

THIRD DIVISION

[A.M. NO. P-03-1684, March 10, 2006]

**PETER T. DONTON, COMPLAINANT, VS. EDGARDO S. LORIA,
SHERIFF III, METROPOLITAN TRIAL COURT, QUEZON CITY,
BRANCH 33, RESPONDENT**

D E C I S I O N

CARPIO, J.:

The Case

This is an administrative complaint against Edgardo S. Loria ("respondent sheriff"), Sheriff III of the Metropolitan Trial Court (MeTC), Branch 33, Quezon City, for gross misconduct.

The Facts

In his Affidavit-Complaint dated 26 August 2002, Peter T. Donton ("complainant") stated that he was the defendant in a civil case for forcible entry filed by plaintiffs Duane O. Stier and Emelyn Addun Maggay ("plaintiffs").^[1] Judge Maria Elisa Sempio Diy ("Judge Sempio Diy") of the MeTC, Branch 34, Quezon City, issued an order giving plaintiffs five days from receipt of the order to submit an inventory of their personal properties in the subject premises. The order also provided that after submission of the inventory, the court would schedule the date and hour for plaintiffs to enter the premises and retrieve their personal properties in the presence of complainant and his counsel. Judge Henri JP B. Inting ("Judge Inting") of the MeTC, Branch 33, Quezon City, who took over the case after Judge Sempio Diy voluntarily inhibited herself from the case,^[2] ordered the implementation of the order. Complainant filed a motion for reconsideration of Judge Inting's order.^[3]

Before the resolution of the motion for reconsideration and even before the court had set the date and time for the retrieval of the properties, respondent sheriff accompanied plaintiffs and their counsel to the premises to retrieve plaintiffs' properties. Respondent sheriff did not notify complainant and his counsel of the retrieval. Likewise, complainant's counsel was not present when respondent sheriff tried to implement the order.

On 30 April 2002, Judge Inting rendered a decision^[4] in favor of the plaintiffs. Plaintiffs filed a motion for execution on 2 May 2002.^[5] In late afternoon of 3 May 2002, respondent sheriff personally served on complainant and his counsel a copy of the decision and plaintiffs' motion for execution. Complainant alleged that in doing so, respondent sheriff acted as a "messenger" of the plaintiffs.^[6]

In his 2nd Indorsement dated 28 September 2002, respondent sheriff denied

complainant's allegations. He stated that he was acting as court sheriff, not as a messenger of the plaintiffs, when he personally served a copy of the motion for execution on complainant and his counsel. He claims that the motion was only "incidentally" served with the decision because plaintiffs' counsel requested him to do so to prevent undue delay in the execution of the decision. He also feared that if he refused, plaintiffs would administratively charge him with dereliction of duty. Respondent sheriff even cited Section D, Chapter VIII of the Manual for Clerks of Court^[7] to justify his actions.

The Recommendation of the Office of the Court Administrator

In its Report dated 4 February 2003 ("Report"), the Office of the Court Administrator (OCA) recommended the re-docketing of the case as an administrative case. The OCA also recommended that respondent sheriff be held liable for grave misconduct and fined P1,000 with a warning that a repetition of a similar offense would be dealt with more severely. The Report reads:

Respondent [s]heriff is liable for Grave Misconduct. His first infraction involves the order allowing the plaintiffs to enter the premises to retrieve their belongings which should be done in the presence of both parties and their counsel. What respondent [s]heriff did was to implement the order without the counsel of herein complainant. His Comment is silent on this matter but it has been held that silence is admission if there was [a] chance to deny, especially if it constitutes one of the principal charges against him. (*Perez vs. Suller, A.M. No. MTJ-94-936, November 6, 1995*) The second infraction involves the motion for execution filed by the plaintiffs and served upon the complainant personally by respondent [s]heriff. This he admitted in his Comment saying that he was requested by the plaintiffs so as to avoid delay.

In both instances, respondent [s]heriff displayed an over-zealousness [sic] in favor of the plaintiffs to the point of acting as the latter's messenger. His duty is to serve upon the litigants the writs, processes and other issuances of the court, not the pleadings of the parties. Respondent [s]heriff as a court employee must conduct himself with propriety and decorum and his action must be beyond suspicion. (*Flores vs. Conuja, 256 SCRA 518*) By trying to implement the said order in the absence of the counsel for complainant and serving upon the latter the motion of the plaintiffs he gave the impression that he was acting more in behalf of the plaintiffs than [as] an officer of the court, thus tarnishing the image of the judiciary.^[8]

In a Resolution dated 12 March 2003, the Court ordered the re-docketing of the case as an administrative case. The Court also required the parties to manifest within 10 days from notice if they were willing to submit the case for resolution based on the records on file.

In a letter dated 4 April 2003, respondent sheriff stated that he was willing to submit the case for resolution. Complainant failed to respond.

The Court's Ruling

The Court finds respondent sheriff liable for simple misconduct.

***On Respondent Sheriff's Premature Implementation
of the Court's Order***

In ***Perez v. Suller***,^[9] the Court ruled that silence is admission if there was a chance to deny, especially if the silence is on one of the principal charges against the respondent.

Respondent sheriff, in his 2nd Indorsement, made an extensive comment on the allegation that he served a copy of plaintiffs' motion to complainant and his counsel. But he said nothing on the allegation that he prematurely implemented the order of the court. Respondent sheriff is deemed to have admitted this allegation.

The Code of Conduct of Court Personnel^[10] ("Code") provides that "[c]ourt personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority."^[11]

Respondent sheriff's act of accompanying plaintiffs and their counsel to the premises to retrieve plaintiffs' properties was done in violation of the court's order. Respondent sheriff should have waited for the court's order setting the date and time when plaintiffs and their counsel could enter the premises to retrieve plaintiffs' properties. Furthermore, retrieval of plaintiffs' properties should have been done in the presence of both parties and their counsels. Respondent sheriff proceeded to implement the order without notice to, and in the absence of, complainant and his counsel.

Besides, complainant had a pending motion for reconsideration of the order. Respondent sheriff should have waited for the resolution of the motion before proceeding to implement the order. Clearly, respondent sheriff exceeded the limits of his authority when he prematurely implemented the court's order.

***On Respondent Sheriff's Service of Plaintiffs' Motion for Execution
on Complainant and his Counsel***

Sheriffs are ministerial officers.^[12] Sheriffs are agents of the law, not agents of the parties,^[13] and no sheriff shall act as special deputy sheriff of any party litigant.^[14] The sheriff is primarily responsible for the speedy and efficient service of all court processes and writs originating from his court and its branches, and those that other courts may assign to him.^[15]

The following are the general functions and duties of a Sheriff III:

2.2.4.1. serves and/or executes writs and processes addressed and/or assigned to him by the Court and prepares and submits returns of his proceedings;

2.2.4.2. keeps custody of attached properties or goods;

2.2.4.3. maintains his own record books on writs of execution, writs of