

THIRD DIVISION

[A.M. No. P-01-1495, August 09, 2001]

ESMERALDO D. VISITACION, JR., COMPLAINANT, VS. GREDAM P. EDIZA, SHERIFF IV, RESPONDENT.

R E S O L U T I O N

MELO, J.:

On May 19, 1998, the Municipal Trial Court of Mabinay, Negros Oriental issued a writ of execution against the defendant in Criminal Case Number 12732, People vs. Cristobal Ejercito, for violation of Presidential Decree 772, otherwise known as the Anti-Squatting Law. The writ directed defendant Ejercito to restore possession of Lot No. 3098 to complainant Esmeraldo D. Visitacion and to remove the building constructed thereon. On June 10, 1998, the writ was assigned for implementation to respondent Deputy Sheriff Gredam P. Ediza, who asked that complainant hand-over the amount of P3,000.00 in order to facilitate service of processes on the defendant. Complainant turned over to respondent a social security pensioner's check in the amount of P2,400.00, which was supported by a receipt handwritten and signed by respondent. The balance of P600.00 was given at later dates, although no receipts were issued.

Almost three months later, the lower court had yet to receive a report or return of service on the writ of execution from respondent. Complainant then filed the instant administrative complaint against respondent on August 24, 1998 for dereliction of duty.

In his answer, respondent attached a return of service on the writ of execution dated August 10, 1998, which was the 60th day from the date of his receipt of the writ. The return was, however, stamped received by the Municipal Trial Court of Mabinay on August 25, 1998. Respondent explained in his answer that the discrepancy between the two dates is due to the distance between his office and the court. Further, the submitted return of service stated that respondent served the writ of execution on defendant Ejercito on June 29, 1998, but that the latter refused to acknowledge receipt thereof. It also reported that respondent explained the import and consequences of the writ to the defendant who was given 30 days to comply. As of August 10, 1998, defendant still continued to occupy the premises of complainant.

The Court agrees with the recommendation of the Office of the Court Administrator that respondent Deputy Sheriff Gredam P. Ediza be found guilty of dereliction of duty.

Notwithstanding the funding appropriated by the complainant for the entire proceeding, respondent failed, plainly and simply, to do his job. Under Section 9, Rule 141, of the Revised Rules of Court, complainant shall pay the expenses of the