

CRISPIN SARMIENTO, COMPLAINANT, VS. LUISITO P. MENDIOLA, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 20, MANILA, RESPONDENT.

A.M. No. P-07-2383. December 15, 2010

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

A sheriff performs a sensitive role in the dispensation of justice. He is duty-bound to know the basic rules in the implementation of a writ of execution and be vigilant in the exercise of that authority.

The Facts

Crispin Sarmiento (Crispin) was charged with eight counts of violation of Batas Pambansa Blg. 22 before the Metropolitan Trial Court of Manila, Branch 20 (MeTC-Br. 20), docketed as Criminal Case Nos. 345095-102-CR. On 22 September 2003, he was acquitted of the charges for failure of the prosecution to prove his guilt.[1] However, upon the prosecution's manifestation and motion that the decision did not mention any civil liability that was impliedly instituted in the criminal action, the trial court amended its decision on 3 February 2004 ordering Crispin to pay the private complainants, spouses Daniel and Blesilda Inciong (spouses Inciong), the amount of P295,000 as actual damages plus legal interest of 12% per annum to be reckoned from the filing of the case.[2] After the decision became final and executory, the spouses Inciong filed a motion for writ of execution which motion was granted in the Order dated 18 April 2006.[3] A writ of execution was issued on 8 August 2006.[4]

On 24 August 2007, Crispin filed a Verified Complaint against respondent Luisito P. Mendiola (respondent), Sheriff III of the MeTC-Br. 20, charging the latter with Grave Misconduct, Manifest Partiality, Abuse of Authority, Oppression, Usurpation and Violation of Section 3(e) of Republic Act No. 3019 (RA 3019), otherwise known as the Anti-Graft and Corrupt Practices Act. Crispin alleged that on 12 February 2007, respondent and his companion, Claro Bacolod, a policeman employed in the Warrant Section of the Manila Police Department, forcibly took the Mercedes Benz of his brother, Tirso Sarmiento (Tirso), without presenting any writ of execution from the court. Crispin allegedly explained to them that he is not the owner of the vehicle but a mere caretaker. He showed to them the Deed of Sale of the subject vehicle executed on 24 January 2007 between the seller, Efren Panganiban (Efren), and the buyer, Tirso. He asserted that respondent's levy of the subject vehicle was illegal since a sheriff is not authorized to attach property not belonging to the judgment debtor.

In his Comment, respondent denied the charges. He alleged that he showed to Crispin the copy of the Order dated 18 April 2006 granting the issuance of the writ of execution and a Notice of Levy Upon Personal Property but Crispin refused to acknowledge these documents. Respondent further averred that he went to the house of Efren, the alleged seller, prior to the implementation of the writ of execution and he was assured by the latter's son that the car was already sold to Crispin about two or three years ago. Respondent contended that if Tirso was indeed the owner, then he should have been the one to have filed the instant administrative case. Respondent pointed out

that he was not remiss in his duties as a court personnel and did not violate RA 3019 because he acted in good faith during the implementation of the writ of execution.

OCA Report and Recommendation

The Office of the Court Administrator (OCA) found respondent guilty of Simple Misconduct. An examination of the records would show that respondent levied upon the subject vehicle despite the fact that its ownership belonged to Crispin's brother as evidenced by the Deed of Sale executed on 24 January 2007, a month before the implementation of the writ of execution on 12 February 2007. Respondent failed to present evidence to bolster his claim that the subject vehicle was sold to Crispin.

The OCA opined that the court, in issuing a writ of execution, may enforce its authority only on the properties of the judgment debtor and the respondent must only subject to execution property belonging to the judgment debtor. If he levies on the properties of third persons in which the judgment debtor has no interest, he is acting beyond the limits of his authority. Thus, as found by the OCA, respondent's transgression constitutes simple misconduct which is classified as a less grave offense under Section 52, B(2), Rule IV of the Revised Uniform Rules on Administrative Cases where the penalty is suspension of one month and one day to six months, for the first offense and, dismissal from the service, for the second offense. Since this is respondent's first offense, the OCA recommended that respondent be fined P10,000.

The Court's Ruling

As admitted by respondent in his Comment, he levied a 1984 model Mercedes Benz with plate number PKY 703 but Crispin refused to hand the key of the car thus prompting him to engage the services of a wrecker to tow and bring the car to the court compound. He claims he acted in good faith and only performed his official duty in implementing the writ of execution.

We do not agree.

Sheriff Clavier M. Cachombo, Jr. (Clavier) was the one who first implemented the writ of execution on the same Mercedes Benz with plate number PKY 703. Apparently, respondent failed to read thoroughly the Sheriff's Partial Return dated 15 September 2006^[5] which was annexed in his Comment. It was stated therein that "upon verification with the Land Transportation Office, it was found out that the said motor vehicle was registered under the name of Efren Panganiban since June 2002 and until March 31, 2006 in San Juan, Metro Manila and was never registered under the name of the defendant." Thus, the service of the writ of execution was temporarily held in abeyance until such time that any property of the defendant, complainant in this administrative case, had been positively identified. Clearly, respondent should have refrained from implementing the writ of execution on the same vehicle.

Respondent claims the son of the registered owner of the subject vehicle assured him that the car was sold to Crispin, but respondent failed to present concrete evidence to prove his claim. Moreover, the Deed of Sale presented by Crispin showed that Efren sold the subject vehicle to Tirso and not to Crispin. This clearly shows that the subject vehicle did not belong to Crispin.

It is a basic principle of law that money judgments are enforceable only against property unquestionably belonging to the judgment debtor. In the execution of a money judgment, the sheriff must first make a demand on the obligor for payment of the full amount stated in the writ of execution. Property belonging to third persons cannot be levied upon.^[6] Moreover, the levy upon the properties of the judgment obligor may be had by the executing sheriff if the judgment obligor cannot pay all or part of the full amount stated in the writ of execution. If

the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode acceptable to the judgment obligee, the judgment obligor is given the option to immediately choose which of his property or part thereof, not otherwise exempt from execution, may be levied upon sufficient to satisfy the judgment. If the judgment obligor does not exercise the option immediately, or when he is absent or cannot be located, he waives such right, and the sheriff can now first levy his personal properties, if any, and then the real properties if the personal properties are insufficient to answer for the judgment.[7]

Therefore, the sheriff cannot and should not be the one to determine which property to levy if the judgment obligor cannot immediately pay because it is the judgment obligor who is given the option to choose which property or part thereof may be levied upon to satisfy the judgment. Since Crispin is not the owner of the subject vehicle that respondent levied on, it was improper for respondent to have enforced the writ of execution on a property that did not belong to Crispin, the judgment debtor/obligor. Respondent evidently failed to perform his duty with utmost diligence.

It is undisputed that the most difficult phase of any proceeding is the execution of judgment. The officer charged with this delicate task is the sheriff. The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the judgment. He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom.[8]

Thus, sheriffs play an important part in the administration of justice. In view of their exalted position, their conduct should be geared towards maintaining the prestige and integrity of the court. In *Escobar Vda. de Lopez v. Luna*,[9] we ruled that sheriffs have the obligation to perform the duties of their office honestly, faithfully and to the best of their abilities. They must always hold inviolate and invigorate the tenet that a public office is a public trust. As court personnel, their conduct must be beyond reproach and free from any suspicion that may taint the judiciary. They must be circumspect and proper in their behavior. They must use reasonable skill and diligence in performing their official duties, especially when the rights of individuals may be jeopardized by neglect. They are ranking officers of the court entrusted with a fiduciary role. They play an important part in the administration of justice and are called upon to discharge their duties with integrity, reasonable dispatch, due care, and circumspection. Anything less is unacceptable. This is because in serving the court's writs and processes and in implementing the orders of the court, sheriffs cannot afford to err without affecting the efficiency of the process of the administration of justice. Sheriffs are at the grassroots of our judicial machinery and are indispensably in close contact with litigants, hence their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel.

In *Office of the Court Administrator v. Judge Fernandez*,[10] 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.

We agree with the OCA's finding that respondent is guilty of simple misconduct. Under Section 52, B(2), Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service, 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 respondent's first offense, we find the OCA's recommendation imposing a fine of P10,000 to be in order.

WHEREFORE, we find respondent Luisito P. Mendiola, Sheriff III of the Metropolitan Trial Court of Manila,

Branch 20, guilty of Simple Misconduct. We FINE him P10,000, with a warning that a repetition of the same or similar offense in the future shall be dealt with more severely.

SO ORDERED.

Nachura, Peralta, Abad, and Mendoza, JJ., concur.

[1] Annex "A" of the respondent's Comment.

[2] Annex "B" of the respondent's Comment.

[3] Annex "C" of the respondent's Comment.

[4] Annex "D" of the respondent's Comment.

[5] Annex "E" of the respondent's Comment.

[6] *Teodosio v. Somosa*, A.M. No. P-09-2610 (Formerly A.M. OCA IPI No. 09-3072-P), 13 August 2009, 595 SCRA 539, 557-558.

[7] Section 9 (b) of Rule 39 provides:

Sec. 9. Execution of judgments for money, how enforced. -

x x x

(b) Satisfaction by levy. - If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

x x x.

[8] *Mariñas v. Florendo*, A.M. No. P-07-2304, 12 February 2009, 578 SCRA 502, 510-511.

[9] A.M. No. P-04-1786 (Formerly OCA I.P.I. No. 02-1341-P), 13 February 2006, 482 SCRA 265, 275-276.

[10] 480 Phil. 495, 500 (2004).

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