

GABRIEL C. ARISTORENAS, PEDRO C. ARISTORENAS, LITA S. ARISTORENAS, SOTERO M. ARISTORENAS, JR., AND LAURO C. ARISTORENAS, COMPLAINANTS, VS. ROGELIO S. MOLINA, DEPUTY SHERIFF IV, ...

A.M. No. P-94-1030. July 14, 1995

Ponente: QUIASON, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/e43404445252/>

QUIASON, J.:

In their complaint, Gabriel, Pedro, Lita, Sotero and Lauro, all surnamed Aristorenas, charged Deputy Sheriff Rogelio S. Molina of the Regional Trial Court, Branches 24 and 25, Binan, Laguna, with "excess of and grave abuse of authority, usurpation of power, [and] conduct most prejudicial to the best interest of service."

I

Complainants were among the defendants in Civil Case No. B-2722 before the Regional Trial Court, Branch 24 Binan, Laguna. In its decision in said civil case, the trial court held as follows:

"WHEREFORE, in view of all the foregoing, judgment is hereby rendered in favor of the plaintiffs and against the defendants ordering the latter as follows:

"1. To pay their respective shares to [plaintiff] Benito Perez in connection with the titling expenses in the proven amount of P6,000;

"2. To pay jointly and solidarily the amount of P5,000 as and for attorney's fees and the amount of P600 per appearance in court of plaintiff's counsel;

xxx xxx xxx

"4. To pay the costs of this suit.

"Likewise, the partition of the subject property among the registered co-owners or the parties in interest is hereby ordered pursuant to Rule 69 of the Revised Rules of Court. xxx."

Complainants did not appeal from the judgment. The appeal before the Court of Appeals filed by their co--defendant, Melencio Caramay, was dismissed.

In an order dated December 11, 1991, the trial court, acting on the motion for execution filed by the plaintiffs, ordered the issuance of a writ of execution as to complainants. The writ sought to enforce the money judgment against complainants in the amount of P23,600.00. The writ was however returned unsatisfied.

Complainants filed a motion to quash the writ of execution, which was denied by the trial court.

Thereafter, several alias writs of execution were issued by the trial court, upon motions of plaintiff's counsel, as each and every writ was returned unsatisfied.

Pursuant to the trial court's Order dated August 6, 1993, another alias writ of execution dated September 16, 1993 was issued. By virtue thereof, respondent issued a Notice of Levy dated November 15, 1993 and subsequently, a Notice of Auction Sale dated January 18, 1994.

Complainants' charges against respondent may be summarized as follows: (1) He endeavored to execute a judgment that is not yet final and executory; (2) He levied on the entire property and not on the undivided portion pertaining to complainants; (3) He levied on property worth more than "millions of pesos" to satisfy the P23,600.00 money claim; and (4) He failed to properly publish the Notice of Auction Sale.

We find no merit in the complaint.

II

Complainants allege that as there was yet no partition as required by the judgment; said judgment had not yet become final and executory. This is a matter which the trial court is empowered to pass upon. Respondent's role in the execution of judgments is purely ministerial (*Windor Steel Mfg. Co., Inc. v. Court of Appeals*, 102 SCRA 275 [1981]). He has no discretion whether to execute the judgment or not (*Smith Bell & Company v. Saur*, 96 SCRA 667 [1980]).

Complainants ask this Court to declare null and void the writ of execution of the trial court and the Notice of Levy and Notice of Sale of respondent, and to enjoin respondent from executing the decision of the trial court.

Any objection against the levy and sale must be addressed to the judgment of the trial court, through the proper proceeding. It is within the jurisdiction of the courts to correct errors of their ministerial officers and to control their own processes (*Luna v. Intermediate Appellate Court*, 137 SCRA 7 [1985]; *Sandico, Sr. v. Piguing*, 42 SCRA 322 [1971]; *Cobb-Perez v. Lantin*, 23 SCRA 637 [1968]). The remedy sought is judicial in nature and not proper in the instant administrative complaint against a sheriff.

Complainants further allege that respondent should not have levied on the entire property. The Notice of Levy refutes the contention of complainants. It states that levy was to be made on "all rights, title, shares, interest and participation which the [complainants] x x x have or might have in x x x [the] property x x x."

Complainants also allege that the property was worth "millions of pesos" and it was in excess of authority for respondent to levy on the same to satisfy the money claim of P23,600.00.

Respondent, in his Comment, asserts that the property had an assessed value of only P9,884.27, as shown by the real property tax declaration. We accept the explanation, especially considering that complainants do not impute any bad faith, malice or ill motive on the part of respondent.

Finally, complainants allege that there was no publication of the Notice of Auction Sale contrary to Section 18 of Rule 39 of the Revised Rules of Court, as amended by Supreme Court Circular No. 8, promulgated on May 15, 1987, which in pertinent part now provides:

"Notice of sale of property on execution. - Before the sale of property on execution, notice thereof must be given as follows:

xxx xxx xxx

(c) In case of real property, by posting for twenty (20) days in three (3) public places in the municipality or city where the property is situated, a similar notice particularly describing the property and stating where the property is to be sold, and if the assessed value of the property exceeds Fifty Thousand Pesos (P50,000.00), by publishing a copy of the notice once a week for two (2) consecutive weeks in some newspaper published or

having general circulation in the province, if there be one. If there are newspapers published in the province in English and/or Filipino, then the publication shall be made in one such newspapers."

Respondent is correct when he said that as the property was worth only P9,884.27, no publication is required. Section 18 of Rule 39, as amended, requires that a copy of the Notice of Auction Sale be published once a week for two consecutive weeks in a newspaper having general circulation in the province, if the property to be sold is worth more than P50,000.00. As the property was not worth more than P50,000.00, it was sufficient that, following Section 18, respondent posted a copy of the Notice of Auction Sale for the required number of days in three conspicuous places in the municipality where the property is located and in the municipality where the sale is to take place.

WHEREFORE, the complaint is DISMISSED.

SO ORDERED.

Padilla, (Chairman), Davide, Jr., and Kapunan, JJ., concur.

Bellosillo, J., on leave.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.