

METRO MANILA TRANSIT CORP., REPRESENTED BY ITS GENERAL MANAGER, ATTY. NESTOR BELTRAN AND R TRANSPORT CORP., REPRESENTED BY ITS PRESIDENT, RIZALINA LAMZON, COMPLAINANTS, VS. MARI...

A.M. NO. P-02-1542(FORMERLY OCA IPI NO. 99-780-P). January 11, 2005

Ponente: CORONA, J.

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CORONA, J.:

This is a complaint[1] filed by Metro Manila Transit Corporation (MMTC) and R Transport Corporation against Mario Ronaldo P. Santiago, Sheriff III of the Municipal Trial Court in Cities (MTCC), Branch II, Cabanatuan City, for alleged gross misconduct relative to Civil Case No. 12162, entitled Sebastian Cruz v. R Transport Corporation.

R Transport was a defendant and MMTC was a third-party claimant in that case. They alleged that on January 25, 1999, a decision was rendered by Judge Lydia Bauto Hipolito of MTCC, Branch II, Cabanatuan City, the dispositive portion of which read:

WHEREFORE, all these considered and by sufficient evidence, the Court finds plaintiff to be entitled to the reliefs prayed for in its complaint.

Judgment therefore is rendered in favor of the plaintiff ordering defendants to jointly and severally pay the following:

- The amount of P74,348.00 representing costs of repair of plaintiff's car;
- The amount of P30,000.00 as moral and exemplary damages;
- The amount of P30,000.00 as attorney's fees;
- The amount of P10,000.00 as litigation expenses and
- The costs of this suit.[2]

On February 20, 1999, R Transport filed before Judge Lacurom of the Regional Trial Court (RTC), Branch 29, a notice of appeal[3] and paid the requisite fees. Despite the appeal, however, the MTCC on May 14, 1999 issued a writ of execution[4] commanding respondent sheriff to execute its decision. Acting thereon, respondent sheriff, on May 31, 1999, levied on a passenger bus allegedly owned by third-party claimant MMTC, particularly described as:

MAKE AND TYPE : NISSAN BUS
MOTOR NO. : FE6-03795-1B
SERIAL NO. : CPB87N-01472
PLATE NO. : NXP-211

In respondent sheriff's notice of levy,[5] it appeared that the bus was a Hino although the actual bus that was taken was a Nissan.

Consequently, MMTC filed before both MTCC Branch 11 (Judge Hipolito[6]) and RTC Branch 29 (Judge Lacurom) a third-party claim as owner of the vehicle. R Transport, on the other hand, filed before the MTCC on July 28, 1999 an urgent motion to stay execution,[7] with a supersedeas bond[8] for P144,348 to guarantee the claims of plaintiff Sebastian Cruz.

On August 9, 1999, the MTCC granted R Transport's motion to stay execution:

With defendant, filing a supersedeas bond in the amount of P144,348.00, which the Court finds to be sufficient in substance and form, the same is hereby approved.

Pursuant to Sec. 3 of Rule 39, the execution earlier ordered by the Court is hereby stayed.

In addition, the Notice of Appeal filed by defendant [R] Transport, is hereby given due course.

The Clerk of Court is therefore directed to forward the complete records of the case including all its exhibits to the Regional Trial Court, for further proceedings.

SO ORDERED.[9]

Despite the order, the respondent sheriff refused to release the levied vehicle. This prompted the complainants MMTC and R Transport to file this administrative complaint against him on November 4, 1999. They alleged that the respondent violated his duties as sheriff when he levied on the bus without first verifying its owner which did not even turn out to be a party in the civil case. They also alleged that despite the filing of the third-party claim and supersedeas bond by MMTC, respondent refused to release the bus as required by Sec. 16, Rule 39 of the 1997 Rules of Civil Procedure.[10] They further alleged that the respondent failed to release the bus despite the stay of the writ of execution, to the irreparable damage and prejudice of R Transport. Thus, they prayed for the dismissal of respondent sheriff from the government service.

Meanwhile, on November 10, 1999, the RTC sustained the authority of the MTCC to issue the writ of execution pending appeal pursuant to Rule 39, Section 2[11] and the last paragraph of Rule 41, Section 9[12] of the Rules of Civil Procedure. However, it found the continuous holding of the levied property by respondent sheriff unnecessary considering that the supersedeas bond posted by R Transport was more than sufficient to cover whatever damages the court may award the plaintiff.[13]

In his manifestation of compliance[14] to the 1st indorsement of the Court Administrator dated January 27, 2000, respondent admitted that an order dated August 9, 1999 was issued by Judge Hipolito staying the writ of execution. He, however, claimed that it was only on August 18, 1999, after the MTCC ordered the records forwarded to the RTC, that he received a copy of the affidavit of third-party claim of MMTC. According to him, MMTC made mention of an official receipt of payment of registration fees (MVRR No. 20434397) to support its claim of ownership over the bus but failed to attach a copy of the receipt to the affidavit. He therefore wrote MMTC requesting a copy. Only a photocopy was, however, submitted to him by Atty. Nestor Beltran. Respondent sheriff observed that the newly submitted receipt (MVRR No. 26737931) was different from the earlier receipt. Also, the date of the vehicle's registration was August 17, 1999 which meant that the vehicle was registered only after the filing of the third-party claim. He then wrote MMTC requesting a certified photocopy of the certificate of registration. Only a copy of an affidavit of loss of the certificate of registration was submitted by Atty. Beltran. In addition, the respondent noted that while Atty. Beltran wrote to Asst. Sec. Benjamin Calima, Land Transportation Office (LTO), East Avenue, Quezon City seeking a copy of the certificate of registration of the vehicle, it was the LTO of Pasig City which issued MMTC the said certification. Because of these conflicting

and doubtful documents submitted by MMTC, respondent sheriff deemed it prudent to leave the determination of MMTC's claims to the reviewing court.

The respondent further insists that he was bound to follow the orders of the reviewing court. Hence, in the absence of a court order allowing the release of the vehicle, he could not on his own release the vehicle. In fact, when he received on November 15, 1999 a copy of the RTC's order dated November 10, 1999 directing him to immediately release the levied bus to R Transport through its authorized representative Michael L. Cando, he immediately complied and released it.

In the Agenda Report[15] dated October 24, 2001, the Office of the Court Administrator (OCA) found the respondent guilty of grave misconduct and recommended a fine of P10,000 with a warning that a similar infraction in the future will be dealt with more severely.

In a resolution[16] dated January 21, 2002, this Court noted the report and referred the complaint to Executive Judge Tomas B. Talavera of RTC Cabanatuan City for investigation, report and recommendation.

On June 9, 2003, Executive Judge Talavera submitted his report and recommended that the case be dismissed for lack of merit in view of the following findings:

- That the action and inaction of respondent by levying and not releasing the bus (Hino) with plate number NXP-211 is not against his sworn duty as Sheriff of the Court. The respondent was merely implementing the Writ of Execution dated May 14, 199, issued by Hon. Lydia Bauto Hipolito, presiding judge of MTCC, Branch II, Cabanatuan City;
- Respondent did not release the Hino bus he levied even when the complainant corporation has filed a [Third-Party] Claim before the Regional Trial Court Branch 29, Cabanatuan City on the ground that there was no order directing him to do so. The duties of Sheriff are merely ministerial; hence, he cannot act without a court order;
- The respondent finally released the Hino bus only when he received a copy of the decision dated November 10, 1999 duly signed by Hon. Ubaldino A. Lacurom, presiding judge of the Regional Trial Court, Branch 29, Cabanatuan City, ordering him to do so;
- The release of the levied Hino bus was not made in favor of the [third-party] claimant corporation in view of the lack of proof of its ownership over the subject vehicle. In fact even the court itself was adamant in releasing it in favor of the said corporation and even issued an order dated September 21, 1999, requiring its representative to submit the Certificate of Registration within ten (10) days. Instead of submitting the aforesaid certificate, the representative submitted an Affidavit of Loss that was opposed admission by Atty. Feliciano Wycoco, counsel for the plaintiff in the civil case; and
- On January 8, 2003, Atty. Mario M. Pangilinan, counsel for R Transport Corporation, filed a surprising Manifestation declaring that it is no longer interested in pursuing the case. This move according to Judge Talavera, is surprising for the reason that, from the inception of this case, R Transport has not been participating in the investigation of the court despite notice. Although a pleading such as this is not generally a ground for the determination and eventual dismissal of an administrative case, the same was nevertheless considered since prima facie evidence in the present case is lacking necessitating a prompt termination of the investigation.[17]

The Court, in a resolution[18] dated December 8, 2003, noted the report and referred it to OCA for further evaluation since its earlier findings and recommendation were in conflict with those of Executive Judge Talavera.

In a memorandum[19] dated February 9, 2004, the OCA, through Acting Court Administrator Jose P. Perez, took the position that the evidence supported a finding of grave misconduct on the part of respondent, thus reiterating

its recommendation dated October 24, 2001.

Respondent sheriff's justification for not releasing the levied property to complainants despite the August 9, 1999 MTCC order staying the writ of execution is unacceptable. As correctly pointed out by the complainants and as sustained by the RTC, the levy of the passenger bus was predicated on the writ of execution issued by the lower court to satisfy the judgment rendered in favor of the plaintiff pending appeal. Considering, however, that the defendant R Transport posted a supersedeas bond to answer for damages that may be awarded by the appellate court in case judgment was affirmed on appeal, respondent sheriff no longer had any legal justification to continue holding on to the bus. The bond was approved by the court a quo in an order dated August 9, 1999. Clearly, respondent sheriff's obstinate refusal to abide by the court order constituted misconduct and an abominable disrespect to the court itself.

Also unacceptable is respondent sheriff's defense that he found the third-party claimant's title over the levied property doubtful. Under Rule 39 of the Rules of Court, the moment a third-party claim is filed, the sheriff is not bound to keep the property levied upon unless the creditor insists that it should be continued. This can be done if such creditor files a bond sufficient to indemnify the sheriff for whatever damages he may be held liable for because of the continued holding of the property. In this case, no bond was filed by the creditor-complainant in the civil case to indemnify the third-party claimant MMTC in a sum not less than the value of the property levied on. Therefore, respondent sheriff's refusal to release the property was inexcusable.

More importantly, sheriffs are not required to examine the title nor pass upon the validity of a third-party claimant's title. This is a question that can be determined only by the proper court.[20] Thus, respondent sheriff's act of delaying the release of the levied property supposedly because of his suspicion that third-party claimant MMTC's title was doubtful was beyond his authority.

Sheriffs, as officers of the court and agents of the law, are bound to use prudence, due care and diligence in the discharge of their official duties. Where rights of individuals are jeopardized by their actions, they may be properly fined, suspended or dismissed from office by virtue of this Court's administrative supervision over the judicial branch of the government.[21]

Applying rule IV, Section 52 B (2) of the Revised Uniform Rules on Administrative Cases in the Civil Service in the context of the evidence presented for and against the respondent, we find him guilty of a less grave offense for which we impose a six (6) months' suspension instead of OCA's recommended fine of P10,000. We cannot reconcile OCA's finding of grave misconduct (which is punishable by dismissal from the service) with its unusual recommendation of a lame P10,000 fine.

WHEREFORE, respondent Sheriff Mario Rolando P. Santiago is hereby found GUILTY of a less grave offense and is meted six (6) months' suspension with a warning that a similar infraction in the future will be dealt with more severely.

SO ORDERED.

Panganiban, (Chairman), Sandoval-Gutierrez, Carpio-Morales, and Garcia, JJ., concur.

[1] Rollo, pp. 1-9.

[2] Id. at 10-14.

[3] Id. at 15-16.

[4] Id. at 18.

[5] Id. at 19.

[6] Id. at 20-21.

[7] Id. at 22-24.

[8] Id. at 25.

[9] Id. at 37.

[10] Sec. 16, Rule 39: Proceedings where property claimed by third person. – If the property levied on is claimed by any person other than the judgment obligor or his agent, and such person makes an affidavit of his title thereto or right to the possession thereof, stating the grounds of such right or title, and serves the same upon the officer making the levy and a copy thereof upon the judgment obligee, the officer shall not be bound to keep the property, unless such judgment obligee, on demand of the officer, files a bond approved by the court to indemnify the third-party claimant in a sum not less than the value of the property levied on. In case of disagreement as to such value, the same shall be determined by the court issuing the writ of execution. No claim for damages for the taking or keeping of the property may be enforced against the bond unless the action therefore is filed within 120 days from the date of the filing of the bond. xxx xxx xxx

[11] Sec. 2, Rule 39: Discretionary Execution. (a) Execution of a judgment or a final order pending appeal.- On motion of the prevailing party with notice to the adverse party filed in the trial court while it has jurisdiction over the case and is in possession of either the original record or the record on appeal, as the case may be, at the time of the filing of such motion, said court may, in its discretion, order execution of a judgment or final order even before the expiration of the period to appeal.

After the trial court has lost jurisdiction, the motion for execution pending appeal may be filed in the appellate court.

Discretionary execution may only issue upon good reasons to be stated in a special order after due hearing.

xxx.

[12] Sec. 9, Rule 41: Perfection of appeal; effect thereof. –

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In either case, prior to the transmittal of the original record or the record on appeal, the court may issue orders for the protection and preservation of the rights of the parties which do not involve any matter litigated by the appeal, approve compromises, permit appeals of indigent litigants, order execution pending appeal in accordance with Section 2, Rule 39, and allow withdrawal of the appeal.

[13] Rollo, pp. 70-77.

[14] Id. at 41-44.

[15] Id. at 80-84.

[16] Id. at 85-86.

[17] Rollo, pp. 90-91.

[18] Records, p. 85.

[19] Id., at pp. 86-92.

[20] Bayer Philippines, Inc. v. Agana, L-38701, 8 April 1975, 63 SCRA 355.

[21] Vda. de Velayo v. Ramos, 424 Phil. 734 (2002).

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