

**STA. LUCIA EAST COMMERCIAL CORPORATION, REPRESENTED BY
CIPRIANO BONCAY, COMPLAINANT, VS. CONRADO G. LAMANO,
SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 37, MANILA,
RESPONDENT.**

A.M. No. P-06-2198 (Formerly OCA IPI No. 05-2214-P). September 19, 2007

Ponente: CORONA, J.

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CORONA, J.:

In a letter-complaint[1] to the Office of the Court Administrator (OCA), complainant Sta. Lucia East Commercial Corporation or SLECC (represented by its operations manager, Cipriano Boncay) charged respondent Conrado G. Lamano, sheriff IV of the Regional Trial Court (RTC), Branch 37 of Manila, with neglect of duty, misconduct in office, conduct unbecoming of a court employee, inefficiency and obstruction in the administration of justice.

The complainant narrated that, on April 27 and 28, 2004, respondent served on its tenants a notice of garnishment[2] pursuant to a writ of preliminary attachment[3] issued by the RTC-Manila in Civil Case No. 04-109259 entitled Orlando Villa and Lourdes Villa v. Sta. Lucia Realty Development Corporation ([SLRDC]), Rapid City Realty Corporation and Veronica Lee.

The notice sought to garnish SLRDC's goods, credits, shares of stocks and interests, including the monthly rentals being paid by the tenants of Sta. Lucia Mall.

According to the complainant, immediately after the service of the notice, it filed an affidavit of third-party claim[4] under Rule 39, Section 16[5] of the Rules of Court, calling respondent's attention to the fact that it was not impleaded as party in Civil Case No. 04-109259 and that it possessed a juridical personality separate from that of SLRDC.

Complainant averred that respondent did not act on its claim, hence, it filed a petition for injunction (with a prayer for the issuance of temporary restraining order [TRO] and/or a writ of preliminary injunction) in the RTC of Antipolo City to enjoin respondent from garnishing the monthly rentals of its tenants.

During the hearings for the issuance of the TRO, respondent failed to appear despite notices. Subsequently, the RTC-Antipolo City allowed the complainant to submit its evidence. The TRO was thereafter issued against respondent. A writ of preliminary injunction followed after complainant posted the required bond.

Despite the issuance of the writ, respondent still sent an order[6] to complainant's tenants demanding delivery of their monthly rentals to him.

The complainant contended that respondent (1) failed to follow Rule 39, Section 16[7] of the Rules of Court on its third-party claim; (2) displayed a conduct unbecoming of an officer of the judiciary by ignoring the RTC-Antipolo City's summonses and notices for him to appear during the hearing of the injunction case; (3) caused and contributed to the delay in the administration of justice without justifiable cause and (4) ordered the delivery of

the rentals despite the writ of preliminary injunction issued against him by the RTC-Antipolo City.

In his comment,[8] respondent denied the complainant's accusations. According to him, the complainant could not expect him to act or rule on the third-party claim as the same must be decided by the court. He stated that, under the Rules of Court, his only duty was to inform the plaintiffs in Civil Case No. 04-109259 of the claim so they could post the necessary bond. As to the notice of garnishment, respondent maintained that, although he prepared it, it was the collaborating sheriff who actually served it on the complainant's tenants.

On his failure to attend the hearings in the RTC-Antipolo City injunction case, respondent explained that it was unnecessary since, under the law, a writ of preliminary injunction cannot be issued against courts or tribunals of co-equal rank. He also maintained that his absence should not be construed as disrespect to the court or that it was intended to delay or obstruct the administration of justice. Instead, he chided that "as a matter of fact, his non-appearance contributed to the issuance of... [writ of preliminary injunction in complainant's favor], enjoining [him] from performing a ministerial act" which, he insisted, should not be enjoined by any court order unless there was malice, fraud or bad motive.[9]

The OCA was not convinced. In its memorandum[10] to the Court, it found respondent guilty of gross ignorance of the law and/or inefficiency:

In Civil Case No. 04-109259, respondent sheriff was forewarned of his grave error in issuing the writ of attachment against [the complainant] when an [a]ffidavit of [t]hird [p]arty claim was filed...stating that [the complainant] and [SLRDC] are two different juridical personalities.

In view of the persistence of the respondent sheriff to garnish the rentals due [the complainant] from its tenants, a petition for the [i]ssuance of a [writ] of [p]reliminary [i]njunction with TRO was filed by [the] complainant against the respondent sheriff in the RTC of Antipolo City. A [TRO] for 72 hours was issued by the court and the hearing was set, and a notice of hearing was sent and received by respondent. The notice of hearing for the issuance of preliminary injunction was ignored by respondent claiming that the hearing of the petition [was] illegal because a court cannot enjoin the enforcement of writ issued by a court of co-equal rank. The actuation of respondent sheriff is uncalled for and an open defiance to the power of the courts to compel obedience to its orders and processes. Respondent displayed an unparalleled arrogance for only a superior court can determine whether the decision, order or process issued by an inferior court is illegal or not in a proper case brought before it and not by respondent who is merely a deputy sheriff with no judicial power.[11]

The OCA recommended:

That respondent Sheriff Conrado G. Lamano, Sheriff IV of the [RTC, Branch 37-Manila], be penalized to pay a FINE of P21,000 for gross ignorance of the law and/or inefficiency with a STERN WARNING that a repetition of the same or similar offense shall be dealt with more severely.[12]

After a careful study of the case, we deem that respondent was guilty of simple misconduct, as well as inefficiency and incompetence in the performance of his official duties.

The important role played by sheriffs in the administration of justice cannot be overemphasized.[13] They are primarily responsible for the speedy and efficient service of all court processes and writs.[14] Thus, they must at all times show the highest degree of professionalism and competence in the performance of their duties.[15]

Lest courts of justice or their agents be accused of being the foremost violators of due process, sheriffs cannot just venture into mere surmises and indiscriminately serve writs and attach properties without due circumspection. Sheriffs are mandated to use reasonable skill and diligence in performing their duties particularly where the rights and properties of individuals may be jeopardized by their neglect.[16]

In this case, respondent miserably failed to conform to the stringent standards of his office. Under the circumstances, he should have ascertained the party for whom the writ of preliminary attachment was intended before he served the notice of garnishment. Furthermore, after having been apprised by the complainant of the erroneous service, respondent should have refrained from issuing the order demanding delivery of the tenants' monthly rentals.

Respondent's misconduct was even compounded by his open defiance to the RTC-Antipolo City's writ of preliminary injunction enjoining him from collecting the rentals. His cavalier attitude of refusing to attend the hearings in the RTC-Antipolo City on the alleged belief that "an injunction could not be issued against courts or tribunals of co-equal rank" did not speak well of him. We agree with the OCA that "respondent displayed an unparalleled arrogance for only a superior court can determine whether the decision, order or process issued by an inferior court is illegal or not in a proper case brought before it and not by respondent who is merely a deputy sheriff with no judicial power." [17]

Assuming that respondent's contention was correct, it could not be an excuse to disregard the court's notices and orders. He could have simply filed the proper manifestation, motion or pleading to vent his opinion instead of ignoring the court altogether. Unmistakably, his conduct showed disrespect to the very institution he was expected to serve and uphold.

Moreover, respondent cannot escape liability by insisting that it was his collaborating sheriff who actually served the notice of garnishment. It remains indubitable that, despite knowledge of the erroneous service and the issuance of the writ of preliminary injunction against him, he still ordered the conveyance of the rentals to him.

Respondent's actuations constituted (simple) misconduct which means intentional wrongdoing or deliberate violation of a rule, [18] unlawful behavior or gross negligence by a public officer. [19] Under the Uniform Rules on Administrative Cases in the Civil Service, misconduct is a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months for the first offense.

Lastly, respondent was also guilty of inefficiency and incompetence in the performance of his official duties when he proceeded to order the delivery of the rentals even after the complainant had already filed the third-party claim. Rule 39, Section 16 of the Rules of Court, provides:

SEC. 16. 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 for such title, and serves the same upon the officer making the levy and a copy of 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. xxx

The above provision should enlighten respondent that his duty was not just confined to informing the plaintiffs in Civil Case No. 04-109259 of the filing of the third-party claim. It was also his duty not to keep the property of the complainant (as the third-party claimant) if the plaintiffs (as judgment obligee) there did not post the required bond.

In his comment, [20] respondent himself admitted that the plaintiffs/judgment obligee failed to post the necessary bond, despite notice. At this juncture, respondent should have known better than to insist on getting the rentals. As a sheriff who plays an important role in the dispensation of justice, respondent was expected to show the highest degree of competence in the performance of his duties. [21]

Under the same Uniform Rules on Administrative Cases in the Civil Service, inefficiency and incompetence in

the performance of official duties are considered a grave offense carrying a penalty of suspension of six (6) months and one (1) day to one (1) year for the first offense.

In the absence of any circumstance that can extenuate respondent's liability in this case, a suspension of six (6) months for simple misconduct and six (6) months for inefficiency and incompetence is warranted.

WHEREFORE, respondent Conrado G. Lamano is found GUILTY of simple misconduct, as well as inefficiency and incompetence in the performance of official duties. Accordingly, he is SUSPENDED for six (6) months for simple misconduct and six (6) months for inefficiency and incompetence, with a STERN WARNING that a repetition of the same or similar act in the future will be dealt with more severely.

Let a copy of this resolution be attached to the personal records of respondent in the Office of Administrative Services, Office of the Court Administrator.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, Azcuna, and Garcia, JJ., concur.

[1] Rollo, pp. 1-4.

[2] Annex "B," id., p.7.

[3] Annex "A," id., p. 6.

[4] Annex "D," id., pp. 8-9.

[5] SEC. 16. Proceedings where property claimed by third person.

[6] Rollo, p. 35.

[7] Supra at note 5.

[8] Rollo, pp. 20-25.

[9] Id., p. 24.

[10] Id., pp. 36-42.

[11] Id., pp. 41-42.

[12] Id., p. 42.

[13] Sulapas v. Basco, A.M. No. P-07-2310, 19 April 2007.

[14] Id.

[15] Id.

[16] Salazar v. Barriga, A.M. No. P-05-206, 19 April 2007.

[17] Supra at note 11.

[18] Salazar v. Barriga, supra.

[19] Santos v. Rasalan, G.R. No. 155749, 8 February 2007.

[20] Supra at note 8.

[21] See also *Paguyo v. Gatbunton*, A.M. P-03-2315, 25 May 2007.

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