

**INOCENCIO D. EBERO AND JUANITO D. EBERO, COMPLAINANTS, VS.
MAKATI CITY SHERIFFS RAUL T. CAMPOSANO AND BAYANI T. ACLE,
RESPONDENTS.**

A.M. No. P-04-1792. March 12, 2004

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The siblings Inocencio and Juanito Ebero filed with the Office of the Court Administrator (OCA) the present Administrative Complaint for “Grave Misconduct, Abuse of Authority and Violation of Sec. 4(c) of Republic Act No. 6713” against respondents Raul T. Camposano and Bayani T. Acle, both Sheriffs III of the Metropolitan Trial Court of Makati City.

The complaint alleges that on October 14, 2002 the respondents served notices to vacate to all the residents in the area bounded by Edison, Einstein and Aragon Streets, Brgy. San Isidro, Makati City, pursuant to the Order dated October 7, 2002 issued by Presiding Judge Dina P. Teves, Metropolitan Trial Court (MeTC) of Makati City, Branch 64, in connection with Civil Case No. 42492.[1]

On October 23, 2002, while the complainants were inside their respective homes located at 1870 Einstein St., Makati City, the respondents, together with some police escorts and a demolition team, arrived in the vicinity of Einstein Street purportedly to serve the writ of demolition. Since the notices to vacate and writ of demolition both referred to “corner Edison and Einstein Streets,” the complainants came out of their respective homes and reasoned out to the respondents that they should only implement the order at the place specified therein.[2]

A heated argument ensued between the complainants and the other residents, on one hand, and the respondents, on the other. In the course of the argument, the respondents ordered the police escorts to place the complainants inside the patrol vehicle and bring them to Makati Police Station No. 4. At said police station, respondent Acle filed a complaint for obstruction of justice against the complainants.[3]

From the police station, the complainants were brought to the Criminal Investigation Division, Makati City, where they were detained for more than twenty-four hours and were released only when the charge of obstruction of justice was dismissed by the inquest prosecutor. The complainants then filed with the City Prosecutor’s Office in Makati City a complaint for coercion and arbitrary detention against the respondents as well as the police investigator who detained them.[4]

The complainants, thus, pray that the respondents be declared guilty of grave misconduct, abuse of authority and violation of Section 4(c)[5] of Republic Act No. 6713 (Code of Conduct and Ethical Standards for Public Officials and Employees) and the appropriate penalties be imposed on them.[6]

Upon the instance of the Court Administrator, the respondents filed their Comment to the complaint. The respondents deny serving the notices to vacate to all the residents of the area bounded by Edison, Einstein and Aragon Streets in Makati City. Instead, they aver that they served notices only to the persons residing within the

portion subject of the demolition order, including complainant Juanito Ebero. The respondents deny serving the notice on complainant Inocencio Ebero as his house was not included in the demolition order.[7]

On October 23, 2002, the respondents, together with police escorts and a demolition team, went to Barangay San Isidro, Makati City, to implement the demolition order issued by the MeTC in Civil Case No. 42492. Per the Partial Sheriffs' Return submitted by the respondents, it was shown that the demolition was not implemented on said date due to the strong resistance put up by the affected residents, including the complainants. What transpired on said date was explained by the respondents in their return as follows:

... That on even date, as the undersigned were about to break open at the gate which appeared to be barricaded and locked inside to gain entry to the premises subject of the demolition order, a certain Juanito Ebero and his brother Inocencio Ebero prevented and challenging (sic) anyone who will attempt to open the gate and uttered the following "WALANG SHERIFF SHERIFF SA AMIN, WALANG COURT ORDER SA AMIN MAGKAKAMATAYAN LANG TAYO RITO HINDI KAMI PAPAYAG NA BUKSAN ANG PINTO" and ignored the order being presented to him by tapping it and even attempted to throw a punch to the undersigned sheriff (Acle) which was timely prevented by one of the police officer (sic) as the undersigned sheriff (Acle) requested the police officers to arrest the two for obstructing the implementation of a lawful court order....[8]

The respondents vehemently deny committing any unjust or illegal acts and abuse of authority in the implementation of the demolition order. They pray that the complaint filed against them be dismissed.[9]

The Court, in the Resolution of September 3, 2003, referred the matter to Executive Judge Selma P. Alaras, MeTC of Makati City, Branch 61, for investigation, report and recommendation. However, Judge Alaras was promoted to the Regional Trial Court, Makati City, Branch 62; hence, the newly-designated MeTC Executive Judge of Makati City, Hon. Evelyn S. Arcaya-Chua, took over the investigation.

At the hearing on January 16, 2004, only complainant Juanito Ebero appeared and manifested that he and his brother were no longer interested in pursuing their complaint against the respondents. Thereafter, on January 19, 2004, the complainants filed a joint Motion to Dismiss Complaint stating:

- That the instant complaint was filed because the complainants felt that the respondents Sheriffs have violated their rights when the latter overzealously implemented the Order of the Metropolitan Trial Court of Makati City, Branch 64 last October 23, 2002 in the place where we are residing;

- That respondents have apologetically explained to them that they (respondents-sheriffs) were just doing their job at that time of the incident;

- That complainants have accepted the sincere apologies expressed by the respondents Sheriffs and have decided not to pursue the instant case against them.[10]

In her Report, dated January 23, 2004, Judge Arcaya-Chua recommended the dismissal of the instant complaint for paucity of evidence. The recommendation was based on the following findings:

Readily apparent is that the allegations of complainants concerning subject occurrence are not supported by those of another witness; neither are the contentions of respondents corroborated by those of another witness. In other

words, the evidence on record deals only with the word of complainants to be pitted against that of respondents. The undersigned then takes into account the presumption being enjoyed by respondents pertaining to regular performance of duty ...[11]

The recommendation of the Investigating Judge is well taken.

In administrative proceedings, the quantum of proof necessary for a finding of guilt is substantial evidence or such relevant evidence as a reasonable mind may accept as adequate to support a conclusion.[12] Further, the complainants have the burden of proving, by substantial evidence, the allegations in their complaints. [13]

In this case, the complainants had not only failed to substantiate the allegations in their complaint; they had, in fact, opted to withdraw the same. Accordingly, the presumption of regularity in the performance by the respondents of their duties must prevail.[14]

This Court has consistently held that “the sheriff’s duty to execute a judgment is ministerial.”[15] A purely ministerial act is one “which an officer or tribunal performs in a given state of facts, in a prescribed manner, in obedience to the mandate of the legal authority, without regard to the exercise of his own judgment upon the propriety of the act done.”[16]

Other than the bare allegations in the instant complaint, there is nothing in the records that would indicate that the respondents committed grave misconduct, abuse of authority and violation of Section 4(c) of Rep. Act No. 6713 in implementing the demolition writ in Civil Case No. 42492. On the other hand, in the implementation of writs of demolition, as in the instant case, the sheriffs are mandated to use reasonable and necessary force to see that the judgment debtors vacate the premises.[17]

As a final note, this Court will not shirk from its responsibility of imposing discipline upon employees of the judiciary, but neither will it hesitate to shield them from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.[18]

WHEREFORE, the instant Administrative Complaint is hereby DISMISSED for lack of merit.

SO ORDERED.

Quisumbing, (Acting Chairman), Austria-Martinez, and Tinga, JJ., concur.

Puno, (Chairman), J., on leave.

[1] Rollo, p. 1.

[2] Id. at 2.

[3] Id.

[4] Id.

[5] Sec. 4. Norms of Conduct of Public Officials and Employees. — (A) Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:

...

(c) Justness and sincerity. — Public officials and employees shall remain true to the people at all times. They must act with justness and sincerity and shall not discriminate against anyone, especially the poor and the underprivileged. They shall, at all times, respect the rights of others, and shall refrain from doing acts contrary to

law, good morals, good customs, public policy, public order, public safety and public interest. They shall not dispense or extend undue favors on account of their office to their relatives whether by consanguinity or affinity except with respect to appointments of such relatives to positions considered strictly confidential or as members of their personal staff whose terms are coterminous with theirs.

[6] Rollo, p. 3.

[7] Id. at 15.

[8] Id. at 50.

[9] Id. at 18.

[10] Id. at 103.

[11] Report of Investigating Judge Arcaya-Chua, p. 3.

[12] Mercado v. Casida, 381 SCRA 512 (2002).

[13] Sarmiento v. Salamat, 364 SCRA 301 (2001).

[14] Ibid.

[15] Santos v. Gonzales-Muñoz, 387 SCRA 249 (2002).

[16] Ibid.

[17] Id.

[18] Sarmiento v. Salamat, *supra*.

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