

HERMINIA V. GALMAN, REMEDIOS MENDOZA AND LOYDA JUSTINIANO, COMPLAINANTS, VS. JESUS GUASCH, DEPUTY SHERIFF OF MANILA, RESPONDENT.*A.M. No. P-1251. January 06, 1978*

Ponente: ANTONIO, J.

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In their verified complaint, Remedios Mendoza, Herminia V. Galman and Loyda Justiniano alleged that Deputy Sheriff Jesus Guasch of Manila, in enforcing a Writ of Execution dated August 14, 1975 issued by the Court of First Instance of Manila in Civil Case No. 87634 (Remedios Mendoza, et al. vs. Agustina Manaloto, et al.), committed serious misconduct in padlocking their stores on April 1, 1976 without taking a proper inventory of their contents, and in threatening the persons thereat "not to force open the doors or face contempt of court" without his consent or that of Antonio Banzagales, one of the defendants in the afore-mentioned civil case, and in instructing the private security guards "to shoot anyone" who would disregard those orders. It is further charged that when the Appellate Court directed, on April 2, 1976, the respondent to remove the padlock from the stores and restore possession of the stores to complainants, respondent Guasch could not be located and because of the "deliberate intentions of Guasch to hide himself and keep the keys to our padlocks, the Resolution of the Court of Appeals could not be carried out" as it was only on April 5, 1976 when they were able to open the door of the stores, with the help of a locksmith.

In his answer under oath, respondent denied these imputations and alleged that on August 18, 1975, he was instructed to eject the complainants by virtue of a Writ of Execution, dated August 14, 1975, issued in Civil Case No. 87634; that when he arrived at the stores in the company of two policemen from Precinct 3, the stores were padlocked "to avoid enforcement of the Writ of Execution", so he returned to his office to make the corresponding report, but when he arrived there he already found the complainants thereat with Major Patrocinio Galman in full military uniform; that they offered him some bribe money to delay the enforcement of the writ of ejectment as they had filed a petition for certiorari with the Court of Appeals, but he politely declined the offer; that on August 20, 1975, the Court of Appeals issued a restraining order stopping the enforcement of the Writ of Execution; that on March 30, 1976, the Court of Appeals dismissed the Petition for certiorari and dissolved the afore-mentioned restraining order, whereupon the counsel for respondents in that petition for certiorari requested in his letter of March 31, 1976; addressed to Atty. Dominador Cacpal (herein respondent's chief) that the Writ of Execution be immediately enforced by Sheriff Guasch; that the request having been granted, the latter, in the presence of police officers from Precinct 3 and some personnel of the Sheriff's Office, lawfully ejected the complainants on April 1, 1976, caused a levy on the properties inside the stores, delivered possession Of the store spaces and their keys to Mr. Gregorio Abad, and posted notices of sale on execution after proper inventory was made on the properties; that in the morning of April 5, 1976, complainants accompanied by Major Galman, who was again in military uniform, showed respondent a copy of the Resolution of the Court of Appeals, dated April 2, 1976, ordering him to remove the padlocks of the stores and place the complainants in possession; that to avoid discussion and to

clarify matters the two opposing litigants and respondent Sheriff repaired to the Office of Court of Appeals Justice Mariano V. Agcaoili, but while discussion was going on, word arrived that Major Galman aided by Metrocom troopers forced open and destroyed the padlocks, thus recovering possession of the store spaces by force; and lastly, that it is not true that he is related to the Manalotos and dared complainants to prove the same.

Complainants, in their reply, failed to refute some of the aforementioned averments. In his report dated April 3, 1976, Deputy Sheriff Justo B. Prudencio, stated:

"On April 2, 1976, undersigned deputy sheriff went to the premises of the Verde, Mendoza and Justiniano Book Stores for the purpose of implementing the resolution of the Hon. Court of Appeals by 'removing the padlocks' of the said bookstores. When I arrived there at about 4:00 o'clock in the afternoon, I requested for the keys to the padlocks and Mr. Antonio Manaloto, a son of the owner of the building, told me to wait as the keys could not be located. After several minutes said Mr. Antonio Manaloto again asked me to wait for a few more minutes as they were going to look for Mr. Jesus Guasch, the deputy sheriff who had the keys in his possession. At about 5:30 o'clock in the afternoon of the said day, Mr. Antonio Manaloto arrived and said he was not able to find Mr. Jesus Guasch and believing that he was just stalling us, knowing that he cannot find Sheriff Jesus Guasch and that they have the keys but will not produce them, I requested Mrs. Herminia Galman, one of the owners of the book stores (Verde) mentioned, to get a locksmith to help me open the padlocks.

"When the locksmith was trying, under my supervision, to open the padlock of Justiniano's Book Store, Atty. Efren Liwanag arrived and with Antonio Manaloto, they asked me where is the order and I showed to them the resolution of the Court of Appeals. Atty. Liwanag caused copies of the resolution to be made by xerox in a nearby store. They stopped the locksmith from opening the padlock, saying that they have an order of the Court directing the ejectment of the plaintiffs and they have levied on the properties inside the stores. Again, we waited for the alleged order and what was shown to us are xerox copies of Notice of Sale by Sheriff Jesus Guasch.

"During the discussion and while the locksmith was again trying to open the padlock, some police officers from Pct. 3, Western Police District arrived. The resolution of the Hon. Court of Appeals was shown to them. There were some discussion between the parties to the case, during which discussion and when Mrs. Galman was insisting that the resolution of the Honorable Court of Appeals of April 2, 1976 be followed and/or implemented, Atty. Efren Liwanag in a loud voice, stated 'Bale wala iyan' referring to the resolution of the Court of Appeals, 'tapos na ang levy'. Since the police officers could not resolve the matter themselves, they then asked me to go with them to their headquarters for their superior to resolve the matter, The sergeant at the headquarters could not also resolve the matter saying it was a civil case and they could not interfere with it unless there is a complaint for any criminal offense like grave coercion.

"So we left the headquarters of Pct. 3, WPD, I again tried to enforce the said resolution of the Hon. Court of Appeals at about 8:00 o'clock at night of the same day. I again asked Mrs. Galman to find a locksmith to open the padlocks. The locksmith arrived and I told him to open the said padlocks.

"When the locksmith was opening the padlock, a certain Antonio Banzagales prevented him from opening the same by taking hold of the padlock and telling nobody can open the padlock of the Verde Book Store. The

locksmith could not also proceed to open the other padlocks because of the human barricade in front of the three stores, Verde Book Store, Mendoza Book Store and Justiniano's Book Store. Two girls even took several shots of our pictures during the proceeding.

"A police officer from Pct. 3, WPD) again arrived. A Metrocom soldier, TSgt. Clamar, also arrived. They asked us to be peaceful as there were plenty of people surrounding us. The police officers also cautioned the parties to behave and to refrain from talking in loud tones or he will arrest than and book them for breach of the peace.

"I could not enforce the resolution of the Court of Appeals to 'remove the padlocks' of the Verde, Mendoza and Justiniano Book Stores because Antonio Banzagales prevented me from doing so."

The Writ of Execution directs the sheriff to place the plaintiff in possession of the property held by the defendant. Pursuant to Section 13 of Rule 39 of the Rules, the "officer must enforce an execution for the delivery or restitution of property by ousting therefrom the person against whom the judgment is rendered and placing the judgment creditor in possession of such property * * *". In ousting, therefore, complainants from the premises in question, respondent was merely performing his duty. However, he should have acted with courtesy and civility. His non-appearance in his office or non-availability on the day Sheriff Prudencio tried to enforce the writ so that he could have produced the keys of the padlocks to said store, is indeed censurable. Had he been more courteous and cooperative, there would have been no reason for complainants to suspect that he was using his office as a means of unduly favoring one party in a case to the prejudice of the other.

WHEREFORE, in view of the foregoing, respondent is hereby admonished to be more careful and to act with civility and courtesy in the discharge of his official functions in order that he will truly reflect the high norms of official conduct expected by the people from public offices under the New Society.

Barredo, (Acting Chairman), Aquino, Concepcion, Jr., and Guerrero, JJ., concur.

Fernando, (Chairman), and Santos, JJ., are on leave.

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