

EN BANC

[A.M. No. P-16-3419 [Formerly OCAIPI No. 11-3648-P], February 23, 2016]

AUGUSTO V. SANTOS, COMPLAINANT, VS. SHERIFF IV ANTONIO V. LEAÑO, JR., SHERIFF III BENJIE E. LACSINA, SHERIFF III ALVIN S. PINEDA, RESPONDENTS.

R E S O L U T I O N

PER CURIAM:

In the dispensation of justice, sheriffs are considered the "grassroots of our judicial machinery"^[1] since their duties and functions inevitably place them in close contact with litigants. The performance of their duties often shapes the public's perception of the judiciary. As such, sheriffs are expected to perform their duties honestly and efficiently. This court does not tolerate any misconduct that diminishes the image and integrity of the judiciary.

On April 15, 2011, Augusto V. Santos (Santos) filed a Verified Complaint-Affidavit^[2] before the Office of the Court Administrator for Dereliction of Duty against respondents Sheriff IV Antonio V. Leaño, Jr., of the Office of the Clerk of Court of the Regional Trial Court of Tarlac City; Sheriff III Benjamin E. Lacsina of the Office of the Clerk of Court of Municipal Trial Court in Cities, Tarlac City; and Sheriff III Alvin S. Pineda of Branch 2 of the Municipal Trial Court in Cities, Tarlac City.^[3]

In the Complaint-Affidavit, Santos alleged that he was the attorney-in-fact of the heirs of the late Lucio Gomez and that he filed on their behalf ejectment cases against various informal settlers occupying their lot in Barangay Binauganan, Tarlac City. The ejectment cases were filed before Branch 1 of the Municipal Trial Court of Tarlac City, and were docketed as Civil Case Nos. 9160 and 9162.^[4]

After summary hearing, Santos obtained a favorable judgment. Pursuant to the finality of the trial court's Decision, a Writ of Execution was issued. The respondents in Civil Case Nos. 9160 and 9162 allegedly failed to vacate.^[5]

Subsequently, Santos moved for the issuance of a special writ of demolition, which the trial court granted. The Special Writ of Demolition ordered Branch Sheriff Danilo U. Ibarra (Sheriff Ibarra) to demolish the houses of the informal settlers.^[6]

Santos alleged that he asked Sheriff Ibarra to implement the Special Writ of Demolition but the Sheriff was reluctant to perform it due to his physical condition.^[7] Santos was allegedly referred instead to Benjie E. Lacsina (Sheriff Lacsina), Sheriff III of the Municipal Trial Court in Cities, Tarlac City Office of the Clerk of Court, and later to Antonio V. Leaño (Sheriff Leaño, Jr.), Sheriff IV of the Regional Trial Court of Tarlac.^[8]

Santos alleged that Sheriff Lacsina and Sheriff Leaño, Jr. required him to deposit P200,000.00 to cover the sheriffs' expenses such as food and travel allowance and salaries of the demolition crew. He alleged that he deposited the amount with the trial court and the amount was withdrawn; however, no demolition occurred.^[9]

Meanwhile, the respondents in Civil Case Nos. 9160 and 9162 were allegedly able to obtain a Writ of Preliminary Injunction before Branch 63 of the Municipal Trial Court. The cases, however, were affirmed on appeal before Branch 64 of the Regional Trial Court of Tarlac City. In view of Branch 64's Decision, Branch 63 lifted the Writ of Preliminary Injunction. The records were again remanded to Branch 1 of the Municipal Trial Court for execution. Santos alleged that he asked Sheriff Ibarra and Sheriff Lacsina to implement the Decision.^[10]

Santos alleged that Sheriff Ibarra and Sheriff Lacsina were reluctant to implement the Decision, with Sheriff Ibarra citing his illness and impending retirement and Sheriff Lacsina stating that some of the informal settlers were known to him as members of Iglesia ni Cristo, the same religious sect of which he was part. Santos was then referred again to Sheriff Leaño, Jr. for the implementation of the Decision.^[11]

Sheriff Leaño, Jr. allegedly requested Santos to make his designation official. Santos' lawyer, Atty. Enrico Barin, filed a motion before the court. On June 22, 2010, the Municipal Trial Court issued the Order^[12] designating Sheriff Leaño, Jr. and Sheriff Genaro U. Cajuguiran (Sheriff Cajuguiran) to assist Sheriff Ibarra. Santos alleged that there was an agreement among the sheriffs that Sheriff Leaño, Jr. was to prepare the Sheriff's Return and that Sheriff Lacsina and Sheriff Ibarra were going to sign it.^[13]

Santos alleged that he met with Sheriff Leaño, Jr. at Max's Restaurant in Luisita Mall, Tarlac, where the latter provided him with an itemized list of expenditures. He alleged that Sheriff Leaño, Jr. required him to pay half of the expenses with the assurance that a demolition team would be assembled in time for the actual demolition.^[14]

Santos allegedly paid Sheriff Leaño, Jr. the amount of T100,000.00 as partial payment.^[15] He also allegedly paid P200,000.00 to Eddie Reyes, the person designated by Sheriff Leaño, Jr. to lead the demolition.^[16] He further alleged that Sheriff Lacsina and Sheriff Alvin S. Pineda (Sheriff Pineda) of Branch 2 of the Municipal Trial Court of Tarlac City received, a day before the supposed demolition, their per diems amounting to P11,000.00 "for them to show up at the site."^[17]

He alleged that Sheriff Leaño, Jr. told him that the demolition would take place in February 2011 and that he requested P25,000.00 for the food and transportation of the demolition crew.^[18]

Santos alleged that he paid all the amounts requested but the Writ of Demolition was not implemented. He alleged that Sheriff Leaño, Jr. again promised to implement the Writ two (2) weeks after the original promised date but did not follow through on this promise. Because of the failure of Sheriffs Leaño, Jr., Lacsina, and

Pineda to implement the Writ, Santos alleged that he was constrained to file the Complaint-Affidavit.^[19]

On June 6, 2011, respondents Sheriffs Leaño, Jr., Lacsina, and Pineda were ordered by the Office of the Court Administrator to comment on the Complaint-Affidavit.^[20] Respondents Pineda and Lacsina requested an extension often (10) days to file their comment,^[21] which the Office of the Court Administrator granted.^[22] However, respondents failed to file the required comment despite receipt of notice.^[23]

In the Manifestation and Motion^[24] dated February 19, 2014, complainant informed this court that he was withdrawing his case against respondents on the ground that his filing of the Complaint-Affidavit was caused by a "mere misunderstanding and/or lack of proper reconciliation of records"^[25] during the accounting of expenditures in the demolition.

In its report^[26] dated March 30, 2015, the Court Administrator found that respondents' failure to comply with what was purely a ministerial duty constituted gross neglect and gross inefficiency in the performance of official duties.^[27] While the estimated expenses for the demolition were approved by the trial court, respondents failed to itemize and liquidate the expenses for the demolition and to issue an official receipt upon receiving complainant's money.^[28] This amounted to dishonesty or extortion.^[29] Moreover, respondents' refusal to comply with the orders to comment on the Complaint-Affidavit despite notice constituted disrespect not only to the Office of the Court Administrator but also to this court.^[30] For these infractions, the Office of the Court Administrator recommended that respondents be dismissed from service.^[31]

The findings of fact and recommendations of the Office of the Court Administrator are adopted.

Complainant's withdrawal of his Complaint does not dismiss the administrative case against respondents nor divest this court of its jurisdiction to determine the administrative liabilities of its officers and employees.^[32] To maintain the public's trust and confidence in government and its instrumentalities, disciplinary proceedings cannot be made to depend on the whim of complainants who may have lost interest in pursuing the case or succumbed to a settlement with the respondents.^[33] To do otherwise would undermine this court's authority under Article VIII, Section 6 of the Constitution.^[34] In *Saraza v. Tarn*:^[35]

At the outset, it must be emphasized that the withdrawal of an administrative complaint by the complainant does not necessarily warrant the dismissal of the same. Administrative actions cannot depend on the will or pleasure of a complainant who may, for reasons of his own, condone what may be detestable. Neither can the Court be bound by the unilateral act of a complainant in a matter relating to its disciplinary power. After all, complainants in administrative cases against court personnel are, in a real sense, only witnesses.

The withdrawal of an administrative complaint or subsequent desistance by the complainant does not free the respondent from liability, as the purpose of an administrative proceeding is to protect the public service, based on the time-honored principle that a public office is a public trust. It does not operate to divest the Court of jurisdiction to determine the truth behind the matter stated in the complaint. The Courts disciplinary authority cannot be dependent on or frustrated by private arrangements between the parties. An administrative complaint against a court official or employee cannot simply be withdrawn by a complainant who suddenly changes his mind.^[36]

Thus, complainant's Motion and Manifestation does not prevent this court from continuing its investigation and taking proper action against respondents.

"Sheriffs are officers of the court who serve and execute writs addressed to them by the court, who prepare and submit returns of their proceedings . . . [and] keep custody of attached properties."^[37] Proceedings for attachment are said to be "harsh, extraordinary and summary in nature— a rigorous remedy [that] exposes the debtor to humiliation and annoyance."^[38] Sheriffs are held to the highest standards in the performance of their duties, keeping in mind that "public office is a public trust."^[39]

The duties of a sheriff in implementing a writ of execution for the delivery and restitution of real property are outlined in Rule 39, Section 10(c) and (d) and Section 14 of the Rules of Court:

SEC 10. Execution of judgments for specific act. -

....

(c) Delivery or restitution of real property. The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee, otherwise, the officer shall oust and such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or profits awarded by the judgment shall be satisfied in the same manner as a judgment for money.

(d) Removal of improvements on property subject of execution. When the property subject of the execution contains improvements constructed or planted by the judgment obligor or his agent, the officer shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former has failed to remove the same within a reasonable time fixed by the court.

....

SEC. 14. *Return of writ of execution.* - The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

The provisions mandate that upon the issuance of the writ of execution, the sheriff must demand that the person against whom the writ is directed must peaceably vacate the property within three (3) working days; otherwise, they will be forcibly removed from the premises. The sheriff must not destroy any improvements on the property unless ordered by the court. After the judgment has been satisfied in part or in full, the sheriff must make a return of the writ. If the writ cannot be satisfied in full within 30 days, the sheriff must report to the court the reason for its non-satisfaction. The sheriff must also make a report to the court every 30 days until the writ is fully satisfied and is rendered ineffective.

Considering the step-by-step process mandated by the Rules, the implementation of a writ of execution is a ministerial act of the sheriff. An act is ministerial if done by "an officer or tribunal [who] performs in the context of a given set of facts, in a prescribed manner and without regard to the exercise of his own judgment, upon the propriety or impropriety of the act done."^[40] Sheriffs do not exercise any discretion when implementing a writ of execution. Litigants are not obliged to request the sheriff to execute the writ:

We will reiterate 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.

When a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate. Accordingly, a sheriff must comply with his mandated ministerial duty as speedily as possible. There is even no need for the litigants to "follow up" a writ's implementation.^[41]

The Writ of Execution in this case was issued by Branch 1 of the Municipal Trial Court of Tarlac City on February 23, 2009.^[42] A Special Writ of Demolition was issued on July 15, 2009.^[43] Complainant first approached Sheriff Ibarra of the Municipal Trial Court to request the implementation of the Writ. Due to health reasons, Sheriff Ibarra referred him to respondent Lacsina of the Municipal Trial Court Office of the Clerk of Court, and later, to respondent Leaño, Jr. of the Regional Trial Court.