

## THIRD DIVISION

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

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

### R E S O L U T I O N

**BRION, J.:**

Before the Court is the administrative complaint dated May 30, 2010,<sup>[1]</sup> filed by Angelita D. Maylas (*complainant*), charging Juanchito 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,<sup>[2]</sup> 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<sup>[3]</sup> 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)<sup>[4]</sup> 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,<sup>[5]</sup> 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,