

THIRD DIVISION

[A.M. No. P-94-1025, February 20, 1996]

MIGUELA VDA. DE TISADO, COMPLAINANT, VS. CLERK OF COURT PROSPERO V. TABLIZO, DEP. SHERIFF FELINOR R. TRAMPE, AND DEP. SHERIFF CARLOS M. UBALDE, ALL OF RTC - VIRAC, CATANDUANES, RESPONDENTS.

DECISION

PANGANIBAN, J.:

Before us is a sworn administrative complaint^[1] filed on March 4, 1994 charging respondents with abuse of authority and malfeasance/misfeasance of duty.

The records show that complainant and her now deceased-husband were the plaintiffs in Agrarian Case No. 267, Regional Trial Court, 5th Judicial District, Branch 43, in which a decision^[2] was rendered on November 10, 1983, the dispositive portion of which reads:

"WHEREFORE, decision is hereby rendered ordering defendants-spouses to reinstate plaintiffs to the landholding in question and for the other defendants not to interfere with the same.

"Plaintiffs, upon reinstatement, should cultivate the landholdings in question according to proven farm practices for three (3) consecutive years, to find out the average yearly net harvest therefrom which shall be the basis of this Court to fix its rental. In the meantime, plaintiffs shall only give to defendants-spouses their landowners' share equivalent to 25% of the net harvest."

Complainant alleged that in spite of several alias writs of execution, the foregoing decision was not enforced. Hence, after the lapse of five years, an action for revival of judgment was filed with the RTC, Virac, Catanduanes docketed as Civil Case No. 1576, where, in a decision^[3] dated June 22, 1992, it was ruled:

"ACCORDINGLY, judgment is hereby rendered reviving the execution of the Decision in CAR Case No. 267 dated November 10, 1983.

"The defendants and all persons claiming rights under them are hereby ordered to reinstate plaintiffs to the landholding in question forthwith (sic), and to faithfully comply with the aforementioned Decision."

Consequently, respondent Tablizo, in his capacity as *ex-officio* provincial sheriff, issued a writ of execution on November 4, 1992.

Because of their refusal to obey the writ, the defendants in said case were held in contempt of court,^[4] as follows:

"ACCORDINGLY, the Court hereby finds the defendants GUILTY of indirect contempt pursuant to Section 3(a) of Rule 71 of the Rules of Court, and are hereby sentenced to undergo imprisonment until such time that they surrender the possession of the land in question to the plaintiffs."

After a month of incarceration, they were released and an alias writ of execution was issued on June 28, 1993. Respondent Trampe made futile attempts to execute the writ but failed as before to reinstate herein complainants to the subject land. Complainant insisted that said respondent was not serious in performing his duties, but instead, was persistently convincing her to give up the land in favor of defendants. Meanwhile, another alias writ was issued on September 30, 1993, but on the day of execution on November 3, 1993, respondent Ubalde - who was tasked to implement it - refused to do so because allegedly respondent Tablizo instructed him to desist from implementing it.

In his Comment^[5] filed on July 7, 1994, respondent Trampe denied the charges. He said that on July 6, 1993, as commanded by the Provincial Sheriff, he (Trampe) turned over the property to the complainant in the presence of her counsel Atty. Salvador Tulay and a para-legal officer of the Department of Agrarian Reform, who all signed the "Certificate of Turn-Over of Land Holding"; pictures were even taken during said turn-over. However, after said turn-over and while the property was being fenced, defendant (who allegedly had refused to sign the turn-over certificate), armed with a bolo, together with his wife, entered the land, destroyed the fence and prohibited all those present including respondent sheriff and complainant from entering the land. To avoid any untoward incident, he (Trampe) decided to leave the premises. Respondent argued that complainants should have filed another motion to hold defendants in contempt instead of filing this administrative complaint.

For his part, respondent Ubalde in his Letter-Comment dated June 15, 1994, admitted that he did not execute the writ, not because of a refusal to perform his duties but "in obedience (to) my superior's (respondent Tablizo) instruction(s) to hold it in abeyance until further instruction."^[6]

Respondent Tablizo explained in his Comment⁷ that he was acting in good faith in not implementing the execution of the writ because he received verbal instructions on November 2, 1993 from the presiding judge (Hon. Nilo B. Barsaga) to postpone the execution since the court had not yet ruled on defendant's pending motion to quash a previous writ (which motion was heard on August 30, 1993). The court subsequently issued an order on November 15, 1993 reconsidering its order of September 30, 1993 and holding in abeyance the issuance of alias writ of execution

pending resolution of defendant's motion to quash writ.

By this Court's Resolution dated July 3, 1995, this case was referred to the Office of the Court Administrator for evaluation, report and recommendation. In his Memorandum⁸ dated November 7, 1995 addressed to the Chief Justice, Deputy Court Administrator Reynaldo L. Suarez, with the approval of Court Administrator Ernani Cruz Paño, submitted the following findings:

"1. The charges against respondent Deputy Sheriff Felinor R. Trampe are meritorious. We find said respondent to have been remiss in the performance of his duties as the implementing Sheriff. Record shows that twice he had attempted to enforce the writ of execution and everytime the writ is returned unsatisfied. In his official returns dated November 13, 1992 and July 6, 1993, the reasons for such failure is because of the belligerent and defiant attitude of the defendants to obey the writ and surrender the possession of the land premises to herein complainant. Each time defendants showed that recalcitrant attitude, respondent Sheriff Trampe, for the lame excuse of avoiding any untoward incidents that may occur, just meekly left the place. This fact is reported by respondent Sheriff Trampe in the aforesaid returns.

"The explanation of respondent Sheriff Trampe that the circumstances prevailing on July 6, 1993 execution is beyond his control is hardly acceptable. He should have anticipated this situation as this is not the first time that had happened and he should have taken appropriate steps to thwart any unlawful aggression from the defendants such as employing appropriate means such seeking assistance from police authorities. Record shows that notwithstanding his awareness of the violent attitude of the defendants, respondent only employed one police officer by the name of SPO1 Rojas. We then find respondent Sheriff Trampe not to have fully exerted his effort to employ necessary or reasonable force to repel such defiance and violence which he was authorized and empowered to do so by order of the court and the writ. Instead of exhibiting a cavalier attitude expected of a Sheriff, respondent Trampe showed a lackadaisical attitude in enforcing the writ which gives a semblance of truth to the claim of the complainant that respondent is being partial to the defendant landowners. By such act or omission, respondent contributed to the delay in the speedy administration of justice which tends to diminish or undermine the public's faith and trust in the judiciary.

"It is said that execution is the fruit and end of the suit and is the life of the law. 'By the very nature of the office which a sheriff holds, as an officer of the court, he should exert every effort and indeed consider it his bounden duty to see to it that the final stage in the litigation process, that of execution of judgment, is carried out in order to ensure a speedy and efficient administration of justice.' (Rafael Lacuata vs. Sheriff Antonio J.M. Bautista, A.M. No. P-94-1005, August 12, 1994 resolution).

"The importance of the duties of the officers charged with the enforcement of execution of judgment has been stressed by this Court in