

SECOND DIVISION

[A.M. No. P-14-3246 [Formerly A.M. OCA I.P.I. No. 11-3580-P], October 15, 2014]

ATTY. RICO PAOLO R. QUICHO, REPRESENTING BANK OF COMMERCE, COMPLAINANT, VS. BIENVENIDO S. REYES, JR. , SHERIFF IV, BRANCH 98, REGIONAL TRIAL COURT, QUEZON CITY, RESPONDENT.

D E C I S I O N

MENDOZA, J.:

For consideration is the Report,^[1] dated August 29, 2013, of the Office of the Court Administrator (OCA) on the complaint of Atty. Rico Paolo R. Quicho (*Atty. Quicho*), representing the Bank of Commerce (BOC), charging respondent Bienvenido S. Reyes, Jr. (*Reyes*), Sheriff IV, Branch 98, Regional Trial Court, Quezon City, with abuse of authority and gross ignorance of the law relative to Civil Case No. Q-89-3580, entitled "*Radio Philippines Network, Inc. v. Traders Royal Bank.*"

The Facts

The present case stemmed from the Alias Writ of Execution issued on March 9, 2010 by Branch 98 of the Regional Trial Court of Quezon City (RTC) in Civil Case No. Q-89-3580, the validity of which was then pending determination in the Court of Appeals (CA), docketed as CA-G.R. No. 91285. Pending its resolution, Atty. Quicho sought the relief of Reyes as Sheriff of RTC, whom he claimed exceeded his authority in the enforcement of the Alias Writ of Execution on December 9, 2010 at the main office of BOC and on December 17, 2010 in another BOC branch in Lipa City, Batangas.

In his sworn Letter-Complaint, dated December 27, 2010,^[2] Atty. Quicho alleged that the procedure observed by Reyes in implementing the alias writ violated the 2002 Revised Manual for Clerks of Court (*Manual*). He cited the Manual which provides that "[i]f the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment."

He asserted that as the holder of the assets and properties of Traders Royal Bank (*TRB*), which was the judgment obligor in Civil Case No. Q-89-3580 and whose assets were the subject of the alias writ, BOC was given the option to choose which property to be surrendered to satisfy the judgment. It was only when BOC was unable to exercise the option that Reyes was allowed to levy on other properties. He added that BOC was forced to surrender under protest a real estate property

situated in *Barangay* Manggahan, Paranaque City, to satisfy the judgment and preserve its other properties from being wrongfully levied by Reyes. He argued that Reyes did not give BOC a chance to exercise that option. Instead of accepting the said property, Reyes blow-torched the locked grill door of BOC's cash vault in Lipa City and forcibly took the money deposits of its clients as well as its computers. Atty. Quicho further claimed that Reyes sowed terror by bringing with him agents of the National Bureau of Investigation (*NBI*), who were in full-battle gear and carrying high-powered firearms, with members of the Philippine National Police (*PNP*); and that Reyes ignored the pleas of the BOC officers who asked him to spare the computers as taking them would cripple the bank's operations. Atty. Quicho concluded that these illegal acts of Reyes warranted his relief as sheriff of the RTC.

In his *Comment*,^[3] dated February 4, 2011, Reyes denied the charges against him. According to him, he did not violate any law when he refused to accept BOC's offer of a property located in Paranaque City to satisfy the judgment debt. He contended that under the law, the judgment obligor was mandated to pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee and the law was silent on a real estate property being offered as a form of payment. He also argued that BOC had refused to pay the judgment award despite the fact that the CA, in its Decision, dated December 8, 2009, had already affirmed the validity of the writ of execution issued by Judge Evelyn Corpus-Cabochan (*Judge Cabochan*) in Civil Case No. Q-89-3580. Further, the said civil case was filed in 1989 and was decided in favor of the plaintiffs in 1995, which decision was affirmed by the Court in 2002 and became final in 2003.

Reyes claimed that before he enforced the alias writ, he sent notices of garnishment to seventeen (17) banks, but only three (3) positively responded. These three banks, however, defied the court order to release the cash money and shares of stock they held in *custodia legis*. As garnishment was futile, levy on the BOC assets was resorted to.

Reyes insisted that he did not abuse his authority when he implemented the writ. He was constrained to seek the aid of the NBI as the PNP refused to provide police assistance. He claimed that the NBI agents were not in full battle gear, and that the PNP members, who earlier declined to give assistance, were only posted outside the bank to maintain peace and order. He used acetylene torch to gain access to the bank's main vault as he was left with no other option but to use reasonable force to get the cash inside, otherwise, he would be accused of being remiss in the performance of his duties. He only levied the computers and monitors, and left the two (2) servers in order not to affect the banking operations.

Reyes argued that there was no basis to order his relief or suspension as Sheriff as he merely performed his ministerial duty to implement the alias writ of execution.

In his *Reply*,^[4] dated February 24, 2011, Atty. Quicho reiterated that Reyes was guilty of ignorance of the law when he refused the real estate property offered by BOC to satisfy the judgment debt.

Atty. Quicho refuted Reyes' argument that BOC was not entitled to exercise the option to choose the properties to be levied. On the contrary, he explained that under Section 9, Rule 39 of the Rules of Court, it was clear that if the judgment

obligor could not pay the judgment debt in cash, certified bank check or other mode of payment acceptable to the judgment obligee, he still had the option to choose which of his properties he could offer to satisfy the obligation. Citing *Equitable PCI Bank, Inc. v. Bellones*,^[5] Atty. Quicho stated that it was the judgment obligor, not Reyes, who could exercise the option. Reyes could only garnish or levy if BOC did not exercise the option.

Atty. Quicho believed that Reyes abused his authority when he arbitrarily levied on the bank's computers which were essential to the banking operations of BOC, and exceeded his authority when, without just or legal ground, he levied on the cash and certain personal properties of BOC. He asserted that Reyes' consortium with the NBI Regional Director, whose agents carried high-powered firearms to intimidate and sow fear upon BOC employees and clients, and the use of acetylene torch on vault railings despite BOC's exercise of its option offering its real property for the satisfaction of the money judgment, were uncalled for. Such acts of Reyes, according to Atty. Quicho, disregarded the rules on execution of judgment justifying his relief and dismissal as Branch Sheriff.

In his *Rejoinder*,^[6] dated March 10, 2011, Reyes countered that BOC had already waived its option to choose properties to be levied upon because its offer to pay its liabilities by cashier's check and real property came only on December 11 and December 17, 2010, respectively, or eight (8) months after he had served the demand to pay the judgment award on April 7, 2010. He denied having disrupted the operations of the BOC when he levied the computers as he did not take the computer servers with him.

Reyes argued that the *Equitable PCI Bank (EPCIB)* case relied upon by BOC was not applicable because, unlike the present case, the decision in the former case was executed with "deliberate swiftness," and that EPCIB, after being served with the demand to pay, immediately exercised its option to choose which of its properties would be levied for the satisfaction of the money judgment.

On August 29, 2013, the OCA submitted its report for the Court's consideration.

OCA Report and Recommendation

The OCA found sufficient grounds to hold Reyes administratively liable for his overzealousness in implementing the alias writ of execution.

The OCA opined that when BOC offered its real estate properties in Paranaque to answer for the judgment debt, a legal issue arose as to whether the offer was acceptable under the law. Thus, according to OCA, Reyes should have brought the matter to the attention of the Court, instead of resolving it himself. It quoted the ruling in the case of *Stilgrove v. Clerk of Court Eriberto Sabas and Sheriff Ernesto Simpliciano, Municipal Trial Court, 4th Judicial Region, Puerto Princesa City*,^[7] which held, in part, that "the sheriff's duty to execute a judgment is ministerial. He need not look outside the plain meaning of the writ of execution. And when a sheriff is faced with an ambiguous execution order, prudence and reasonableness dictate that he seek clarification from a judge."

Anent the incident where Reyes blow-torched the cash vault and took away the

bank's computers, claiming that he was left with no other choice but to use "reasonable force" because BOC had repeatedly refused to settle its debts, the OCA explained that if Reyes really had difficulty dealing with the BOC, he should have informed the court through the periodic reports contemplated under Rule 39 of the Rules of Court. It noted from the records, however, that Reyes acted on his own when he decided to resort to such drastic measures although he reported to the court the items he took from the bank and no evidence was shown that he acted in cahoots with the plaintiff's counsel.

The OCA concluded that Reyes clearly exceeded his authority when he resolved on his own the legal issue that arose in the course of his implementation of the writ and pursued his own course of action without referring the matter to the issuing court. It, thus, found Reyes liable for abuse of authority and recommended the imposition of the penalty of fine in the amount of P5,000.00. It cited, as basis for his liability the recent case of *Pineda v. Torres, Sheriff III, Branch 2, Municipal Trial Court in Cities, Angeles City*^[8] where the Court imposed a fine of P5,000.00 after finding respondent sheriff guilty of grave abuse of authority for implementing a writ outside his area of jurisdiction.

On the basis of these findings, the OCA came up with the following recommendation. Thus:

It is respectfully recommended for the consideration of the Honorable Court that:

1. the instant complaint be **RE-DOCKETED** as a regular administrative matter against Bienvenido S. Reyes, Jr., Sheriff IV, Branch 98, Regional Trial Court, Quezon City;
2. respondent Sheriff Reyes be found **GUILTY** of Grave Abuse of Authority relative to his implementation of the Alias Writ of Execution issued in Civil Case No. Q-89-3580 and, accordingly, be **FINED** in the amount of Five Thousand Pesos (P5,000.00), payable within thirty (30) days from receipt of the Court's resolution; and
3. respondent Sheriff Reyes be **STERNLY WARNED** that a repetition of the same or similar offense shall be dealt with more severely by the Court.^[9]

The Court's Ruling

The Court adopts the findings and recommendation of the OCA.

Time and again, the Court has declared that the highest standard of professionalism in the performance of judicial tasks is demanded from every court personnel. The Court expects every court personnel to perform his/her duties promptly, with great care and diligence, having in mind the important role he/she plays in the administration of justice.^[10]