

## FIRST DIVISION

[ A.M. No. P-00-1379, September 19, 2002 ]

**PEPITO I. TORRES AND MARTA M. TORRES, COMPLAINANTS, VS.  
VICENTE SICAT, JR., SHERIFF IV, REGIONAL TRIAL COURT-  
OFFICE OF THE CLERK OF COURT, ANGELES CITY, PAMPANGA,  
RESPONDENT.**

### R E S O L U T I O N

**YNARES-SANTIAGO, J.:**

By itself, the swiftness by which a sheriff implements a writ of execution does not warrant sanction because when a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandates.<sup>[1]</sup> In fact, in the absence of instructions or a restraining order, he is bound to serve the writ of execution with dispatch.<sup>[2]</sup> However, speed of implementation assumes a sinister significance when, taken in conjunction with the overzealous manner of its execution, a writ was enforced on the very same day it was issued.<sup>[3]</sup>

In a verified letter-complaint dated October 25, 1997,<sup>[4]</sup> the spouses Pepito I. Torres, Sr. and Marta M. Torres charged respondent sheriff Vicente S. Sicat with abuse of authority, gross ignorance of the law and duty, manifest partiality, evident bad faith and gross and inexcusable negligence relative to Civil Case No. 1268, entitled "*Rouel AD Reyes v. Spouses Pepito and Marta Torres, et al.*," for Ejectment and Damages.

Complainants-spouses, who were the defendants in the above mentioned case, alleged that on September 30, 1997 at around 1:30 p.m., while they were in their store in Barangay Mabiga, Mabalacat, Pampanga, respondent arrived and introduced himself to them as Sheriff of the Regional Trial Court of Angeles City. Respondent told them to remove all their personal belongings and to vacate their home located along McArthur Highway, Sta. Ines, Mabalacat, Pampanga because he was going to demolish the same in compliance with the writ of execution issued by the Municipal Circuit Trial Court of Mabalacat and Magalang, Pampanga. Respondent was accompanied by plaintiff Rouel AD Reyes, the plaintiff's father, brother and more or less twenty men.

Complainants asked respondent for his legal authority to effect such demolition considering that the ejectment case filed against them was still pending appeal with the Regional Trial Court of Angeles City. Respondent showed a Writ of Execution dated September 30, 1997<sup>[5]</sup> which the complainants were not aware of. They asked respondent to first confer with their lawyer-son but he refused. Thus, complainants were compelled to seek help from the Office of the Mayor which, in turn, requested the local police to secure peace and order in the contested premises.

Complainants proceeded to their house and found that demolition of the structures thereon had already begun.<sup>[6]</sup> When complainants' lawyer-son arrived, he urged the respondent to stop the demolition because they should have first been afforded reasonable time to vacate the premises. Respondent, however, maintained that he had the authority to proceed with the demolition and that he was ready to face the consequences.

Subsequently, complainants learned that Rouel AD Reyes, plaintiff in the ejectment case, filed the motion for issuance of the writ of demolition only on October 1, 1997, the day after respondent had demolished their house. Hence, to prevent him from proceeding with the demolition of the remaining structures, complainants filed with the Regional Trial Court of Angeles City, Branch 62, a petition for certiorari and prohibition with prayer for preliminary injunction and/or temporary restraining order, docketed as SP Case No. 8794.<sup>[7]</sup>

In his Comment,<sup>[8]</sup> respondent alleged that when he served the writ of execution on September 30, 1997, he first requested complainants to vacate the premises, remove the structures erected thereon and to turn over the possession thereof to plaintiff, but the complainants vehemently refused to do so claiming that they have a pending motion for reconsideration before the Regional Trial Court. Considering, however, the writ of execution issued and there being no order to the contrary, respondent "turned over the contested premises to the plaintiff" in the presence of a *barangay kagawad* and defendant Araceli T. Manalo.

After plaintiff's hired men completed the "removal of the structure which was vacant," complainants' lawyer son arrived with around fifty people. The lawyer son allegedly warned respondent's group that he and his men will physically prevent them from continuing the removal of the remaining structures. To avoid any untoward incident, respondent convinced the plaintiff to postpone the removal thereof.

Respondent contends that as an officer of the law, he merely discharged his duties pursuant to the clear and unmistakable terms of the writ of execution, to wit:

WHEREAS, judgment was rendered by this Court in the above-entitled case on May 27, 1997, the dispositive portion of which reads as follows:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against herein defendants by ordering the latter:

1. To vacate the premises and to surrender the same peacefully to the plaintiff or to any of his authorized representatives;
2. To remove the structure/s standing on the premises;

x x x

x x x

x x x

and was dismissed on appeal by Hon. Eliezer R. delos Santos, Presiding Judge of the Regional Trial Court, Branch 59, Angeles City on September 18, 1997.

NOW THEREFORE, you are commanded to cause the premises in question located at MacArthur Hi-way, Sta, Ines, Mabalacat, Pampanga to be vacated by the defendants in pursuance to the decision and you are hereby further commanded to seize the goods and chattels of the said defendants, except such as are by law exempt, and