

**ERNESTO D. BONILLA, COMPLAINANT, VS. LEONARDO AFABLE,
JUDGE OF THE MUNICIPAL CIRCUIT COURT OF SAN
MARCELINO-CASTILLEJOS, ZAMBALES, RESPONDENT.**

A.M. No. 2397-MJ. July 30, 1982

Ponente: PLANA, J.

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PLANA, J.:

In 1973, Engineer Ernesto D. Bonilla of Caloocan City filed a complaint against Judge Leonardo Afable of the Municipal Circuit Court of San Marcelino-Castillejos, Zambales, for issuing a demolition order on September 12, 1979, directing the removal of houses on a 60,000 sq. m. land, which was much bigger than the parcel of land (37,968 sq. m.) that was the subject of the decision of the Municipal Court of Subic, Zambales in Civil Case No. 205 entitled "Eduardo Racella, et al. vs. Alejandro Pechay, et al." for forcible entry which was supposed to be executed. In Civil Case No. 205, the judgment ordered the defendants to vacate the land occupied by them and to pay damages to the plaintiffs.

In the same letter, complainant Bonilla also charged Deputy Sheriff Atilano Nanquil of the Court of First Instance of Zambales and Olongapo City for arbitrarily executing the demolition order of Judge Afable without giving the occupants of ten houses reasonable opportunity to pack up and remove their personal belongings.

In his answer, respondent Judge Afable admitted he had committed an error in describing the land that was the subject of his demolition order, claiming that he had been misled by a report (Notice of Levy) submitted by Deputy Sheriff Atilano Nanquil which referred to a bigger parcel of land. Respondent further averred that when his attention was called to the mistake he had committed, he immediately corrected the same by amending his order of demolition.

On the other hand, respondent Deputy Sheriff Nanquil denied the charges against him, saying that when he carried out the order of demolition, the persons found in the premises were accorded due consideration, for which the latter even thanked respondent Nanquil.

In due course, the charges were referred in 1981 to Executive Judge Domingo D. Panis of the Court of First Instance of Zambales and Olongapo City for investigation and report. On hearings scheduled by the Inquest Judge with due notice to complainant, the latter failed to appear, prompting the Inquest Judge to submit a report recommending the dismissal of the charges for failure to prosecute.

The charge against respondent Judge Afable that the questioned demolition order covered land not included in the decision to be executed has been admitted by the respondent. Respondent's explanation that he merely followed the description of the land in the sheriff's report (levy of execution) is neither convincing nor exculpating. In the first place, he should have relied on the description of the land in the decision to be executed, rather than on the sheriff's report. Secondly, the sheriff's report referred to a parcel of land which was not the subject of the forcible entry case; rather, it was another piece of land belonging to one of the defendants in the said case which was scheduled to be sold at public auction in order to satisfy the damages awarded by the court in favor of the

plaintiffs. Respondent Afable manifestly failed to exercise due care in issuing the questioned demolition order. It is true that the lapse committed appears to be unintentional, unattended by any ulterior design. Nevertheless, the respondent Judge must be held accountable for failure to observe due care in the performance of his official duties.

On the other hand, the charges against Deputy Sheriff Nanquil have not been substantiated.

WHEREFORE, respondent Judge Afable of the Municipal Circuit Court of San Marcelino-Castillejos, Zambales, is hereby admonished and warned to be more careful in the discharge of his official functions. Respondent Nanquil is hereby exonerated of the charges against him.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Melencio-Herrera, Vasquez, and Relova, JJ., concur.
Gutierrez, Jr., J., on leave.

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