

THIRD DIVISION

[A.M. No. P-02-1535, March 28, 2003]

FERNANDO FAJARDO, COMPLAINANT, VS. SHERIFF RODOLFO V. QUITALIG, MUNICIPAL TRIAL COURT IN CITIES, SAN CARLOS CITY, PANGASINAN, RESPONDENT.

D E C I S I O N

PANGANIBAN, J.:

As frontline officials of the justice system, sheriffs must always strive to maintain public trust in the performance of their duties. Hence, they must see to it that the final stage in the litigation process is completed without unnecessary delay.

The Case and the Facts

In a Sworn Complaint^[1] dated April 11, 2000, Sheriff Rodolfo V. Quitalig of the Municipal Trial Court in Cities (MTCC) of San Carlos City was charged by Reverend Fernando Fajardo with conduct prejudicial to the best interest of the service and/or dereliction of duty.

The factual antecedents of the case are summarized by the Office of the Court Administrator (OCA) as follows:

"Complainant, who is one of the plaintiffs in [Civil Case No. MTCC-2266 entitled 'Spouses Fernando Fajardo and Evangeline Perez vs. Maria Datuin], alleged that the complaint for ejectment which they filed on July 17, 1997 was finally decided on July 29, 1999 against the defendant. The decision was appealed to the Regional Trial Court but it was dismissed on November 29, 1999, and the decision became final and executory. His lawyer filed a Motion for Execution, and on March 7, 2000, the Court issued a Writ of Execution which was brought by the respondent Sheriff to the defendant Maria Datuin on March 9, 2000.

"Complainant claimed that after the Writ of Execution was served, defendant asked for a period of two (2) weeks for her to remove her personal properties on the land. After two (2) weeks he went to Sheriff Quitalig so that the Writ of Execution may be implemented but he was told that a restraining order was issued, but when he asked for it, the respondent told him that he left it in the office.

"Complainant stated that on March 24, 2000, he and his lawyer went to the court to verify whether a restraining order has really been issued but they found out that there was none; so he told the respondent to implement the Writ of Execution. Respondent, accompanied by a policeman and the barangay captain went to the place where the Writ of

Execution is to be implemented at 10:00 that morning but when they reached the place, respondent did not do anything except to ask the defendant to bring out her personal properties. His reason is that an employee of the Probation Office, Mr. Leonardo Martinez, talked to him. At 5:30 p.m., the restraining order was brought to the place, and the respondent told him that the writ of execution can no longer be implemented.

"Complainant asserted that respondent favored, or showed partiality in favor of the defendant to his prejudice."^[2]

In his Comment^[3] dated October 3, 2000, respondent denied the charge. He asked for the dismissal of the case, because he had already implemented the Writ on August 24, 2000 as evidenced by his August 25, 2000 Report of Service.^[4] He also pointed out that he had made an inventory of the personal properties recovered from the subject premises. That he had done so was attested to by defendant's mother, Rufina Datuin, and witnessed by the barangay captain and two councilors.

The OCA's Finding and Recommendation

In its October 29, 2001 Report,^[5] the OCA found respondent to have been negligent in the performance of his duty as a sheriff. It said thus:

"Respondent was negligent in the performance of his duty as sheriff. The Writ of Execution was issued on March 7, 2000, and was served on the judgment obligor on March 9, 2000. Respondent admitted that the judgment obligor promised to vacate the premises on March 29, 2000, but he was not able to implement the Writ of Execution because on March 24, 2000, RTC, Branch 56, San Carlos, Pangasinan issued a Temporary Restraining Order. The Temporary Restraining Order did not ripen into an injunction so it lapsed after twenty (20) days from the date it was issued, but the Writ of Execution was implemented only [on] August 24, 2000 which is more than four (4) months from the date the restraining order lapsed. It is the duty of the sheriff to enforce a writ of execution without delay once it is given to him unless restrained.

"The Writ of Execution was finally and/or implemented only on August 24, 2000, as shown in the Report submitted by the respondent in court. Complainant claimed that the respondent was reluctant to implement the Writ of Execution because a certain Leonardo Martinez intervened. This allegation of the complainant was not denied by the respondent in his Comment. Respondent just stated in his Comment that he implemented the Writ of Execution on August 24, 2000, and made inventory of the personal properties pulled out from the building and signed by defendant's mother and Barangay Captain Nestor Poquiz. Respondent's deliberate refusal to traverse or refute the charges is an admission that the allegations are true and he cannot deny them."^[6] (Citation omitted)

The OCA recommended that respondent be ordered to pay a fine of P5,000 and warned that a repetition of the same or a similar offense would be dealt with more

severely.^[7]

This Court's Ruling

We agree with the OCA's findings and recommendation.

Respondent's Administrative Liability

As frontline officials of the justice system, sheriffs must always strive to maintain public trust in the performance of their duties. Having the forsworn duty to uphold the majesty of the law, they must see to it that the final stage in the litigation process is carried out without unnecessary delay.^[8]

A review of the records of this case reveals that respondent enforced the Writ of Execution dated March 7, 2000 only on August 24, 2000, as shown by his August 25, 2000 Report of Service. Within 30 days from receipt thereof and every 30 days thereafter until the judgment is fully satisfied, a sheriff is required by the Rules of Court to render a report on the action taken on a writ of execution. Section 14 of Rule 39 of the Rules provides the manner in which the execution is to be implemented, as follows:

"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 days (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefore. 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."

Evidently, respondent was not only remiss in his implementation of the Writ, but likewise derelict in his submission of the returns thereof.

Respondent should have immediately implemented and made a return of the Writ after duly serving it upon the defendant on March 9, 2000. Nonetheless, because of the request of the defendant and her promise that she would vacate the premises on March 23, 2000, he allowed her to remain there. However, when he came back on March 24, 2000, he was unable to enforce the Writ because of a TRO issued by the RTC of San Carlos, Pangasinan. He averred that he was finally able to execute the Writ on August 24, 2000 and to submit his Return thereof on the next day.

We find respondent's explanation to be utterly wanting. He is guilty of dereliction of his duty as a sheriff, because he failed to (1) execute the Writ within 30 days from his receipt thereof, (2) submit his Report of Service within the same period, (3) make periodic reports to the MTCC until the judgment was fully satisfied, and (4) furnish the parties with copies of the Reports.

By his own words, respondent admitted his dereliction of duty. *First*, as we have said earlier, he should have immediately executed the Writ when he served it upon the