

EN BANC

[A.M. No. P-09-2690 [Formerly A.M. OCA IPI No. 08-2889-P], July 09, 2013]

**OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS.
NOEL R. ONG, DEPUTY SHERIFF, BRANCH 49, AND ALVIN A.
BUENCAMINO, DEPUTY SHERIFF, BRANCH 53 OF THE
METROPOLITAN TRIAL COURT, CALOOCAN CITY, RESPONDENTS.**

R E S O L U T I O N

PER CURIAM:

Judge Glenda K. Cabello-Marin (referred here as Judge Marin) of Branch 49, Metropolitan Trial Court, Caloocan City (referred here as MeTC) referred^[1] to the Office of the Court Administrator (referred here as OCA) the investigation of Deputy Sheriffs Noel R. Ong of Branch 49 (referred here as respondent Ong) and Alvin A. Buencamino of Branch 53 (referred here as respondent Buencamino), both of the Metropolitan Trial Court, Caloocan City, on their possible liability for the loss of a levied Isuzu Fuego.

On October 20, 2008, Judge Belen B. Ortiz (referred here as Judge Ortiz), then presiding judge of MeTC Branch 49, issued the Decision in Civil Case No. 27211 for unlawful detainer entitled *Virginia C. Bustamante v. Jinky C. Bustamante and Regina C. Bustamante*.^[2] The court ordered the defendants to vacate the case's subject property and to pay the plaintiff arrears in rentals.^[3]

During the case's execution stage, the court ordered respondent Ong as branch sheriff to levy upon defendants' personal property for public sale whose proceeds would be applied to the rental arrears.^[4] Sheriff Ong levied upon a 1999 Isuzu Fuego (referred here as the Isuzu Fuego) with plate number WGN-949 registered under defendant Regina Bustamante.^[5]

On October 15, 2004, respondent Ong filed a Request for Inhibition praying that he be allowed to inhibit himself from further implementing the writ of execution.^[6] The trial court granted^[7] respondent Ong's request and appointed respondent Buencamino as implementing sheriff, subject to the conformity of Judge Edwin Ramizo (referred here as Judge Ramizo), presiding judge of MeTC Branch 53 where respondent Buencamino is branch sheriff.

Meanwhile, the parties to the unlawful detainer case agreed to compromise and settle the case amicably.^[8] Plaintiff Virginia Bustamante agreed to waive her claim on the levied Isuzu Fuego.^[9] Consequently, the defendants filed a Motion^[10] for the immediate release of the Isuzu Fuego to defendants.

On June 1, 2005, Judge Ortiz ordered^[11] respondent Buencamino to submit his Report on the implementation of the writ of execution. In his Letter^[12] dated June 3, 2005, respondent Buencamino explained that he did not implement the writ of execution considering that Judge Ramizo's conformity with his appointment as special sheriff had not been secured pursuant to Administrative Circular No. 12, series of 1985. He emphasized that respondent Ong, as branch sheriff, had custody over the levied Isuzu Fuego.

Respondent Ong also disclaimed custody over the Isuzu Fuego. In his Letter^[13] dated June 22, 2005, he alleged that he had immediately turned over to respondent Buencamino the keys to the Isuzu Fuego pursuant to the Order dated October 15, 2004. Since then, respondent Buencamino had access to the Isuzu Fuego and utilized the levied vehicle for personal use as evidenced by several entries in the log book of security guards guarding the court parking lot.^[14] He also disclosed that as early as January 29, 2005, the Isuzu Fuego had been reported carnapped.^[15] Respondent Ong pointed out that it was respondent Buencamino who reported the alleged carnapping of the Isuzu Fuego to the Caloocan City Police Station Anti-Carnapping Unit.^[16]

The OCA referred^[17] the matter to Executive Judge Mariam G. Bien (referred here as Judge Bien) of the MeTC Caloocan City. Before Judge Bien was able to conduct her investigation, however, respondent Buencamino died on August 31, 2008.^[18]

Judge Bien conducted a clarificatory hearing on November 14, 2008. In her Report^[19] dated January 13, 2009, Judge Bien found no effective designation or appointment of respondent Buencamino as special sheriff for the unlawful detainer case considering that Judge Ramizo's conformity had not been secured. Also, there was no proper turnover of the levied Isuzu Fuego to respondent Buencamino. However, what she found "revealing and disturbing" was the following: Respondent Ong had allowed respondent Buencamino to use the Isuzu Fuego for personal errands. The log book of security guards assigned at the court parking lot will reveal that respondent Buencamino had used the levied vehicle around six (6) times before the vehicle was reported lost in January 2005. Judge Bien likewise noted the belated manifestation of respondent Buencamino as to the alleged defect in his designation as special sheriff.

Judge Bien found that respondent Ong had used the subject vehicle for personal errands and that both sheriffs had custody over the subject vehicle they had both utilized the levied vehicle for their personal use. Thus, it cannot be ultimately determined who had actual or constructive custody over the vehicle when its disappearance was reported.

Judge Bien recommended that the two sheriffs be reprimanded and ordered them to restore the value of the allegedly carnapped Isuzu Fuego.

In its Report^[20] dated July 31, 2009, the OCA recommended the re-docketing of the case as a regular administrative matter. The OCA agreed with the findings of fact of Judge Bien but noted that her recommended sanctions were too lenient. Thus, the OCA recommended that the sheriffs be found guilty of dishonesty, grave misconduct, and gross neglect of duty. As for respondent Ong, the OCA