

ARSENIA LARIOSA, COMPLAINANT, VS. JUDGE CONRADO B. BANDALA, MUNICIPAL TRIAL COURT, NEW CORELLA, DAVAO DEL NORTE AND SHERIFF IV JAIME P. MORTA, JR., REGIONAL TRIAL COURT, TAGUM C...

A.M. No. MTJ-02-1401. August 15, 2003

Ponente: VITUG, J.

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VITUG, J.:

In an affidavit-complaint, dated 15 December 1999, complainant Arsenia Lariosa has charged respondent Judge Conrado B. Bandala of the Municipal Trial Court (MTC) of New Corella, Davao del Norte, and Sheriff Jaime P. Morta, Jr., of the Regional Trial Court (RTC) of Tagum City, Davao del Norte, with Grave Misconduct and Grave Abuse of Authority in relation to Civil Case No. 193, entitled "Estanislao Pasion, et al. vs. Porfirio Royo, Sr., et al.," for forcible entry.

In her affidavit-complaint, complainant claimed that on 23 November 1999, about three o'clock in the morning, she and her family were suddenly awakened by the pounding of their door. When complainant opened the door, several men led by Estanislao Pasion, the plaintiff in the case for forcible entry, pushed the door open. Respondent sheriff Jaime Morta then went inside the house and started demolishing the place. Complainant averred that she was caught by surprise for neither she nor her husband were among the defendants in the forcible entry case.

The Office of the Court Administrator (OCA), in separate indorsements, both dated 29 February 2000, required respondent Judge Conrado B. Bandala and respondent Sheriff Jaime P. Morta, Jr., to comment on the affidavit-complaint within ten (10) days from their receipt thereof.

In his comment, respondent Judge asserted that the decision in the case for forcible entry had become final and executory following the dismissal by the Supreme Court of two petitions, docketed G.R. No. 117144 and G.R. No. 117391, assailing the decision in the forcible entry case. A writ of execution was thus issued on 14 July 1998. In the sheriff's return, dated 12 August 1998, sheriff Morta informed the trial court that he had also served a copy of the writ of execution on Divino Manaay, Maximo Lariosa and Damie Cagoco who, like complainant, were not defendants in the forcible entry case but were found to be occupying the land involved in the litigation upon leave or concession of Porfirio and Bienvenida Royo, the defendants in the case. The refusal of some of the defendants to vacate the premises prompted the plaintiffs to file a motion for a special order of demolition which was granted by the trial court in its order of 03 December 1998. Since the writ did not include the other occupants of the property, including complainant, a special order of demolition was issued on 15 September 1999 giving said occupants, being privies of the defendants, ten (10) days within which to vacate the premises. Complainant personally acknowledged receipt of the notice of hearing, dated 15 September 1999, and the alias writ of execution, dated 19 October 1999, as so shown by her signature on the original of the notice and motion. Respondent Judge claimed that complainant had more than sufficient time to vacate the premises because, as early

as 28 October 1999, they received copies of the court's orders and the actual demolition took place only on 23 November 1999.

Sheriff Jaime P. Morta, Jr., in his comment, explained that complainant and her husband were duly notified of the impending demolition ordered by the court. Complainant, like the other occupants of the property, were given ample time to gather their belongings prior to the demolition. He denied having forced his way into the house of complainant. Complainant's husband himself informed the deputy sheriff that they had already gathered their belongings and were prepared for the demolition.

The OCA, in its evaluation, concluded that the decision of the trial court in the civil case for forcible entry is not binding upon complainant, she not being party to the forcible entry case. The OCA recommended a fine of P10,000.00 each against respondent Judge Conrado B. Bandala and Sheriff Jaime P. Morta, Jr.

The Court finds it difficult to express its agreement to the conclusion reached by the OCA. It would appear that complainant Arsenia Lariosa and her husband, although not named defendants in the civil case for forcible entry, were, in fact, privies of defendants Porfirio and Bienvenida Royo. The spouses Lariosa, together with Divino Manaay and Damie Cagoco, were found to have been occupying portions of the property subject of the litigation only by virtue of the permission of said defendants as so reflected in the sheriff's Return of Service of 12 August 1998. The spouses Lariosa were duly served with copies of the order, dated 15 September 1999, of the trial court which, after due notice and hearing, declared Maximo Lariosa, Divino Manaay and Damie Cagoco to be such privies of defendants Porfirio Royo, Sr., and Bienvenida Royo. All were given ten (10) days within which to vacate the premises. The copies of the court orders were personally received by complainant Arsenia Lariosa as so attested by her signatures appearing on the documents. Lariosa, instead of asserting whatever independent legal right she might have had over the property, chose to ignore the notice of hearing scheduled by respondent Judge pursuant to Section 10(d) of Rule 39[1] on the motion for the issuance of the special order of demolition.

Ejectment cases are summary in nature for they involve perturbation of social order which must be addressed as promptly as possible.[2] Respondent Judge has acted within the bounds of his authority in issuing the orders for the alias writ of execution and the alias writ of demolition.

There likewise appears no patent irregularity nor arbitrariness on the part of respondent sheriff in enforcing the writ of demolition. The sheriff may have been overzealous in enforcing the writ during an unholy hour in the morning but, once such a writ is placed in his hands, it becomes his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandate.[3] Unless restrained by a court order, he would be bound to see to it that the execution of judgment directed by the Judge is not unduly delayed.[4] In the absence of a clear showing to the contrary, a presumption exists that a sheriff has acted in good faith in the performance of his official duty.[5]

WHEREFORE, the instant complaint against respondent Judge Conrado B. Bandala and Sheriff Jaime P. Morta, Jr., for grave misconduct and grave abuse of authority is DISMISSED for being unmeritorious.

SO ORDERED.

Davide, Jr., C.J., (Chairman, First Division), Ynares-Santiago, Carpio, and Azcuna, JJ., concur.

[1] 1997 Rules of Civil Procedure.

[2] Uy vs. Santiago, G.R. No. 131237, 31 July 2000, 336 SCRA 680.

[3] Francisco vs. Cruz, A.M. Nos. P-93-990 & P-94-1042, 08 September 2000, 340 SCRA 76.

[4] Marisga-Magbanua vs. Villamar V, 364 Phil. 606.

[5] Navale vs. Court of Appeals, 324 Phil. 70.

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