

EDGARDO A. QUILO, COMPLAINANT, VS. ROGELIO G. JUNDARINO, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 19, MANILA,RESPONDENT.

A.M. No. P-09-2644 (Formerly OCA IPI No. 08-2787-P). July 30, 2009

Ponente: CHICO-NAZARIO, J.

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CHICO-NAZARIO, J.:

Before this Court is an administrative Complaint[1] for Grave Misconduct, Oppression, Coercion, and Harassment, filed by Edgardo A. Quilo (Quilo) against respondent Rogelio G. Jundarino (Sheriff Jundarino), Sheriff III of the Metropolitan Trial Court (MeTC) of Manila, Branch 18.

Teodula Bajao (Bajao) filed an Unlawful Detainer Case against Eduardo Saclag, Zoilo Fulong, Alena Bertos and Talia Saclag (Saclag, et al.), before the MeTC, docketed as Civil Case No. 158273-CV.

On 20 November 1998, the MeTC rendered a Decision in Bajao's favor, ordering Saclag, et al.:

- to vacate the premises and surrender possession thereof peacefully to the plaintiff [Bajao];
- to demolish any structure built on the said property;
- to pay attorney's fees in the amount of P20,000.00; and
- pay the costs of suit.[2]

Saclag, et al., appealed to the Regional Trial Court (RTC) of Manila, Branch 19. In its Decision dated 13 September 1999, the RTC affirmed with modification the MeTC Decision dated 20 November 1998, thus:

WHEREFORE, the appealed judgment is hereby AFFIRMED but MODIFIED to read, thus:

WHEREFORE, Judgment is hereby rendered in favor of [Bajao] ordering [Saclag, et al.] and all persons claiming rights under them:

- a) to vacate the premises located at 2519 Granate St., Sta.Ana, Manila and surrender possession thereof to [Bajao];
- b) to demolish all structures built on the parcel of land;
- c) to pay [Bajao] the sum of P20,000.00 for attorney's fees; and
- d) to pay the cost of suit.

[Saclag, et al.'s] counterclaim is denied for lack of merit.[3] (Emphasis ours.)

Once again, Saclag, et al. sought relief from the Court of Appeals by filing an appeal, docketed as CA-G.R. SP No. 55448. In a Resolution dated 26 November 1999, the Court of Appeals denied the appeal of Saclag, et al., for having been filed out of time.

The Court of Appeals similarly denied the Motion for Reconsideration of Saclag, et al., in its Resolution dated 13 July 1998.

Refusing to give up, Saclag, et al., filed an appeal before this Court, docketed as G.R. No. 142592. However, this Court denied the appeal in a Resolution dated 14 June 2000, for failure of Saclag, et al., to show that any reversible error had been committed by the Court of Appeals.

The 14 June 2000 Resolution of this Court, denying the appeal of Saclag, et al., in G.R. No. 142592, became final and executory on 28 July 2000, and was accordingly recorded in the Book of Entries of Judgments.

Upon Bajao's motion, a Writ of Execution was issued by MeTC Judge Felicitas O. Laron-Cacanindin (Judge Cacanindin) on 28 November 2007. The writ commanded the MeTC Sheriff:

1. to cause the immediate surrender of the physical possession of the subject premises located at 2519 Granate St., Sta. Ana, Manila by the defendants [Saclag, et al.] and all persons claiming rights under them and turn-over the peaceful possession of the same to the plaintiff [Bajao];
2. to demolish all structures built on the parcel of land subject thereon;
3. that of the goods and chattels of the defendants [Saclag, et al.], you cause to be made the sum of P20,000.00 for and as attorney's fees;
4. plus costs, together with your lawful fees for the service of this execution and that you render the same to the plaintiff [Bajao] aside from your own fees on this execution.[4] (Emphasis ours.)

It was in implementing the aforementioned Writ of Execution in Civil Case No. 158273-CV that Sheriff Jundarino's path crossed Quilo's.

On 9 April 2008, Quilo filed a Complaint before the Office of the Court Administrator (OCA) charging Sheriff Jundarino with Grave Misconduct, Oppression, Coercion, and Harassment, docketed as A.M. No. MTJ-08-2787. Quilo made the following allegations in his Complaint:

- Na noong ika-12 ng Pebrero 2008, sa pagitan ng alas-10:00 at alas 11:00 ng umaga ang nabanggit na si Sheriff Rogelio Jundarino kasama ang isang pang Sheriff ng MeTC Branch 19 na hindi nagpakilala ay nagtungo sa aming tirahan sa 2518 Granate St., San Andres Bukid, Maynila dala ang nilagdaan niyang Notice To Pay/Vacate and Demolish Pr[e]mises na may lakip (attachment) na Writ of Execution na may lagda naman ni MeTC Presiding Judge Felicitas O. Laron-Cacanindin (dito ay nakalakip bilang Annexes "A" at "A-1");
- Na dahil sa wala naman akong nalalaman na may nagdemanda laban sa akin at hindi naman sa akin nakapangalan ang nasabing Notice/Writ, maliban pa sa hindi rin sa akin naka-address (2519 Granate St., San Andres, Manila) ito, kung kaya tinanggihan ko itong tanggapin mula kay Sheriff Rogelio Jundarino. Subalit pilit pa rin niya itong ibinigay sa akin, at nang mabatid ni Sheriff na hindi ko talaga ito kukunin ay iniwan nya na lamang ito sa semento sa harapan ng aking bahay at sabay ng pasigaw na pagsasabi ni sheriff sa akin na "ikaw ang una kong tatrabahuin at ipapademolis sa sandaling magmatigas pa kayo sa pagbabalik ko!" Na narinig mismo ng aking asawang si Zenaida Quilo at ilan pang mga kapitbahay na naroon ng oras na iyon.
- Na dahil sa pangyayaring iyon, ako at ang aking asawa na si Zenaida Quilo ay halos hindi na makatulog at makakain dahil sa pag-aalala na baka nga gibain ang aming tirahan at wala na kaming masisilungan.
- Na noong ika-3 ng Marso 2008, ako at ang isang kapitbahay na si Ednaloy Villahermosa ay kumausap sa isang kaibigan na siya namang tumulong sa amin upang maikonsulta nga ang nasabing pangyayari sa isang abogado na nagresulta sa pagsasagawa ng isang Mosyon upang mapigilan nga ang binabalak na pagdedemolis sa aming tirahan.

- Noong ika-5 ng Marso 2008, ako at si Ednaloy Villahermosa (isa ring actual occupant) sa nasabing lupain na may katulad kong address ay pormal na ngang lumagda at nagsumite ng Motion To Quash Writ of Execution And Recall of the Notice to Pay/Vacate And Demolish Premises (dito ay inilakip bilang Annex "B") sa MeTC Branch 19, Manila upang maipatigil ang bantang demolisyon sa aming lugar. Ang nasabing Mosyon ay may nakatakang petsa ang pagdinig sa Marso 28, 2007;

- Na habang ako ay nasa Davao noong ika-27 ng Marso 2008, sa pagitan ng alas 2:00 at 2:30 ng hapon, si Sheriff Rogelio Jundarino ay muling nagtungo at sapilitang pumasok sa loob ng aming bahay sa 2518 Granate St., San Andres Bukid, Maynila kasama ang nagpakilalang Plaintiff na si Teodula Bajao, dalawang (2) kamag-anak nito (isang apo at isang anak). Samantalang napansin naman ng aking mga kapitbahay na sa harapan ng aming lugar ang humigit-kumulang ay mga labinlimang (15) kalalakihan na pawang may mga dalang kagamitan/instrumento na pandemolis ng bahay (na kasama ngang dumating ni Sheriff Rogelio Jundarino ng oras ding iyon), at isang lalaki na mukhang abogado na hindi naman nagpakilala.

- Na ayon pa sa aking asawang si Zenaida Quilo, habang nasa loob na ng aming bahay ang apat (4) na sina Sheriff Rogelio Jundarino, Teodula Bajao, apo at anak ni Teodula Bajao, ay pilit na ngang inutusan ni Sheriff Rogelio Jundarino ang aking asawa na simulan ng gibain ang aming bahay at ilabas ang lahat ng aming kagamitan sa loob ng bahay dahil nga sa nakatakda na raw niyang (Sheriff Rogelio Jundarino) ipademolis ito sa araw ding iyon, at ayon pa kay Sheriff Jundarino, siya ay binibigyan lamang ng pitumpu't dalawang oras (72) upang maipatupad ang kautusang ng korte na idemolis ang aming kabahayan.

- Na sa kabila ng kawalan ng Special Order of Demolition (na isang rekisitos sa kasong Ejectment bago magsagawa ng Demolisyon) at pakiusap ng aking asawa at iba pang naninirahan sa lugar na iyon na mayroon pang nakabinbing "Motion to Quash Writ of Execution...na diringgin kinabukasan Marso 28, 2008," si Sheriff Jundarino ay nagmatigas at ipinakita sa lahat ng naroon na determinado niyang ipatutupad ang Writ of Execution at nagbanta pa si Sheriff Jundarino na kukumpiskahin ang aming kagamitan gaya ng TV set at Refrigerator. At sinabi rin ni Sheriff na tanging Temporary Restraining Order lamang ang makakapigil sa kanyang huwag ipatupad ang demolisyon o kaya'y gumawa na lamang ng isang kasulatan na nagsasaad na kusang loob na aalis at gigibain ng mga naninirahan dito ang mga kabahayan.

- Na dahil sa naramdamang takot mula sa nakaambang demolisyon at pagbabanta ng pagkumpiska ng aming mga kagamitan mula kay Sheriff Rogelio Jundarino ng araw na iyon, at sa patuloy na pamimilit ni Sheriff Jundarino na sumulat na lamang sa isang papel na nagsasaad na humihingi nga kami ng palugit na araw sa Plaintiff, kung kaya't ang aking asawa ay gumawa nga ng kasulatan na nagsasabing humihingi ng hanggang Abril 10 na palugit upang boluntaryong idemolis ang aming istruktura.

- Na ang nasabing kasulatang iyon ay nilagdaan ng aking asawa ng labag sa kanyang kalooban.

- Na ang nasabing kasulatan iyon ay kinuha rin ni Sheriff Rogelio Jundarino at hindi binigyan ng kahit isang kopya ang lahat ng lumagda sa kasulatang nabanggit dahil tanging siya lang daw dapat ang may hawak nito upang patunayan niya (Sheriff Rogelio Jundarino) na mayroon na ngang napagkasunduan na boluntaryo naming lilisanin ang lugar na kinatitirikan ng aming mga bahay sa araw o bago dumating ang Abril 10.

- Na ako ay nagsumite din sa kagagalang-galang na korte (MeTC Branch 19) ng aking sinumpaang salaysay (Affidavit) upang suportahan ang nauna ko ng ipinahayag sa aming Motion to Quash Writ of Execution And Recall Of The Notice To Pay/Vacate And Demolish Premises (dito ay nakalakip bilang Annex "C").[5]

Quilo requested in his Complaint that an investigation of the incidents of 12 February 2008 and 27 March 2008 be conducted and that Sheriff Jundarino be meted the appropriate administrative penalty.

The OCA, thru then Court Administrator Zenaida Elepaño, required[6] Sheriff Jundarino to comment on Quilo's Complaint within 10 days.

In his Comment,[7] Sheriff Jundarino denied having gone to Quilo's house on 12 February 2008, but admitted to going there on 27 March 2008, together with the MeTC process server, Bajao, and Bajao's relatives, for the sole purpose of serving the Notice to Pay/Vacate and Demolish Premises. Quilo refused to accept the said Notice.

Sheriff Jundarino likewise averred that there was no truth to Quilo's allegation that Sheriff Jundarino and his companions forcibly entered the premises. On the contrary, Sheriff Jundarino went inside the premises with the prior permission and authority of the residents thereof. He was very civil with the residents and even advised them to consult a lawyer. Moreover, it was because of the request/plea for an extension made by Quilo's wife that the execution of the judgment in Civil Case No. 158273-CV was temporarily suspended. Sheriff Jundarino acceded to the extension when the residents signified their willingness to voluntarily vacate the premises before 10 April 2008.

Sheriff Jundarino further denied that he uttered, "ikaw ang una kong tatrabahuin x x x" and that he was only given 72 hours within which to implement the writ of the court. Sheriff Jundarino maintained that these statements attributed to him were fabricated. Sheriff Jundarino also argued that if indeed the claims of Quilo and his neighbor Ednaloy Villahermosa (Villahermosa) - that they were not parties to Civil Case No. 158273-CV and that they were residing at an address different from the subject of said civil case - were true, then what were they afraid of and why did they seek the quashal of the writ of execution? There was no clear reason why Quilo and Villahermosa needed to ask for the quashal of the writ, which would only delay the implementation thereof.

Sheriff Jundarino asserted that Quilo was blatantly lying when the latter denied any knowledge of Civil Case No. 158273-CV. Sheriff Jundarino attempted to establish that Quilo was claiming rights under one of the defendants in Civil Case No. 158273-CV, namely, Talia Saclag. Sheriff Jundarino pointed out that Quilo admitted in his Affidavit, executed on 8 April 2008, that he was renting the premises from one Domeriano Gealogo, somehow related to Cristina F. Gealogo, who was the sister of Talia Saclag. In fact, Sheriff Jundarino claimed, it was Cristina F. Gealogo who received the summons in Civil Case No. 158273-CV on behalf of her sister, Talia Saclag, enabling the latter to file her Answer to Bajao's Complaint in said case.

In the end, Sheriff Jundarino prayed for the dismissal of Quilo's Complaint for being false, baseless, fabricated, and a mere product of the wild imagination of Quilo or by other person/s using him, to delay or prevent the implementation of a lawful order of the court.

Quilo insisted in his Reply[8] that he could not be wrong in his recollection that Sheriff Jundarino went to his house on 12 February 2008 to tender a copy of the Notice to Pay/Vacate and Demolish Premises, because the incident was so terrifying and shocking and he and his family even suffered serious anxieties and sleepless nights due to the threat of demolition. Quilo believes that Sheriff Jundarino's acts on 27 March 2008 were meant to render moot and academic the pending Motion to Quash Writ of Execution of Quilo and Villahermosa, by compelling Quilo's wife to sign an agreement to voluntarily vacate the premises.

After the foregoing exchange of pleadings, the OCA submitted its Report[9] on 14 April 2009, with the following recommendations:

In view of the foregoing, we respectfully submit for the consideration of the Honorable Court the following recommendations:

- (1) That the instant administrative complaint be RE-DOCKETED as a regular administrative matter; and
- (2) That Rogelio G. Jundarino, Sheriff III, Metropolitan Trial Court, Branch 19, Manila be found GUILTY of simple misconduct and be imposed the penalty of FINE in the amount equivalent to his THREE MONTHS SALARY, with a STERN WARNING that a repetition of the same or similar act shall be dealt with more

severely.

Following the recommendation of the OCA, the Court ordered on 29 June 2009 that the administrative case be re-docketed as a regular administrative matter.

In the meantime, during the pendency of the present administrative matter, A.M. No. P-09-2644, the Court issued a Resolution dated 16 February 2009, dismissing another administrative Complaint filed by Quilo, this time against Judge Cacanindin and Sheriff Jundarino, docketed as A.M. No. MTJ-08-2078. According to the Court, the Complaint therein was judicial in nature.

There is no res judicata

Before the Court can proceed to rule herein on A.M. No. P-09-2644, it must first determine that it is not barred from doing so by res judicata, given the 16 February 2009 Resolution of this Court in A.M. No. MTJ-08-2078.

The doctrine of res judicata applies and treats the final determination of the action as speaking the infallible truth as to the rights of the parties as to the entire subject of the controversy, and such controversy and every part of it must stand irrevocably closed by such determination. The sum and substance of the whole doctrine is that a matter once judicially decided is finally decided.[10]

Res judicata is based on the ground that the party to be affected, or some other with whom he is in privity, has litigated the same matter in the former action in a court of competent jurisdiction, and should not be permitted to litigate it again. This principle frees the parties from undergoing all over again the rigors of unnecessary suits and repetitious trials. At the same time, it prevents the clogging of court dockets. Equally important, res judicata stabilizes rights and promotes the rule of law.[11]

The requisites of res judicata are: (1) there must be a former final judgment rendered on the merits; (2) the court must have had jurisdiction over the subject matter and the parties; and (3) there must be identity of parties, subject matters and causes of action between the first and second actions.[12]

There is no res judicata herein, given that there is no identity of the causes of action between A.M. No. P-09-2644 and A.M. OCA I.P.I. No. 08-2078-MTJ.

Quilo alleged in his Complaint against Judge Cacanindin and Sheriff Jundarino in A.M. OCA I.P.I. No. 08-2078-MTJ that:

- We are accusing Judge Felicitas O. Laron-Canindin ("respondent Judge") and Sheriff Rogelio G. Jundarino ("respondent Sheriff"), both of the Metropolitan Trial Court in Cities-Branch XIX, Manila City with the administrative offenses of Ignorance of the law, Grave Misconduct, Abuse of Authority and violations of Republic Act No. 3019 and Republic Act No. 6713.
- We are actual occupants of houses located at 2518 Granate St., San Andres Bukid, Manila, for a period of not less than thirty (30) years.
- Other than our houses on the aforesaid lot, we do not own any real property. Should our houses and structures be demolished, we would be rendered homeless citizens. Moreover, we are underprivileged citizens and our respective incomes do not exceed that of the poverty line, thus considering our status as poor citizens, we cannot afford to build and/or acquire new shelters for a decent living. We are indigent citizens who deserve utmost protection of the law. Attached are the Certificates of Indigency issued by the Brgy. Chairman of Barangay 766-Zone 83, 5th District, Manila, marked as Annexes A and B.
- Sometime on February [12], 2008, we were shocked when the respondent sheriff attempted to serve to us a Notice to Pay/Vacate and Demolish Premises, directing us to vacate our place and remove our houses

therefrom. We refused to receive the said notice as we had not been a part of any case whatsoever, but later, for our protection, we secured a copy of the same hereto attached as Annex C. The said Notice states that it was issued by virtue of the Writ of Execution issued on November 28, 2007.

- Without wasting time, we inquired and became aware that the said Notice to Pay/Vacate and Demolish Premises were issued pursuant to a Decision dated November 20, 1998 of the Metropolitan Trial Court of Manila, Branch XIX, pursuant to the Complaint for Ejectment filed by one Teodula Bajao against Eduardo Saclag, Zoilo Fulong, Alena Bertol and Talia Saclag. Copies of the said Decision and Complaint are hereto attached as Annexes D and E, respectively.

- The subject of the Complaint for ejectment is a parcel of land located at 2519 Granate Street, Sta. Ana, Manila.

- We do not know the said Teodula Bajao (plaintiff in the ejectment case). Neither do we know the defendants in the said ejectment case, they do not also live in 2519 Granate Street, Sta. Ana, Manila, but in 2518 Granate Street, San Andres Bukid, Manila.

- Immediately, we filed on March 5, 2008 a Motion to quash Writ of Execution and Recall of the Notice to Pay/Vacate and Demolish Premises on the ground, among others, that the writ was issued against a wrong party, a stranger to the action, the writ of execution is based on a vague and indefinite judgment, and decision is null and void for having been rendered by a court without jurisdiction. A copy of the said Motion is attached as Annex F.

- Even with the filing and pendency of the aforesaid Motion, the respondent Sheriff on March 27, 2008 went back to our place, accompanied by a person who introduced herself as Teodula Bajao and several demolition men armed with demolition tools ready to effect the demolition of our houses, but we successfully resisted the said attempt.

- We then filed on April 9, 2008 a Supplemental Motion amplifying the grounds relied upon in our earlier motion, a copy of which is attached as Annex G.

- On June 26, 2008, the respondent Judge denied our Motion and supplemental Motion but contradicted herself when she stated that the writ of execution is binding on persons who occupy the premises known as 2519 Granate Street, Sta. Ana, Manila, whether impleaded as a party or not. A copy of the said Order is attached as Annex H.

- Within the reglementary period, we filed on July 7, 2008 a Motion for Reconsideration, a copy of which is attached as Annex I.

- On July 29, 2008, respondent Judge issued an Order denying our Motion for Reconsideration, a copy of which is attached as Annex J, which we received on August 18, 2008.

- On August 29, 2008, the respondent Sheriff served a 2[nd] Final Notice to Pay/Vacate and to Demolish Premises, giving us three (3) days to vacate the premises and demolish our houses. Otherwise, he will forcefully us (sic) and demolish our houses. A copy of the said Notice is attached as Annex K.

- Aggrieved, we filed a Petition for Certiorari and Prohibition on September 1, 2008 with the Regional Trial Court-Branch 17, Manila City, assailing the aforesaid Orders of the respondent Judge;

- Despite the pendency of our petition and application for injunctive writs, the respondent Sheriff, aided by a number of demolition men, demolished our houses on September 4, 2008. Pictures of our demolished houses are attached as Annex L-series.

- The acts of the respondent Judge and respondent Sheriff reflect gross ignorance of the law, amounting to grave misconduct, and depict manifest partiality to the plaintiff in the ejectment suit in violation of the

standards provided in Republic Act Nos. 3019 and 6713.[13]

True, paragraphs no. 1 to no. 12 of Quilo's Complaint in A.M. No. P-09-2644 contains essentially the same allegations in paragraphs no. 1 to no. 10 of his Complaint in A.M. OCA I.P.I. No. 08-2078-MTJ. The Court, however, takes note of two essential differences between Quilo's two Complaints.

First, Quilo's Complaint in A.M. No. P-09-2644 provides more details on the Sheriff Jurandino's purported visits on 12 February 2008 and 27 March 2008 to the former's residence. It particularly sets forth Sheriff Jurandino's alleged statements and deportment during said visits. Such details are not mentioned in Quilo's Complaint in A.M. OCA I.P.I. No. 08-2078-MTJ.

Second, Quilo's Complaint in A.M. No. P-09-2644 ends with the allegation that after Sheriff Jurandino's visit to Quilo's residence on 27 March 2008, Quilo filed an Affidavit before the MeTC in support of his earlier Motion to Quash Writ of Execution And Recall of the Notice to Pay/Vacate And Demolish Premises in Civil Case No. 158273-CV. On the other hand, Quilo's Complaint in A.M. OCA I.P.I. No. 08-2078-MTJ alleged events which transpired thereafter, i.e., Judge Cacanindin's denial of Quilo's Motion to Quash Writ of Execution, as well as the latter's subsequent Motion for Reconsideration; Sheriff Jundarino's service upon Quilo on 29 August 2008 of the second Notice to Pay/Vacate And Demolish Premises; Quilo's filing with the RTC of a Petition for Certiorari and Prohibition on 1 September 2008 challenging Judge Cacanindin's denial of his aforementioned Motions; and Sheriff Jurandino's demolition of Quilo's residence on 4 September 2008.

These differences between Quilo's Complaints in A.M. No. P-09-2644 and A.M. OCA I.P.I. No. 08-2078-MTJ support the fact that said Complaints are based on two different causes of action. Quilo's Complaint in A.M. No. P-09-2644 assails Sheriff Jundarino's abrasive words and actions during his alleged visits to the former's residence on 12 February 2008 and 27 March 2008 to implement the Writ of Execution in Civil Case No. 158273-CV; while his Complaint in A.M. OCA I.P.I. No. 08-2078-MTJ attributes gross ignorance to Judge Cacanindin, for his refusal to quash the Writ of Execution in Civil Case No. 158273-CV, and to Sheriff Jundarino, for his persistence in implementing said Writ, in obvious partiality to Bajao and in disregard of Quilo's pending Petition for Certiorari and Prohibition before the RTC.

The Court dismissed Quilo's Complaint in A.M. OCA I.P.I. No. 08-2078-MTJ through its Resolution dated 16 February 2009, on the ground that it was judicial in nature. It is conceded that the determination of whether Quilo's residence is the same property subject of Civil Case No. 158273-CV and whether it should be demolished pursuant to the judgment in said case, is a matter best left to the determination of the trial court in appropriate judicial proceedings. Questions judicial in nature ought to be threshed out in a judicial proceeding and definitely not in an administrative one. An administrative complaint is not a valid substitute for a judicial action.[14] In fact, Quilo himself alleged that he had already filed a Petition for Certiorari and Prohibition with the RTC of Manila, Branch 17, on 1 September 2008.

The same cannot be said for A.M. No. P-09-2644, the present Complaint. As to whether Sheriff Jundarino exercised proper decorum and followed established procedure when he served upon Quilo and the latter's wife and neighbors, on 12 February 2008 and 27 March 2008, a copy of the Writ of Execution and the Notice to Pay/Vacate and Demolish Premises issued by the MeTC in Civil Case No. 158273-CV, is evidently an administrative matter, within the jurisdiction of this Court to decide in exercise of its authority to discipline judicial employees.

Sheriff Jundarino is guilty of simple misconduct.

After a thorough review of the records of this case, the Court agrees in the finding of the OCA that Sheriff

Jundarino is guilty of simple misconduct.

Sheriff Jundarino's main defense against Quilo's Complaint herein is denial. Sheriff Jundarino denies that he went to Quilo's residence on 12 February 2008. Although Sheriff Jundarino admits being at Quilo's residence on 27 March 2008, the former again denies that he and his company forcibly entered the premises without Quilo's permission. Sheriff Jundarino also denies that he coerced Quilo's wife and neighbors to signing a document to the effect that they would voluntarily vacate the premises by 10 April 2008. Sheriff Jundarino further denies that he uttered to Quilo on 12 February 2008, "ikaw ang una kong tatabahuin at ipapademolis sa sandaling magmatigas pa kayo sa pagbalik ko"; or that he said to Quilo's wife on 27 March 2008 that he was only given 72 hours within which to implement the order of the court.

It is settled that denial is inherently a weak defense. To be believed, it must be buttressed by strong evidence of non-culpability; otherwise, such denial is purely self-serving and is with nil evidentiary value. Like the defense of alibi, denial crumbles in the light of positive declarations.[15]

Sheriff Jundarino undeniably failed to substantiate the allegations in his Comment. He could have easily submitted evidence in support of his defense - such as affidavits of people who could attest as to where he was on 12 February 2008, or of people who were with him during his 27 March 2008 visit to Quilo's residence - but he utterly failed to do so. The basic rule is that mere allegation is not evidence and is not equivalent to proof.[16]

Sheriff Jundarino's duty is to implement the Writ of Execution dated 28 November 2007 at No. 2519 Granate St., Sta. Ana, Manila. Given Quilo's assertions that his residence was actually at No. 2518 Granate St., San Andres Bukid, Manila, and that he was not even a party to Civil Case No. 158273-CV, the more prudent course of action for Sheriff Jundarino was to defer implementation of the said Writ until a determination by the MeTC of Quilo's Motion to Quash the same. It bears to stress that said Motion was already scheduled for hearing on 28 March 2008, just a day after Sheriff Jundarino's second visit to Quilo's residence on 27 March 2008.

Without even considering whether Quilo's residence is the same as the property involved in Civil Case No. 158273-CV, the Court finds that Sheriff Jundarino's acts herein - i.e., his rude and inappropriate remarks and aggressive behavior during his visits to Quilo's residence on 12 February 2008 and 27 March 2008 to implement the Writ of Execution issued in the aforementioned case; as well as his unreasonable insistence on implementing the said Writ on 27 March 2008 despite the fact that Quilo's Motion to Quash the same was already set to be heard the very next day, 28 March 2008 - constitute simple misconduct.

Time and time again, this Court has emphasized that the conduct or behavior of all officials and employees of an agency involved in the administration of justice, from the presiding judge to the most junior clerk, should be circumscribed with the heavy burden of responsibility.[17] Their conduct must at all times be characterized by, among others, strict propriety and decorum in order to earn and maintain the respect of the public for the judiciary.[18]

Part of this stringent requirement is that agents of the law should refrain from the use of language that is abusive, offensive, scandalous, menacing or otherwise improper. Judicial employees are expected to accord every due respect, not only to their superiors, but also to others and their rights at all times. Their every act and word should be characterized by prudence, restraint, courtesy and dignity.[19] Sheriff Jundarino's utterance of "ikaw ang una kong tatabahuin at ipapademolis sa sandaling magmatigas pa kayo sa pagbalik ko" to Quilo, while effecting the Writ of Execution, was an evident violation of the foregoing rules of conduct for judicial employees.

All employees in the judiciary should be examples of responsibility, competence, and efficiency. As officers of the court and agents of the law, they must discharge their duties with due care and utmost diligence. Any conduct

they exhibit tending to diminish the faith of the people in the judiciary will not be condoned.[20]

The Court has even higher expectations from its sheriffs. Sheriffs play an important role in the administration of justice, and they should always invigorate and hold in violate the tenet that a public office is a public trust.[21] Being at the grassroots of our judicial machinery, sheriffs and deputy sheriffs are in close contact with the litigants; hence, their conduct should all the more maintain the prestige and the integrity of the court.[22] By the very nature of their functions, sheriffs must conduct themselves with propriety and decorum, so as to be above suspicion.[23] Sheriffs cannot afford to err in serving court writs and processes and in implementing court orders, lest they undermine the integrity of their office and the efficient administration of justice.[24]

The Court reiterates that a sheriff, who is an officer of the court upon whom the execution of a final judgment depends, must be circumspect in his behavior.[25] As an officer of the court and therefore agent of the law, Sheriff Jundarino is mandated to discharge his duties with due care and utmost diligence because, in serving the court's writs and processes and in implementing its lawful orders, he cannot afford to err without affecting the administration of justice.[26] Any method of execution falling short of the requirement of the law deserves reproach and should not be countenanced.[27]

In *Office of the Court Administrator v. Judge Octavio A. Fernandez*,[28] the Court defined misconduct as any unlawful conduct, on the part of a person concerned in the administration of justice, prejudicial to the rights of parties or to the right determination of the cause. It generally means wrongful, improper, unlawful conduct motivated by a premeditated, obstinate or intentional purpose.

Under Section 52, B(2), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service,[7] simple misconduct is punishable by suspension for one (1) month and one (1) day to six (6) months for the first offense, and dismissal for the second offense. Since this is Sheriff Jundarino's first infraction in his 16 years of service in the Judiciary, and he has not been previously administratively faulted;[29] and so as not to hamper the performance of the duties of his office, the Court, instead of suspending Sheriff Jundarino, is imposing upon him a fine in an amount equivalent to his three (3) months' salary.

WHEREFORE, respondent Rogelio G. Jundarino, Sheriff III, Metropolitan Trial Court of Manila, Branch 19, is hereby found **LIABLE** for simple misconduct and is ordered to pay a **FINE** in an amount equivalent to his three (3) months' salary with a warning that a repetition of the same or similar infraction shall be dealt with more severely.

SO ORDERED.

Ynares-Santiago, (Chairperson), Velasco, Jr., Nachura, and Peralta, JJ., concur.

[1] Rollo, pp. 1-3.

[2] *Id.* at 6.

[3] *Id.* at 6-7.

[4] *Id.* at 8.

[5] *Id.* at 2-3.

[6] *Id.* at 22.

[7] *Id.* at 23-24.

[8] Id. at 40-44.

[9] Id. at 46-51.

[10] *Nabus v. Court of Appeals*, G.R. No. 91670, 7 February 1991, 193 SCRA 732, 738-739.

[11] *Basilla v. Becamon*, A.M. No. MTJ-02-1404, 14 December 2004, 446 SCRA 264, 269.

[12] *Cayana v. Court of Appeals*, 469 Phil. 830, 843 (2004).

[13] Affidavit-Complaint (Rollo of A.M. OCA I.P.I. No. 08-2078-MTJ), pp. 1-3.

[14] *Lumibao v. Panal*, 377 Phil. 157, 175 (1999).

[15] *Jugueta v. Estacio*, A.M. No. CA-04-17-P, 25 November 2004, 444 SCRA 10, 16.

[16] *Navarro v. Cerezo*, 492 Phil. 19, 22 (2005).

[17] *Biag v. Gubatanga*, 376 Phil. 870, 876 (1999); *Gacho v. Fuentes*, 353 Phil. 665, 672 (1998); *Office of the Court Administrator v. Alvarez*, 350 Phil. 771, 777 (1998).

[18] *Alawi v. Alauya*, 335 Phil. 1096, 1104 (1997); *Quiroz v. Orfila*, 338 Phil. 828, 834 (1997).

[19] *Alawi v. Alauya*, id. at 1105.

[20] *Philippine Bank of Communications v. Torio*, A.M. No. P-98-1260, 14 January 1998, 284 SCRA 67, 77-78

[21] *Ventura v. Concepcion*, 399 Phil. 566, 571 (2000).

[22] *Cabanatan v. Molina*, 423 Phil. 637, 663 (2001).

[23] *Tan v. Dael*, 390 Phil. 841, 850-851 (2000).

[24] *Torres v. Cablesuela*, 418 Phil. 445, 450 (2001).

[25] *Caseñares v. Almeida, Jr.*, 381 Phil. 377, 385 (2000).

[26] *Lumanta v. Tupas*, 452 Phil. 950, 956 (2003).

[27] *Biglete v. Maputi, Jr.*, 427 Phil. 221, 227 (2002).

[28] 480 Phil. 495 (2004), citing *Yap v. Inopiquez, Jr.*, 451 Phil. 183 (2003).

[29] The only other administrative charge against him was Quilo's Complaint for gross ignorance of the law, gross misconduct, abuse of authority, and violations of Republic Act No. 3019 and Republic Act No. 6713 in A.M. No. 08-2078-MTJ, but it was dismissed by the Court in its Resolution dated 16 February 2009.

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