

SECOND DIVISION

[A.M. No. P-00-1437, February 06, 2001]

ATTY. JULIAN B. SAN JUAN, JR., COMPLAINANT, VS. ARIEL S. SANGALANG, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 114, PASAY CITY, RESPONDENT.

D E C I S I O N

DE LEON, JR., J.:

On February 26, 1999, a verified complaint was filed with the Office of the Court Administrator (OCA) by Atty. Julian B. San Juan, Jr. charging the respondent, Ariel S. Sangalang, Sheriff IV, Regional Trial Court (RTC) of Pasay City, Branch 114, for Neglect of Duty, Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service.

Complainant Atty. Julian B. San Juan, Jr., is counsel for the plaintiff in Civil Case No. 96-1225 entitled, "Albina Sy vs. Armando Brillantes and Cecilia Brillantes" pending before the Regional Trial Court (RTC, for brevity) of Pasay City, Branch 114. On September 29, 1997, the RTC issued a writ of execution in the said case. On October 1997, the complainant allegedly made repeated representations with respondent sheriff for the immediate implementation of the writ but respondent sheriff always made the excuse that he was preoccupied with the implementation of other writs and processes issued by the trial court.

Realizing that a monetary consideration was apparently needed to facilitate respondent sheriff's implementation of the writ of execution, complainant intimated to respondent sheriff that the latter would receive a "substantial amount" upon the immediate implementation of the writ.

On December 4, 1998, at around 6:00 o'clock in the morning, respondent sheriff together with the complainant, complainant's liaison officer named Eduardo Tibor, and a locksmith, proceeded to the residence of defendant spouses Armando and Cecilia Brillantes in Meycauayan, Bulacan, on board the complainant's car, to implement the writ. Complainant, however, had a prior commitment with the RTC of Manila, Branch 45, at 10:00 o'clock in the morning, so he left the respondent sheriff, respondent's aide, and Tibor at the residence of the said defendant spouses.

Respondent sheriff was unable to implement the writ, notwithstanding the fact that sufficient personal properties of the defendants-spouses were within the premises, including but not limited to, a Mitsubishi Station Wagon. Complainant was informed by respondent sheriff through a telephone call the next day that the writ could not be implemented because the Mitsubishi Station Wagon was covered by a Deed of Sale in favor of a third person. However, respondent allegedly assured the complainant that the writ would be implemented within a week as long as complainant would pay in advance the sum of at least Ten Thousand Pesos

(P10,000.00) as Sheriff's fee. Complainant promised to immediately attend to the payment of Sheriff's fee after the implementation of the writ. Respondent sheriff nevertheless neglected, failed and/or refused to implement the same.

On February 4, 1999, complainant sent a letter to respondent sheriff requesting the latter to implement the writ or at least to inform him of his inability to execute the same so that he could file a motion for the appointment of a Special Sheriff with the RTC. On February 15, 1999, complainant was informed by respondent sheriff that the latter could no longer implement the writ because his "identity has already been quite exposed to the defendants and their relatives nearby and may not be able to effectively get into their premises". Hence, complainant on February 18, 1999, filed with the RTC an "Ex-Parte Motion to Appoint Special Sheriff."

In his comment to the complaint filed before the Office of the Court Administrator (OCA, for short), respondent sheriff denied that complainant made representations with him on October 7, 1997 and personally requested for the implementation of the writ since it was only on November 17, 1997 that a certain Roberto Advincula of J.B. San Juan and Associates Law Office requested for a copy of the aforesaid writ.

Respondent sheriff maintains that the complainant called him up during the latter part of November 1998 to inquire if there was a need to file a Motion for Issuance of an Alias Writ of Execution inasmuch as a considerable length of time had already elapsed from the time the original writ was issued. After verifying from the records that the original writ could still be implemented, respondent sheriff tried to proceed with the execution of the writ on December 4, 1998. Unfortunately, the execution of the writ failed to materialize.

Respondent sheriff claims that he failed to proceed with the execution of the writ inasmuch as a Honda Civic car was intentionally parked behind the Mitsubishi Station Wagon rendering futile any attempt to push or maneuver it out of the garage; and that the defendant spouses sternly warned respondent sheriff against an attempt to get any personal properties from them; that relatives of defendant spouses as well as males from nearby houses whom respondent termed, in his comment, as "probably toughies", likewise warned him, who was at the time allegedly alone and unarmed, not to attempt to get the Mitsubishi Station Wagon since the same was "too much to answer for the money judgment" amounting to a little more than Two Hundred Fifty Thousand Pesos (P250,000.00) including attorney's fees.

Respondent sheriff denied complainant's allegation that he was reluctant to implement writ without receiving a "substantial amount." Respondent sheriff claims that he even paid for the implementation fee of the writ with the Clerk of Court of the RTC of Pasay City by using his personal money. Respondent said that when they were already at Meycauayan, Bulacan, complainant told him in confidence that he had already forgotten about the need for the enforcement of the writ until his client reminded him about it.

Respondent sheriff further explained that the reason why he had some reservations in re-implementing the writ was because he may not effectively gain access to the defendant spouses' premises since they already knew him and would then have the chance to conceal their properties. Respondent sheriff stated that in any event, upon motion of complainant, the RTC of Pasay, Branch 114, had already issued an Order