

## THIRD DIVISION

[ A.M. No. P-99-1293, March 11, 1999 ]

**EMILIO DILAN AND LUCILA CADALIN-DILAN, COMPLAINANTS,  
VS. JUAN R. DULFO, SHERIFF. IV, REGIONAL TRIAL COURT OF  
BORONGAN, EASTERN SAMAR, RESPONDENT.**

### D E C I S I O N

**PANGANIBAN, J.:**

The sheriff is the "front-line representative of the justice system in this country;"<sup>[1]</sup> if the sheriff loses the people's trust, he diminishes the people's faith in the judiciary. Indeed the role of sheriffs in the administration of justice cannot be overemphasized, for on them depends the execution of a final judgment -- the final and most awaited step in our adversarial system on litigation. Thus, they are duty-bound to strictly enforce a writ of execution.<sup>[2]</sup>

#### The Case

Before us is an Administrative Complaint filed by Emilio Dilan and Lucila Cadalin-Dilan against Juan R. Dulfo, Sheriff IV of the Regional Trial Court of Borongan, Eastern Samar. Alleging that respondent sheriff had failed to implement the Writ of Execution issued in their favor, complainants now charge him with dereliction of duty.

This administrative matter arose from a suit for unlawful detainer<sup>[3]</sup> filed by the Dilan spouses against Antonio Basada and Paz Cadalin-Basada. On November 23, 1994, the Municipal Trial Court of Borongan, Eastern Samar, rendered a Decision,<sup>[4]</sup> the dispositive portion of which reads:

"WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants as follows:

"1. The defendants are hereby ordered to vacate and deliver to the plaintiffs the possession of the house and lot in question[;]

"2. The defendants are likewise ordered to pay a monthly rental of P500.00 from August 4, 1993 up to the time the house and lot in question are finally delivered to the possession of the plaintiffs and to pay the costs of this suit.

SO ORDERED."<sup>[5]</sup>

In their Letter-Complaint dated February 15, 1997 and received by the Court on February 23, 1997, Spouses Dilan averred:

"May we respectfully request your kind assistance [i]n the proper and effective execution of the case of Unlawful Detainer decided by the Court in our favor.

"My wife and I are senior citizens and retirees from the service of the Philippine government. We are owners of a residential lot at Sevilla Street, Borongan, Easter Samar on which we built a house in 1965 [under] the supervision of our parent, Enrique Cadalin (father of my wife) who upon our agreement, had lived therein. My wife and I had built the house as our residence in Borongan, but since we were residing in Manila where we were employed, we were not immediately able to occupy our house. By tolerance, my wife's sister, Paz Cadalin-Basada and her husband, Antonio Basada, have stayed in our house with our parent together with two brothers-in-law.

"After serving the government, we xxx decided to reside in Borongan where we had constructed the aforementioned house. We renovated it in 1993 and made it ready for occupancy. However, the problem arose when Paz Cadalin-Basada, sister of my wife, and our brother-in-law, Antonio Basada refused to allow us to occupy our said property. We then haled to court Spouses Antonio Basada and Paz CadalinBasada for unlawful detainer, and after proper hearings, the court, on November 23, 1994, handed down a decision (Annex A) in our favor, ordering the defendants to vacate and deliver to us the possession of the house and lot.

"On January 25, 1995, the court handed down a Writ of Execution (Annex B), commanding Sheriff Juan R. Dulfo, Jr. to execute and enforce its decision. However, Sheriff Dulfo failed to enforce the decision. Antonio Basada, his wife Paz Cadalin-Basada and their married and unmarried children have not vacated the premises [or] turned over to us the same, [and] until now they are still in possession of our house and lot.

"May we also inform your Honor that after the failure of the [s]heriff to execute the court's decision, and as we had no other residence to live in Borongan, Eastern Samar, we decided to occupy a small room of our said house with vehement objection and much resentment from Antonio Basada, his wife and their children who are living with them. From thereon, their actuations against us were bereft of civility and respect. We have been told not to use our house's toilet facilities, kitchen[;] and the electric current line to the room xxx we are occupying was cut-off. For almost two years since, we use[d] our small room as our kitchen, eating place and sleeping quarters. Not a few times xxx we were harassed, berated and threatened by them in our own house [which] they are occupying in full disregard of the court's decision.

"Your Honor, we were informed that unlawful detainer cases are governed by the Rules on Summary Procedure and because of that, such cases are "immediately executory." Now, our question is, what is the relevance of the 'immediately executory' character of unlawful detainer cases, when it does not serve the purpose of protecting the person and restoring the rights of the aggrieved party *primarily* because of the inability or failure of the [s]heriff to carry-out his duties effectively and assume the

responsibilities sworn to by him upon assuming the position as [s]heriff? In his Document of Delivery dated February 24, 1995 (Annex C), Sheriff Juan R. Dulfo, Jr. stated among others that "xxx in his capacity as executing officer, in compliance [with] the judgment xxx, ha[s] appeared at the premises, the house/lot in question and *physically delivered/restored herein plaintiffs the house/lot xxx.*" (italics supplied) And yet, in his Return of Service, dated February 27, 1995 (Annex D) Sheriff Dulfo stated among others that "xxx parties concerned (Antonio Basada and Paz Cadalin-Basada) were personally served with a copy of the NOTICE and DEMAND on February 13, 1995, together with a copy of the Writ of Execution and certified xerox copy of the decision of the above-captioned case, in the presence of SP03 Gregorio Almejas, PNP Borongan, Eastern Samar, but *parties adamantly refused to vacate the premises in question xxx* Writ is hereby returned." (italics supplied). Apparently, Sheriff Dulfo does not know until now how a *writ is satisfied*[;] he probably construed it as *mere service in accordance to his own satisfaction*. What kind of a [s]heriff is one who can afford to lie in print as to the nature of service he has just rendered as an employee of the Supreme Court?

"Your Honor, until when must we suffer not only the deprivation of our property rights but also the constant verbal abuse and harassment we are being subjected [to] everyday while the defendants Antonio. Basada, his wife and children continuously occupy the rest of our house, when the very sheriff who was ordered by the court to execute its decision in our favor failed to perform his duty as xxx expected of his position? Your Honor, the predicament we are in [is] taking its toll on our health already[;] we are weakened and even if we were already declared the lawful owners of the house and lot we are afraid we might not see the day when we could fully enjoy our property. Please help us before we lose our belief in our justice system.

"In the twilight of our lives, we would remain eternally grateful for a favorable solution to our problem."<sup>[6]</sup>

In his Comment,<sup>[7]</sup> Respondent Dulfo denied the charge against him in this wise:

"The undersigned in his capacity as Sheriff IV, RTC, Branch 2, Borongan, Eastern Samar, very respectfully submits to the Honorable Court Administrator, Your Honor, the following COMMENT on the sworn letter-complaint dated February 15, 1997, filed against him by the spouses Emilio Dilan and Lucila Cadalin Dilan, relative to Civil Case No. (93-05) 220 for Unlawful Detainer and Damages, Municipal Trial Court, Borongan, Eastern Samar.

"Your Honor, the charge of the plaintiffs that the undersigned failed to enforce the Writ of Execution of 25 January 1995 is not tenable, because the plaintiffs have been in fact put in possession of the property in question during the proceeding conducted on February 24, 1995 (Document of Delivery). The undersigned executed the Writ of Execution in the manner he was commanded in the third paragraph of the Writ, which states: "... by ordering the defendants to vacate and deliver to the

plaintiffs the possession of the house and lot in question", as in fact the plaintiffs have been placed in possession of the property in question, and they are now residing therein. If the defendants are again residing therein, they must have re-entered the property after the undersigned has placed the plaintiffs in possession thereof, in which case, the undersigned ought not to be blamed for it. And besides, Your Honor, there is a contempt decision rendered by the court (MTC) dated July 14, 1995 (attached), but was never implemented for reasons known only to the plaintiff's counsel and to the court in the instant case.

"After considering the foregoing premises, it is most respectfully prayed that the Letter-Complaint against the undersigned be dismissed, [the undersigned is] and hoping for your utmost consideration."

On February 17, 1998, the Court received the Reply of the complainants, in which they reiterated the allegations in their Complaint and debunked respondent's assertions in his Coniment.<sup>[8]</sup> On October 12, 1998, the respondent filed in this Court his Motion for Early Resolution of the Complaint, claiming that he had filed his application for retirement due to his failing health, and that he needed his papers to be processed as soon as possible, as he was in dire need of his retirement benefits. While maintaining his probity in the performance of his duties, he manifested that he was "willing that an amount be deducted from whatever retirement benefits he [would] receive that [may be] just and equitable in the premises."<sup>[9]</sup>

#### **RECOMMENDATION OF THE OFFICE OF THE COURT ADMINISTRATOR**

In his Report, Deputy Court Administrator Reynaldo L. Suarez, officer-in-charge of the Office of the Court Administrator, found the Complaint meritorious and recommended that a fine of P10,000 be imposed upon the respondent, viz:

"EVALUATION: After going over the records of the case, we find the instant administrative case to be impressed with merit.

"In the case at bar, it is very evident that respondent sheriff was not able to successfully implement the Writ of Execution issued by the Court in Civil Case No. (93-05) 220. Although respondent sheriff executed a Document of Delivery dated February 24, 1995, attesting to the fact that complainants were placed in actual possession of the property in question, still, his Return of Service dated February 27, 1995 shows that the defendants were not removed from the subject premises because of their adamant refusal to vacate. As a matter of fact, in a Petition for Contempt of Court filed by the complainants, the MTC of Borongan, Eastern Samar, issued a decision dated July 14, 1995 finding the accused guilty beyond reasonable doubt of Contempt of Court for their refusal to vacate the premises and deliver possession thereof to the plaintiffs.

"RULE 39 of the Rules of Court provides:

'Section 13. How execution for the delivery, or restitution of property enforced. --- The officer must enforce an execution for the delivery or restitution of property by ousting therefrom