

**BIENVENIDO R. MERCADO, COMPLAINANT, VS. NESTOR CASIDA,
SHERIFF III, METROPOLITAN TRIAL COURT, PASIG CITY,
RESPONDENT.**

A.M. No. P-02-1572 (Formerly OCA I.P.I No. 01-1034-P). April 24, 2002

Ponente: DE LEON, JR., J.

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DE LEON, JR., J.:

For resolution is an administrative complaint filed by complainant Bienvenido R. Mercado, Director of Sta. Clara Management and Realty Co., Inc., against respondent Nestor Casida, Sheriff III of the Metropolitan Trial Court of Pasig City, charging the latter with grave misconduct in the implementation of a writ of execution issued by the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. REM-111199-10770 entitled “Spouses Jesus and Ester Rana, Ma. Lourdes Martinez, Marilou Avila and Ronaldo Rana vs. Sta. Clara Management and Realty Company, Inc.”

The said writ of execution was issued pursuant to a Decision rendered by the HLURB, the dispositive portion of which reads as follows:

WHEREFORE PREMISES CONSIDERED, JUDGMENT IS HEREBY RENDERED IN FAVOR OF THE COMPLAINANTS AND ORDERING THE RESPONDENT STA. CLARA MANAGEMENT AND REALTY COMPANY, INCORPORATED TO IMMEDIATELY REFUND TO THE COMPLAINANTS AS FOLLOWS:

JESUS/ESTER RANA

P637,598.00

MA. LOURDES MARTINEZ

255,000.00

MARILOU AVILA

30,000.00

RONALDO RANA

30,000.00

FURTHER, RESPONDENT STA. CLARA MANAGEMENT AND REALTY COMPANY INCORPORATED IS LIKEWISE ORDERED TO PAY EACH OF THE COMPLAINANTS MORAL DAMAGES OF P50,000.00 EACH AND COMPLAINANTS ARE LIKEWISE ORDERED TO PAY THE CORRESPONDING FILING FEES THEREOF.[1]

In a letter-complaint dated January 8, 2001 addressed to the Office of the Court Administrator (OCA), the complainant alleged that in implementing the said writ of execution, the respondent barged into the temporary office of the corporation which happens to be complainant's residence, without explaining the purpose of his visit. Respondent also deprived the complainant's wife of the opportunity to read and understand the contents of the writ of execution. Complainant further claimed that what was levied on by the respondent were his family's personal belongings and not those of Sta. Clara Management and Realty Co., Inc. According to the complainant, respondent failed to make a complete list of the personal properties he levied upon. Complainant also alleged that according to an eyewitness, respondent delivered the personal properties that were levied upon to the house of Jesus Rana, one of the complainants in HLURB Case No. REM-111199-10770.

Lastly, complainant attached to his letter-complaint, a certification[2] by the Office of the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Pasig City that it has not received any writ of execution issued by the HLURB in connection with HLURB Case No. REM-111199-10770, and that no payment of legal fees for the implementation of the said writ was ever made. The same Office also certified that there is no order addressed to the respondent to enforce the said writ of execution.

In his Comment dated May 4, 2001, respondent does not deny the fact that he had implemented a writ of execution that was not addressed to him but to the Ex-Officio Sheriff or any of the Deputy Sheriffs of the RTC of Pasig City. He explains, however, that on January 4, 2001 at around 7:30 in the morning, Ronaldo Rana and Marilou Martinez, complainants in HLURB Case No. REM-111199-10770, came to his house and requested his assistance in the implementation of the said writ. Rana and Martinez begged for his assistance in the implementation of the writ of execution since they could not afford to pay the legal fees of the Sheriff of the RTC of Pasig City, and the complainant was about to abscond and dispose of his properties. Respondent asserts that he was merely "acting in good faith and for humanitarian reasons"[3] when he acceded to the request of Rana and Martinez to implement the writ of execution free of charge.

As regards his failure to explain the purpose of his visit and to give the complainant's wife the opportunity to read the writ of execution, respondent claims that when he served the writ to complainant's wife, the latter refused to receive the same, and passed it on to her secretary whose signature appears thereon. Furthermore, respondent denies the allegation that he did not make a complete inventory of the properties he levied upon. On the contrary, a proper Inventory/Levy of the properties was made as evidenced by the Notice of Levy which was also signed by the complainant's secretary.

The OCA found no evidence to support complainant's allegations that: (1) the respondent did not afford his wife fair opportunity to read the writ of execution; (2) no proper inventory was made of the properties levied upon; and (3) respondent delivered the seized properties to the house of Jesus Rana. The OCA, therefore, found no sufficient basis to hold respondent guilty of grave misconduct in implementing the writ of execution.

We agree with the OCA.

The OCA pointed out that the writ was served on and read by the complainant's secretary who signed it when complainant's wife refused to receive the same. Assuming, therefore, that complainant's wife was not able to read the writ, it was not due to lack of opportunity to do so but because she chose not to be informed. Anent the alleged absence of a complete inventory of the properties levied upon, the OCA opined that this is simply belied

by the fact that the Notice of Levy containing an inventory of the seized properties is likewise signed by complainant's secretary. Her signature gave rise to the presumption that she had read the inventory of the properties seized and had found the same to be accurate. Absent a contrary statement from her, this presumption must stand.

There is also nothing in the records nor any other evidence to support complainant's bare assertion that respondent had delivered the seized properties to the house of Jesus Rana. As correctly pointed out by the OCA, complainant cannot have us rely on an eyewitness whose affidavit was not even presented to substantiate complainant's accusation.

Finally, the OCA absolved respondent of any wrong doing in levying upon the properties found in complainant's residence. According to the OCA, the address given in the writ of execution as the company's address was 137 Fourth Street, Riverside Village, Pasig City. Such being the case, the complainant could not be faulted for presuming that the properties found therein belonged to the company. Thus, he was duty bound to levy upon them. Complainant, in fact, does not deny that this address is the company's temporary business address and happens to be his residence also. At any rate, granting that complainant's personal properties were mistakenly levied upon, his remedy was to file a third party claim under Section 16, Rule 39 of the 1997 Rules of Civil Procedure but he did not.

It is worth reiterating here that the quantum of proof necessary for a finding of guilt in administrative cases is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[4] Unfortunately, complainant's unsubstantiated accusations are simply inadequate to find respondent guilty of grave misconduct in the implementation of the writ of execution.

However, we agree with the OCA that respondent's act of implementing a writ of execution that was neither addressed to him nor coursed through the normal channels, exposed him to the suspicion that he profited therefrom and unduly favored the complainants in HLURB Case No. REM-111199-10770.

We have said that:

"The Court cannot overstress the need for proper and circumspect behavior on everyone connected with an office charged with the dispensation of justice, from the presiding judge, to the sheriff and the lowliest clerk. Said conduct is circumscribed with the heavy burden of responsibility and must, at all times, be characterized with propriety and decorum. Every employee of the judiciary should be an example of integrity, honesty and uprightness. He must always be above and beyond suspicion. Sheriffs, in particular, must show a high degree of professionalism in the performance of their duties given the delicate task they're reposed with." [5]

Thus, despite respondent's apparently good intentions, this Court cannot countenance a departure from the procedure prescribed by law that may very well incite suspicion and eventually erode the public's trust in the judicial system. For this reason, respondent cannot be spared the disciplining rod of this Court.

WHEREFORE, respondent Sheriff Nestor Casida is fined in the amount of Two Thousand Pesos (P2,000.00) with the warning that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

Bellosillo, (Chairman), Mendoza, and Quisumbing, JJ., concur.
Corona, J., no part in the deliberations.

[1] Rollo, p. 6.

[2] Rollo, p. 12.

[3] Rollo, p. 40.

[4] Atty. Julian B. San Juan vs. Ariel S. Sangalang, etc., A. M. No. P-00-1437, February 6, 2001.

[5] Borja, Sr. vs. Angeles, 244 SCRA 706, 709 (1995).

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