

## FIRST DIVISION

**[ A.M. No. P-05-2054 (Formerly A.M. No. 05-6-374-RTC), April 30, 2008 ]**

**MILA L. DACDAC, Complainant, vs. VICTOR C. RAMOS, Sheriff IV, Regional Trial Court, Branch 26, Sta. Cruz, Laguna, Respondent.**

### D E C I S I O N

**AZCUNA, J.:**

This is an administrative case filed by Gemma Mila L. Dacdac against Victor C. Ramos, Sheriff IV, Regional Trial Court, Branch 26, Sta. Cruz, Laguna (the RTC), charging him with dereliction of duty for his alleged refusal to implement the trial court's order to issue a certificate of sale despite the absence of any restraining order or injunction from any court.

Vivien Kristel Dacdac Alvarado, minor, represented by her mother, complainant herein, filed an action for support against Mario A. Alvarado. The case was docketed as S.P. PROC. No. SC-1904 before the RTC. After trial, the court ruled in favor of the plaintiff. When the decision became final and executory, a writ of execution was issued on July 16, 2003. Upon service of the Notice of Levy on Execution and Sheriff's Sale, a public auction was held on November 14, 2003 over a 304 sq. m. parcel of land (together with improvements thereon) owned by the defendant, covered by TCT No. T-216819 and located at Barangay Biñan, Pagsanjan, Laguna. The property was sold in favor of the plaintiff, the lone bidder, in the amount of P1,585,000 representing the total support in arrears plus attorney's fees.

On November 2, 2004, the trial court issued an Order directing respondent to execute a certificate of sale in favor of the plaintiff. Respondent, however, withheld the issuance of said certificate pending the plaintiff's payment of the amount of P45,600 as legal fee pursuant to Section 9 (1) of Supreme Court A.M. No. 04-2-04.

[1] The issue was submitted for resolution. When the trial court ruled that an action for support is not within the scope of the rule, it ordered, on February 23, 2005, respondent to execute the certificate within ten (10) days from his receipt of the Order.

Despite the directive, respondent refused to execute a certificate of sale. Consequently, on April 5, 2005, complainant wrote a letter-complaint addressed to the then Chief Justice Hilario Davide, Jr. The letter was thereafter indorsed to Deputy Court Administrator Jose P. Perez for appropriate action.

In his Explanation dated April 26, 2005, respondent commented that he deemed it proper not to comply with the February 23, 2005 Order of the trial court because of the Manifestation filed by the defendant's counsel on March 4, 2005 requesting to hold in abeyance the execution of said Order and, as to which, an *Ex-Parte* Motion to Strike Out the manifestation was also filed by plaintiff's counsel. Respondent alleged

that he was awaiting the hearing and resolution of these motions before undertaking any action. He noted that the motions were set for hearing on May 30, 2005.<sup>[2]</sup>

In its July 6, 2005 Report, the Office of the Court Administrator (OCA) opined that:

Evidently, [respondent] was remiss in his duties when he failed to implement the 23 February 2005 order. He is guilty of dereliction of duty as a sheriff when he failed to execute the writ within thirty (30) days from receipt of the order.

We find his explanation utterly wanting. His actuations constitute disrespect, if not outright defiance of the court's order. In the absence of instructions to the contrary, it was his duty to execute the certificate of sale with utmost diligence and dispatch in accordance with its mandate.

In the subject case, neither a temporary restraining order nor injunction was issued by the court. There was[, ]therefore[, ] no reason for [respondent] to wait for the resolution of the motion filed by [defendant's counsel].

The OCA recommended that respondent be fined in the amount of P5,000.

On August 8, 2005, the Court resolved to re-docket the matter as a regular administrative case and to require the parties to manifest their willingness to submit the case for decision on the basis of the documents on record. Complainant filed her Manifestation to that effect while respondent informed the Court that, in compliance with the trial court's Order dated March 1, 2007, he already issued the corresponding certificate of sale on March 12, 2007.

We agree with the OCA findings as well as its proposed penalty.

Those who are tasked to implement court orders and processes must see to it that the final stage of the litigation process - the execution of judgment - should be carried out promptly. A sheriff, specifically, must exert every effort and should consider it his bounden duty to do so at all times, having at heart the genuine concern that a decision left unexecuted or delayed indefinitely would be nothing but an empty victory on the part of the prevailing party.<sup>[3]</sup> Hence, several times over, this Court has held that a sheriff's responsibility in the execution of a writ is mandatory and purely ministerial, not directory; once it is placed in his hands, it is his duty, ***unless restrained by the court***, to proceed with reasonable speed to enforce the writ to the letter, ensuring at all times that the implementation of the judgment is not unjustifiably deferred.<sup>[4]</sup>

To note, the immediate issuance of a certificate of sale after the conduct of an execution sale is significant since it is only upon its registration with the appropriate Registry of Deeds that the one-year redemption period of the judgment debtor begins to run.<sup>[5]</sup> Unless the certificate of sale is issued and registered, and until the redemption period expires without the debtor exercising his right to redeem the property, all that the highest bidder could do is to wait. Unlike the rule on extrajudicial foreclosure of mortgage,<sup>[6]</sup> the purchaser in an execution sale has no right to possess the property by posting a bond during the period of redemption. A