

ANGELITA D. MAYLAS, COMPLAINANT, VS. JUANCHO M. ESMERIA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 46, MASBATE CITY, RESPONDENT.

A.M. No. P-11-2932 (Formerly A.M. OCA I.P.I. No. 10-3412-P). May 30, 2011

Ponente: BRION, J.

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BRION, J.:

Before the Court is the administrative complaint dated May 30, 2010,[1] filed by Angelita D. Maylas (complainant), charging Juancho M. Esmeria (respondent), Sheriff IV of the Regional Trial Court (RTC), Branch 46, Masbate City, with grave misconduct, gross ignorance of the law and incompetence.

The Facts

The complainant and her husband, Ignacio Maylas, were the plaintiffs in a civil action (Civil Case No. 5165) for quieting of title and recovery of possession and ownership against the defendants-spouses Oscar and Marilyn Dolendo. On November 25, 2005, the RTC, Branch 46, Masbate City, where the case was filed, rendered a Decision,[2] as follows:

- 1) Ordering the defendants to pay the plaintiffs the amount of Php23,000.00 representing the value of the house owned by the plaintiffs which was destroyed and demolished by the defendants;
- 2) Declaring the defendants the possessor and owner of the lot where his (sic) house is presently being constructed; [and]
- 3) Ordering the defendants to pay the amount of Php10,000.00 as attorney's fees[.]

On August 2, 2007, the court issued a writ of possession that, according to the complainant, is defective as it failed to conform to the second paragraph of the decision's dispositive portion. On the same day, the respondent filed a motion to secure the assistance of a geodetic engineer, without furnishing a copy of the motion to the parties, especially the plaintiffs. The complainant regards this omission by the respondent to be gross ignorance of the law and procedure, for it deprived the plaintiffs the opportunity to oppose the motion.

On August 3, 2007, the court granted the respondent's motion. The following day, the respondent filed an officer's return[3] which allegedly provided an inaccurate and misleading information that half of the house of Sps. Oscar and Marilyn Dolendo was demolished by Sps. Ignacio and Angelita Maylas and in the area where the demolition occurred, the Maylas couple constructed an apartment and put up barriers of G.I. roofings and

barbed wires on the back portion of the apartment facing of the Dolendo couple.

The complainant points out that the property the respondent referred to is not the property under litigation as it is covered by tax declaration no. 19436 (dated January 2003) in the complainant's name. She claims that on the contrary, the property subject of the civil case is covered by tax declaration no. 10751 (dated October 20, 1980)[4] in the name of Ignacio Maylas, which property was destroyed by the Sps. Dolendo and is being claimed by Oscar

Dolendo under tax declaration no. 12995 (declared by the court as a mere duplication of Ignacio Maylas' tax declaration). The complainant charges the respondent of distorting the facts to unduly favor his friends, the Sps. Dolendo.

By way of a comment dated August 18, 2010,[5] the respondent asks for the dismissal of the complaint for lack of merit, contending that it is pure harassment intended to stop him from enforcing the writ. He argues that the Sps. Maylas took the law into their hands and, acting as sheriff, demolished a portion of the Sps. Dolendo's house when the Court denied the Sps. Maylas' motion for reconsideration before the implementation of the writ of possession.

The respondent adds that the demolition of a portion of the Sps. Dolendo's house prompted them to sue the Maylas couple for damages (Civil Case No. 6158) before the RTC, Branch 47, Masbate City, and a complaint for malicious mischief (I.S. No. 01-3730) before the Provincial Prosecution Office.

With respect to the alleged defective writ of possession, the respondent argues that the issue is judicial in nature; it was his ministerial duty, as sheriff, to implement the writ.

The respondent accuses the complainant of citing only portions of the decision favorable to her and her husband, without taking into consideration that the defendants (Dolendos) were declared the possessors and owners of the lot where their house is presently being constructed.

The Court's Ruling

In its memorandum submitted to the Court on February 1, 2011, the Office of the Court Administrator (OCA) recommends that the complaint be dismissed for lack of merit, based on the following evaluation:

EVALUATION: A thorough perusal of the instant administrative matter ultimately reveals that the crux of complainant's accusation centers only on the alleged distortion of facts by respondent sheriff in his Officer's Return where he alleged that it was the spouses Maylas which caused the demolition of the half of the house of spouses Dolendo, contrary to the pronouncement in the Decision that it was actually the house owned by the plaintiffs which was destroyed by the defendants. Respondent sheriff, however, rebuts the accusation by explaining that spouses Maylas likewise caused the demolition of half of the house of spouses Dolendo after the Decision was rendered and before the implementation of the Writ of Possession.

At any rate, considering that the conflict arose from an alleged irregularity in the implementation of a writ issued by a trial court, this Office deems it proper to let the trial court which issued the Writ of Possession settle the matter.

It is already a settled jurisprudence that the tribunal which rendered the decision or award has a general supervisory control over the process of its execution, and this includes the power to determine every question of fact and law which may be involved in the execution.[6] This is because any court which issued a writ of execution has the inherent power, for the advancement of justice, to correct error of its ministerial officers and to control its own processes.[7] Hence, any irregularities which attended the execution of the decision must be litigated in the court which issued it. Herein complainant, therefore, should first bring the alleged erroneous

allegation and conclusion of fact by respondent sheriff before the trial court.

Regarding the alleged defective Writ of Possession, respondent sheriff was right when he pointed out that the alleged defect is judicial in nature as the same was issued as per Order of the judge. Clearly, respondent sheriff's duty to implement the same is purely ministerial on his part.

Lastly, vis-à-vis the lack of hearing of the Motion for the Assistance of a Geodetic Engineer, the same was eventually granted by the trial court. Evidently, if complainant really believes that they were deprived of the

required procedural due process, she should have impleaded as respondent either the presiding judge or the branch clerk of court, for these are the court officers primarily responsible in the setting and granting/denying of a motion. In grumbling against respondent sheriff about the alleged erroneous issuance of the motion, complainant had ended up barking on the wrong tree.

RECOMMENDATION: Respectfully submitted, for the consideration of the Honorable Court, is the recommendation that the instant administrative complaint against Juancho M. Esmeria, Sheriff IV of the Regional Trial Court, Branch 46, Masbate City, be DISMISSED for lack of merit.[8]

We approve and adopt the OCA's well-founded recommendation.

Indeed, as the OCA noted, the present controversy is the offshoot of an alleged irregularity in the implementation of the writ of possession issued by the RTC, Branch 46, Masbate City. The matter, therefore, remains with the supervisory control of the court and the alleged errors committed by the court's ministerial officers, like the respondent sheriff, should be correctible by the court, as we emphasized in *Olimpia K. Vda. de Dimayuga v. Gaspara Raymundo, et al.*[9] We, thus, support the OCA's view that the alleged irregularities should have been brought first to the RTC for its resolution.

The same is true with the writ of possession itself. The respondent had nothing to do with it. It was the judge's responsibility as the writ was issued by the court. The respondent sheriff's duty, it must be stressed, is only to implement the writ and this duty is ministerial.

WHEREFORE, premises considered, the complaint is DISMISSED for lack of merit.

SO ORDERED.

Carpio Morales, (Chairperson), Bersamin, Villarama, Jr., and Sereno, JJ., concur.

[1] Rollo, pp. 3-4.

[2] Id. at 77-80.

[3] Id. at 25.

[4] Id. at 11.

[5] Id. at 33-36.

[6] *Vda. de Paman v. Señeris*, No. L-37632, July 30, 1982, 115 SCRA 709.

[7] *Vda. de Dimayuga v. Raymundo and Noble*, 76 Phil. 143 (1946).

[8] Rollo, pp. 98-99.

[9] *Supra* note 7.

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