

EN BANC

[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.**

R E S O L U T I O N

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]

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 P10,000.00 as attorney's fees and litigation expenses;

"3. to pay the amount of P500.00 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]

"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, unappealable 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 you 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]

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 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 (P1,000.00) each.^[33]

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