

## THIRD DIVISION

**[ A.M. NO. P-05-2048 [FORMERLY OCA IPI NO. 05-2114-P], September 30, 2005 ]**

**NORMA SEXTON, REPRESENTED BY CELESTINO ANTER,  
COMPLAINANT, VS. NESTOR R. CASIDA, SHERIFF III,  
METROPOLITAN TRIAL COURT, OFFICE OF THE CLERK OF COURT,  
PAIG CITY, RESPONDENT.**

### DECISION

#### **CARPIO MORALES, J.:**

Celestino Anter, Attorney-in-Fact of Norma Sexton, charged Deputy Sheriff Nestor R. Casida, Sheriff III of the Office of the Clerk of Court, Metropolitan Trial Court (MeTC) of Pasig City, by letter of January 24, 2005, for conduct unbecoming a public official and acts prejudicial to public interest.

From the *rollo* are gathered the following facts which gave rise to the filing of the administrative complaint against respondent:

By 1<sup>st</sup> Indorsement dated November 2, 2004,<sup>[1]</sup> Clerk of Court VI Atty. Rafael H. Zurbito, Jr. of the Regional Trial Court (RTC) of Gubat, Sorsogon forwarded to MeTC Pasig Clerk of Court Atty. Reynaldo Bautista a copy of a Writ of Execution issued by Branch 54 of the Sorsogon RTC for the enforcement of its decision dated May 6, 2004 in Civil Case No. 1777, "*Prudencio Esquejo, et al., plaintiffs versus Rodrigo Ubongen, et al., defendants.*" The 1st Indorsement bears the imprimatur of the RTC Gubat Executive Judge.

Respondent to which the Writ of Execution was assigned for enforcement gathered from the Land Transportation Office in Quezon City documents showing that the following vehicles,

One (1) Isuzu Elf bearing Plate No. UTP 348

One (1) Bus (Liberty Transport) bearing Plate No. TVZ 863,

belong to Liberty Transport which appears to be owned and operated by the defendant Ubongen.

Respondent thereafter seized the Isuzu Elf (the vehicle) while it was parked at the premises of Liberty Transport in P. Tuazon Street, Cubao Quezon City. It turned out that the vehicle had previously been bought from the defendant Ubongen by Norma Sexton, the highest bidder in a public auction conducted on April 30, 2001.

Complainant, as attorney-in-fact of Norma Sexton, thus filed an Affidavit of Third Party Claim dated November 18, 2004<sup>[2]</sup> before respondent on account of which the latter allegedly advised the plaintiffs Esquejos to file an indemnity bond.

The plaintiffs Esquejos, et al. failed to file an indemnity bond, however, hence, complainant sought the release of the vehicle.

At a dinner-meeting on December 6, 2004 between complainant and respondent at the Nipa Hut Restaurant in Pasig City for which complainant spent P4,433.00, respondent promised to release the vehicle in due time. Despite complainant's repeated demands the last of which was by letter of December 16, 2004,<sup>[3]</sup> respondent, welched on his undertaking to release the vehicle, hence, complainant filed the complaint at bar on January 24, 2005.

Complainant avers that while he and respondent were at the restaurant, respondent even asked for P2,000.00 to pay the Guest Relations Officer (GRO) he was with at the time; and he had been informed that respondent's jurisdiction is limited to Pasig, hence, he had no authority to enforce the Writ of Execution in Quezon City.

By Comment dated January 14, 2005,<sup>[4]</sup> respondent, in compliance with the Court Administrator's 1<sup>st</sup> Indorsement of January 31, 2005,<sup>[5]</sup> alleges that he received a copy of the Affidavit of Third Party Claim two days after he released the vehicle to the plaintiffs on November 17, 2004 on the advice of MeTC Pasig Clerk of Court Atty. Bautista.

Respecting the meeting on December 6, 2004 at the restaurant in Pasig City, respondent explained that it was Sheriff Nonato Ramon Dayao of the National Labor Relations Commission and a certain Atty. Villamor Mostrales who invited him to the said restaurant at which he was introduced for the first time to complainant. And respondent denied demanding P2,000.00 to pay for a GRO he was alleged to have been with at the time, in support of which he submitted, as Annex "E" to his Comment, a Certification dated February 26, 2005<sup>[6]</sup> issued by the Assistant Personnel Manager of the Nipa Hut Restaurant stating that "[w]e do not have Guest Relations Officers . . . or women who offer personal services in our employ."

During the pendency of the present administrative case or on March 15, 2005,<sup>[7]</sup> respondent passed away at the age of 45.

In its report and recommendation, the OCA notes the following:

x x x

2. Per respondent's Service Record, he joined the service on September 19, 1989. As of 28 February 2005, he had 22 vacation leave credits and 33 sick leave credits remaining.
3. Aside from the present administrative matter, respondent had two other pending administrative cases, to wit:
  - a. A.M. No. P-02-1405-P, entitled "OCA versus Nestor R. Casida" for Violation of Art. 294 of the Revised Penal Code "Robbery;" and