

## **THIRD DIVISION**

**[ A.M. No. P-00-1438, August 14, 2001 ]**

**JUNN F. FLORES, COMPLAINANT, VS. ROGER S. CONANAN,  
CLERK OF COURT II, MUNICIPAL CIRCUIT TRIAL COURT,  
IBAJAY-NABAS, IBAJAY, AKLAN, RESPONDENT.**

### **D E C I S I O N**

**GONZAGA-REYES, J.:**

The Office of the Ombudsman, in a letter dated November 16, 1998, forwarded to then Court Administrator Alfredo L. Benipayo a Complaint-Affidavit dated October 19, 1998 signed by Junn F. Flores which charged respondent Clerk of Court II Roger S. Conanán of the Municipal Circuit Trial Court of Ibañay-Nabas, Ibañay, Aklan with grave abuse of authority relative to Civil Case No. 198 for Forcible Entry for alleged unlawful issuance of a writ of execution and in the execution of the said writ.

From the complaint-affidavit, it appears that herein complainant Junn Flores is one of the defendants in a civil case for forcible entry involving a parcel of land with an area of 9,564 square meters located at Poblacion, Nabas, Aklan, which was docketed as Civil Case No. 198. A decision was rendered on May 21, 1998 by Presiding Judge Eulado S. Masangkay of the MCTC-Ibañay-Nabas, Ibañay, Aklan, the dispositive portion of which reads:

"WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiff ordering all the defendants and/or any person/s claiming under them to vacate the premises in question designated as Lot No. 24 (CAD 758-D) and to surrender the possession thereof to the plaintiff. The claim for damages by both parties is hereby denied."

It appears likewise that on September 28, 1998, Sheriff Nelson de la Cruz, Atty. Gideon de Pedro, Monroe Palomara, together with armed companions, arrived at the subject premises and informed the occupants, who were harvesting their palay, that they are serving a writ of execution which was issued by respondent Clerk of Court II Roger Conanán. The pertinent portion of the writ of execution dated September 25, 1998 issued by respondent Conanán reads:

"NOW, THEREFORE, you are hereby commanded to cause defendants, their privies, cohorts and all other persons acting in their behalf to vacate said parcel of land, and to deliver the possession thereof to the plaintiffs; to seize the goods and chattels of said defendants except such as are by law exempt from execution and to make sale thereof according to law, to satisfy the cost of damages, attorney's fees, cost of suit, together with your fees for the execution and to pay the amount so collected by you