUIO CITY, AND ROMEO R. FLORENDO, SHERIFF IV, RTC-OCC, BAGUIO CITY, RESPONDENTS.

D E C I S I O N

DAVIDE, JR., C.J.:

In his verified complaint dated 22 February 1999, complainant Nicanor T. Santos charges respondents Delilah Gonzales-Muñoz and Romeo R. Florendo, Clerk of Court and Sheriff IV, respectively, of the Office of the Clerk of Court, Regional Trial Court, Baguio City, with gross neglect of duty relative to some incidents in LRC Case No. 12075, File No. 908, entitled, "*Nicanor Santos v. Heirs of Rosa Ganayo*." The basis of the complaint was respondents' failure to comply with the writ of execution and the demolition orders issued by said court.^[1]

In response, respondents filed a Joint Comment and Manifestation^[2] asserting as defenses the following:

4. That the truth of the matter is that, since the time of the issuance of the Alias Writ of Execution [o]n September 30, 1993 up to the present, our Office had been on the run conducting dialogues and meetings with the respondents for the peaceful implementation of the Orders of the Court. While it is true that petitioner had deposited the amount of P1,000.00 as sheriff's fees and expenses way back in 1995, petitioner never really had the occasion to appreciate the actions taken by the Office of the City Sheriff, even going out on their own for the proper implementation of the Alias Writ of Execution and Order of Demolition. Instead, petitioner filed several motions in court which up to this time remain unresolved due to the several changes of Judges hearing the subject case;

...

6. In the process of the implementation of the Demolition Order, the Office of the City Sheriff was actually confused as to what specific houses were to be demolished. This fact was known to the petitioner-complainant. While the old twin houses owned by respondent Cito Backong were demolished by respondents themselves upon the insistence of this Office, the other house (two storey house) also owned allegedly by Cito Backong and which petitioner insist[ed] that it be demolished, is presently occupied by one Peter Saguilot who is not a party to the case. The same Peter Saguilot constructed another structure on the site where the old twin house used to stand. This prompted

petitioner-complainant to file a Motion to Declare Respondents in Contempt of Court, but which motion remains unresolved up to the present.

Upon the recommendation of the Court Administrator, this Court, in a Resolution dated 4 October 2000, referred the case to Executive Judge Antonio C. Reyes of the Regional Trial Court of Baguio City for investigation, report and recommendation.^[3]

From the records of the case and the report of Executive Judge Reyes as Investigating Judge, the antecedent facts are as follows:

On 21 June 1962, complainant Nicanor T. Santos filed a petition with the then Court of First Instance of Baguio City to cancel the adverse claim of Rosa Ganayo, which was annotated on his transfer certificate of title over a parcel of land. The trial court rendered judgment on 27 September 1963 in favor of Santos, declaring him to be the owner of the lot in question and ordering the Register of Deeds of Baguio City to cancel the adverse claim. Santos was, however, ordered to pay Ganayo a reasonable value for the two houses and other improvements in the subject premises. The case reached this Court; and in its decision^[4] of 9 September 1982 in G.R. No. L-31854, this Court affirmed the decision of the trial court. Meanwhile, Rosa Ganayo passed away and was substituted by her heirs, known at that time to be Cito Backong and Eduardo Beswayan.

Upon motion of complainant Santos, and based on the assessment of the City Engineer of Baguio City,^[5] the trial court fixed the reasonable value of the houses and other improvements at P31,000 and ordered the heirs of Ganayo to vacate the premises in question within fifteen days from receipt of the payment from Santos.^[6]

On 25 June 1993, the trial court issued a writ of execution for the enforcement of the judgment. However, despite several attempts to implement the writ, the heirs of Rosa Ganayo refused to accept payment and vacate the property. On 30 September 1993, the trial court issued an Alias Writ of Execution. Once again it was not implemented. Finally, on 24 November 1993, the trial court issued an Alias Writ of Execution ordering the sheriff to "execute the judgment and to use any force necessary and reasonable to execute the same."^[7]

After almost one-and-a-half years, or on 11 May 1995, Deputy Sheriff Florendo filed a manifestation informing the court of the need for a special order of demolition, thus:

That the City Sheriff and the undersigned have conducted dialogues [sic] with the respondents in this case and they told us of their intention to voluntarily leave the premises subject matter of this case, however on condition that the Office of the City Sheriff must be the one to implement demolition of their houses.

That for the office of the City Sheriff to demolish the houses, it needs a specific order of demolition to execute the Writ as per Rule 39, Sec. 14 of the Rules of Court.^[8]

On 11 August 1995, complainant filed a manifestation expressing his conformity to the Sheriff's request for a demolition order. Thereafter, the trial court scheduled hearings for the request for demolition, which were frequently postponed on account of the absence of both parties. The court finally issued on 25 September 1996 an

order of demolition directing the Office of the City Sheriff to cause Ganayo's heirs to vacate the premises and to demolish their houses.^[9] It denied the motion for the reconsideration of said order.

In the Sheriff's return received by the court on 31 March 1997, Sheriff Florendo reported that he went to the property roughly a week after the issuance of the demolition order and there found the smaller half (the one-storey house) of the old "twin houses" demolished and, in its place, two new constructions erected.^[10] Occupying the remaining two-storey house and one of the newly constructed houses was Peter Saguiot. Because respondent Sheriff was unsure as to whether he could demolish the houses, he merely requested Rosa Ganayo's heirs to vacate the premises. The heirs once again refused, saying they would vacate after Christmas.^[11]

On 25 February 1997, complainant initiated contempt proceedings against Rosa Ganayo's heirs for violating the demolition order. These contempt proceedings included Peter Saguiot as alleged son-in-law, heir or privy of Rosa Ganayo. Also impleaded were respondents Deputy Sheriff and Clerk of Court for their failure to demolish the original structures on the property and to recognize Peter Saguiot as a party to the case.^[12]

Pending the contempt proceedings, complainant Santos filed this administrative complaint.

In his report dated 16 April 2001, Executive Judge Reyes recommended that the case be dismissed for the following reasons:

Based on the report of February 16, 2000 submitted by Engineer Mogamog, there are three houses constructed within the property of Atty. Santos owned by Peter Saguiot, Eduardo B[e]swayan and Rommel Saguiot. Of the three present owners or occupants, only Eduardo B[e]swayan [was] impleaded in Case No. LRC 908. More importantly, the report is silent as to whether or not the original two houses assessed by the Office of the City Engineer at P31,000.00 still exist inside the premises. This office therefore finds no conclusive evidence that indeed the respondents are guilty of dereliction of duty. On the contrary, the record shows that they tried numerous times to implement the orders emanating from the court for the execution of the judgment but because of the countless manifestations and counter-manifestations that contributed to the delay and confusion as to which houses the writ referred to, it was natural for them to exercise prudence and merely await for further instructions from the court after apprising the latter and the parties of the status of the case.^[13]

The Office of the Court Administrator disagreed with the Investigating Judge. In his Memorandum dated 2 January 2002, Deputy Court Administrator Jose P. Perez recommended that the complaint against respondent Clerk of Court be dismissed for lack of evidence that she was inefficient herself, and that respondent Sheriff be reprimanded for the following reasons:

As a rule 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 in accordance with its mandates (Jumio vs. Egay-Eviota, 231 SCRA 551).

Respondent Sheriff was duty bound to use reasonable skill and diligence in the performance of his official duties. He should be zealous in the performance of his duties. Unless restrained by a court order to the contrary, he should see to it that the execution of judgment is not unduly delayed.

Respondent Sheriff has fallen short of the standard as the facts demonstrate. Had respondent implemented the writ of execution with dispatch and did not conduct dialogues with the respondents which took two years, but instead complied with the order dated 24 November 1993 to use any force necessary and reasonable to implement the writ of execution there would have been no problem.^[14]

On 4 February 2002, we required the parties to submit their respective manifestations.

In compliance therewith, the respondents filed their joint manifestation on 8 March 2002 reiterating that the delay in the implementation of the orders of the trial court was not due to their fault but to circumstances beyond their control. In addition, the respondents requested consideration of the following events that transpired after the issuance of the 16 February 2001 Order:

On 16 February 2001, the court issued an order finding Peter Saguilot and Eduardo Beswayan guilty of indirect contempt, and directing them to vacate and demolish their houses within ten days from receipt of the order.^[15] The court denied the motion for reconsideration on 21 June 2001.^[16]

On 4 December 2001, the date the demolition was scheduled, the Sheriff proceeded to the premises but found approximately 150 to 200 people congregated "to protect the structures of [Ganayo's heirs] and to prevent at all cost the impending demolition." Further resistance came from a group of elders, who were persistent in their request for a dialogue with complainant Santos, while the others began butchering a pig and "dancing to the beat of their ganzas and ready for any eventuality."^[17] Faced with this defiance, respondent Sheriff realized the futility of further dialogue and postponed the demolition to 1 February 2002 to enable him to secure the assistance of the Baguio City Police and the demolition team of the Office of the City Engineer.

On 1 February 2002, respondent Sheriff filed a Partial Report^[18] stating that on 31 January 2001, the children of Eduardo Beswayan requested an extension of time within which to demolish their house. On the other hand, Saguilot signified his intention to voluntarily vacate the house built on the premises and donate the same to complainant. Upon respondent Sheriff's advice, Beswayan and Saguilot submitted to the trial court for approval their undertakings with motions to lift the orders for their arrest.^[19] In said Undertaking, Saguilot promised to vacate the house and donate it to complainant after finding a house he could rent for his family. On his part, Beswayan promised to demolish his house after the termination of certain rituals related to the wedding of his grandson which required the use of his house. The court granted the request for extension and set the deadline for 4 March 2002.^[20]

Later, Saguilot and Beswayan appeared before the Office of the Clerk of Court and promised to vacate the premises and demolish their houses by 16 March 2002.