

THIRD DIVISION

[A.M. No. P-18-3864 (Formerly OCA IPI No. 15-4469-P), June 10, 2019]

**BEATRIZ B. NADALA, COMPLAINANT, VS. REMCY J. DENILA,
SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 68, DUMANGAS,
ILOILO, RESPONDENT.**

DECISION

REYES, A., JR., J.:

In a verified Complaint^[1] dated June 26, 2015, Beatriz B. Nadala (complainant), through counsel, charged Remcy J. Denila^[2] (respondent), Sheriff IV, Regional Trial Court (RTC) of Dumangas, Iloilo, Branch 68, with grave misconduct, gross neglect of duty, abuse of authority, conduct prejudicial to the best interest of the service, and gross inefficiency, in connection with the respondent's unjustified refusal to implement the writ of execution issued in a small claims case docketed as Civil Case No. 2012-024, entitled *Beatriz B. Nadala v. Emma Maxima Declines*.

Complainant^[3] is the plaintiff in Civil Case No. 2012-024, for Sum of Money,^[4] filed before the Municipal Trial Court (MTC) of Barotac Nuevo, Iloilo. On November 30, 2012, the MTC rendered a Decision^[5] ordering defendant Emma Declines (Declines) to pay the complainant the amount of P100,000.00.

On June 28, 2013, the complainant moved to implement the final and executory decision in Civil Case No. 2012-024. As a matter of course, the MTC granted the motion and issued the writ of execution on October 9, 2013.^[6] The writ specifically directed the respondent, being the Deputy Sheriff of the RTC, to implement it.^[7]

Meanwhile, Declines filed a petition for *certiorari* before the RTC. On May 23, 2014, she was able to secure a Temporary Restraining Order (TRO) effective for twenty (20) days which enjoined the implementation of the writ.^[8]

On June 25, 2014, the complainant filed a Manifestation,^[9] seeking for the immediate implementation of the writ considering that the TRO issued by the RTC had already expired.^[10] On September 15, 2014, the respondent filed a Manifestation,^[11] requesting that he be relieved from implementing the writ of execution as he had to attend to the needs of his wife, who was then diagnosed with breast cancer (Stage IIIA).^[12]

Complainant then filed, on November 5, 2014, an *Ex-Parte* Motion to Direct Sheriff of the RTC, Iloilo, to Implement Writ of Execution.^[13] The motion was left unresolved. Thereafter, upon learning that the respondent reported back to work, the complainant filed, on February 23, 2015, a Motion to Withdraw *Ex-Parte* Motion,

etc. and to Direct the Branch Sheriff to Implement Writ of Execution.^[14] Interestingly, Declines opposed the motion.^[15]

On July 23, 2015, the complainant filed an Omnibus Motion,^[16] praying that all pending incidents be resolved and that the Clerk of Court or the *Ex-Officio* Sheriff of the RTC of Iloilo City be directed to implement the writ. The MTC granted the complainant's motion in its Order^[17] dated August 3, 2015 and specifically ordered the respondent to implement the writ.

In his Comment,^[18] the respondent invoked his previous request for relief from the implementation of the writ which was left unresolved by the MTC. He claimed that he expected that the MTC would grant his prayer and, like the complainant, he was also waiting for the court's action on the motions.^[19] He further averred that no representations were made by the complainant or her counsel for him to implement the writ.^[20]

Complainant, in her Reply,^[21] maintained that the respondent miserably failed to implement the writ. She pointed out that the TRO was issued on May 23, 2014. Thus, more than seven (7) months had elapsed from the time the writ was issued on October 9, 2013 until the issuance of the TRO on May 23, 2014. She contended that after the TRO's expiration, the respondent was duty bound to implement the writ in the absence of a permanent injunction against it. Complainant added that the respondent's failure to implement the writ of execution was because Declines is a long-time family friend of the respondent, as stated in the latter's Manifestation^[22] dated August 11, 2015.

In his Rejoinder^[23] dated December 8, 2015, the respondent asserted that the reason behind the filing of the petition for *certiorari* by Declines before the RTC was that he went on to do his job. The subsequent issuance of the TRO, however, prevented him from implementing the writ.^[24] He further manifested that he has been already relieved by the MTC from the implementation of the writ of execution, and therefore, this should not be taken to have caused delay in the implementation of the writ but an occasion where the complainant may proceed with finding suitable remedy for her purposes.^[25]

Report and Recommendations of the Office of the Court Administrator

After the parties' submission and exchange of the foregoing pleadings, the Office of the Court Administrator (OCA) submitted its Report^[26] dated January 5, 2018, with the following recommendations:

1. the instant administrative complaint be **RE-DOCKETED** as a regular administrative matter against Sheriff IV Remcy J. Denila, Branch 68, [RTC], Dumangas, Iloilo; and
2. respondent Sheriff Denila be found **GUILTY** of **GRAVE MISCONDUCT** in the performance of his duties, and be **FINED** in the amount of Twenty[-]Five Thousand Pesos (P25,000.00), to be paid to the Court within thirty (30) days from notice, with a **STERN WARNING** that the

commission of the same or similar offense in the future shall be dealt with more severely.^[27] (Emphases in the original)

The pertinent portion of the findings of the OCA reads:

Evaluating the circumstances surrounding the instant matter, it would not be amiss to assert that [respondent's] liability has evolved from being a mere neglect of duty into a misconduct which is so gross in character. It is grave misconduct since there is substantial evidence showing that the act complained of was corrupt or inspired by an intention to violate the law, or constituted flagrant disregard of well-known legal rules. [Respondent's] deliberate inaction to enforce a writ of execution for two (2) long years in order to favor the losing litigant who is a long-time close family friend of his is plainly a corrupt act which shows an intent to flagrantly disregard the law. It constitutes grave misconduct that corrodes respect for the courts.^[28] (Citation omitted)

The OCA, in imposing a P25,000.00 fine as penalty, noted that it is the first time that the respondent may be held administratively liable. It added that this will also prevent any undue adverse effect on the public service should his office be left vacant even for a short period of time.^[29]

On August 29, 2018, the Court resolved to re-docket the complaint as a regular administrative matter.^[30]

Ruling of the Court

The Court agrees with the findings of the OCA that the respondent is administratively liable, but We find that his omissions qualify as gross neglect of duty. The Court, likewise, modifies the recommended penalty imposed upon him.

As defined, gross neglect of duty refers to negligence that is characterized by a glaring want of care; by acting or omitting to act in a situation where there is a duty to act, not inadvertently, but willfully and intentionally; or by acting with a conscious indifference to consequences with respect to other persons who may be affected. It is the omission of that care that even inattentive and thoughtless men never fail to take on their own property. In cases involving public officials, there is gross negligence when a breach of duty is flagrant and palpable.^[31]

In this case, the respondent is charged for failing to perform his ministerial functions in the implementation of the writ of execution issued in favor of the complainant. The records of the case reveal that the respondent deliberately disregarded the standard procedure for implementing a writ of execution.

The Court notes, at the outset, that the complainant's case was covered by the Rule of Procedure for Small Claims Cases.^[32] Considering that the Rule contains no specific provisions as regards the duties of the sheriff in implementing the writs of execution, the Rules of Civil Procedure (Rules) shall apply in accordance with Section 27^[33] thereof.

The provisions^[34] of the Rules clearly state how the execution of money judgments

should be made, which leave no room for any exercise of discretion on the part of the sheriff on how to perform his or her duties in implementing the writ. A sheriff's compliance therewith is not merely directory but mandatory. He ought to know the rules of procedure pertaining to his functions as an officer of the court.^[35]

Respondent, however, attributed his omission to the inaction of the MTC on his request to be relieved from the implementation of the writ of execution and assumed that his request would be favorably acted upon by the latter. He claimed that the complainant never made representations for him to implement the writ. He likewise asserted that he actually proceeded with the implementation of the writ, which was the reason why Declines filed a petition for *certiorari* before the RTC. The subsequent issuance of the TRO, however, prevented him from further implementing the writ.

The Court is not convinced.

Notably, the respondent filed his Manifestation to be relieved from implementing the writ only on September 4, 2014, or almost a year after the issuance of the writ and almost four (4) months after the expiration of the TRO. Verily, the respondent had adequate time to implement the writ, but because of his indifference and inattentiveness to the rights of the complainant and the obligations of his office, he did not do anything. Respondent's excuse merely demonstrates his insincere stance towards his mandatory and ministerial functions considering the lapse of time without the writ being implemented.

The Court is not unaware of the petition for *certiorari* filed by Declines before the RTC, but this is not a sufficient excuse that would justify the non-implementation of the writ. In the absence of any instruction to the contrary, it is the duty of the sheriff to proceed with reasonable celerity and promptness to execute a judgment according to its mandate.^[36]

It is worth stressing that a sheriff's duty in the execution of a writ is purely ministerial; he is to execute the order of the court strictly to the letter. He has no discretion whether to execute the judgment or not. He is mandated to uphold the majesty of the law as embodied in the decision. Accordingly, a sheriff must comply with his mandated ministerial duty as speedily as possible.^[37]

Granting, therefore, that the complainant did not personally approach the respondent for the implementation of the writ, the latter had no discretion or authority to withhold its implementation, thus, compromising his duty as sheriff who is responsible for the speedy and efficient service of all court processes. At this point, it is important to emphasize that litigants are neither obliged to file any manifestation or motion before the court just to plead, for the implementation of the writ of execution nor required to constantly follow up its implementation.

Respondent's obstinate refusal to comply with his duties became more apparent when he filed another manifestation after the MTC issued an order directing him to implement the writ. Surprisingly, he reasoned out that Declines is a long-time family friend of his. This circumstance gives rise to the presumption that the respondent, indeed, deliberately withheld the implementation of the writ to the prejudice of the complainant as the prevailing party.

Respondent also failed to present any proof to show that he actually proceeded with the implementation of the writ aside from his bare allegations. If these were true, he would have at the very least filed a corresponding report thereon and stated his reasons for failure to implement the writ.

Section 14,^[38] Rule 39 of the Rules explicitly provides the manner by which a writ of execution is to be returned to court, as well as the requisite reports to be made by the sheriff or officer, should the judgment be returned unsatisfied or only partially satisfied. In any case, every 30 days until the full satisfaction of a judgment, the sheriff or officer must make a periodic report to the court on the proceedings taken in connection with the writ. Periodic reporting is required in order that the court, as well as the litigants, may be apprised of the proceedings undertaken in connection therewith.^[39] It also provides the court insights on the efficiency of court processes after promulgation of judgment.^[40] Overall, the purpose of periodic reporting is to ensure the speedy execution of decisions.^[41]

Evidently, the respondent deviated from the directive of the court by failing to make periodic reports on the implementation of the writ. His non-compliance with the Rules constitutes badge of bad faith and evident intent to deprive the complainant of the fruits of her victory.

Moreover, the respondent's conduct defeats the very purpose for which the Rule of Procedure for Small Claims Cases was promulgated. Primarily, the said Rule was crafted to provide an inexpensive and expeditious means to settle disputes over small amounts. In the case of *Orbe v. Judge Gumarang*^[42] the Court has emphasized the objectives sought to be accomplished in creating the Rule of Procedure for Small Claims Cases, to wit:

Thus, pursuant to its rule-making power, the Court, under the present Constitution, can adopt a special rule of procedure to govern small claims cases and select pilot courts that would empower the people to bring suits before them pro se to resolve legal disputes involving simple issues of law and procedure without the need for legal representation and extensive judicial intervention. **This system will enhance access to justice, especially by those who cannot afford the high costs of litigation even in cases of relatively small value. It is envisioned that by facilitating the traffic of cases through simple and expeditious rules and means, our Court can improve the perception of justice in this country,** thus, giving citizens a renewed "stake" in preserving peace in the land. x x x.^[43] (Emphasis Ours)

The Court has further elucidated that the theory behind the small claims system is that ordinary litigation fails to bring practical justice to the parties when the disputed claim is small, because the time and expense required by the ordinary litigation process are so disproportionate to the amount involved that it discourages a just resolution of the dispute. The small claims process is designed to function quickly and informally. There are no lawyers, no formal pleadings and no strict legal rules of evidence.^[44]

The Court, in recognition of the intent of the law in providing the period to hear and