

THIRD DIVISION

[A.M. No. P-12-3027 [Formerly OCA I.P.I. No. 11-3584-P], January 30, 2012]

LUIS P. PINEDA, COMPLAINANT, VS. NEIL T. TORRES, SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2, ANGELES CITY, RESPONDENT.

DECISION

PERALTA, J.:

Before us is an administrative complaint filed by Luis P. Pineda (complainant) against Neil T. Torres (respondent), Sheriff III, Municipal Trial Court in Cities (MTCC), Branch 2, Angeles City, Pampanga, for Grave Misconduct and Conduct Prejudicial to the Best Interest of the Service in relation to his implementation of the writs of *replevin* issued in Civil Case Nos. 10-845 and 10-848.

Complainant Luis Pineda is the owner of a business enterprise under the business name, Victorious Bakeshop, located at Km 72, McArthur Highway, San Isidro, San Fernando City, Pampanga.

Complainant alleged that on October 7, 2010, the MTCC, Branch 2, Angeles City, Pampanga issued writs of *replevin* in Civil Case Nos. 10-845 and 10-848. In Civil Case No. 10-845, respondent was directed to take possession of a Mitsubishi L-300 van with plate number CRK-401.^[1] While in Civil Case No. 10-848, respondent was directed to take possession of another Mitsubishi L-300 van with plate number CRK-128.^[2]

Complainant narrated that on October 28, 2010, by virtue of said writ of *replevin*, respondent proceeded to the premises of Victorious Bakeshop at Km 72, McArthur Highway, San Isidro, San Fernando City, Pampanga, and unlawfully took possession of a Mitsubishi L-300 van with plate number CRK-128.

Likewise, on November 22, 2010, respondent, again, proceeded to the premises of Victorious Bakeshop and forcibly took a Mitsubishi L-300 van with plate number CRK-401.

Complainant claimed that in both instances respondent served and implemented the writs of *replevin* without notifying in writing the sheriff-in-charge in San Fernando City, Pampanga, where the vehicles were located. Consequently, complainant argued that respondent not only abused his authority but he is also liable for violation of paragraph 5 of Supreme Court Administrative Circular No. 12.

To prove his allegations, complainant submitted a Certification^[3] dated December 6, 2010, issued by Juanita M. Flores, Clerk of Court IV of the MTCC of San Fernando City, Pampanga, which stated that respondent did not request for assistance

regarding the implementation of the subject writs.

Finally, complainant further narrated that respondent Sheriff also rudely threatened Edilberto Jimenez (Jimenez), the security guard who was watching over the vehicles at the time the writs were being implemented.

In his *Sinumpaang Salaysay*, Jimenez quoted respondent saying in the vernacular, "*Nung bisa kung iyabe daka keni pota galang ali naka agyung ipagtanggol ning amu mu.*" (*Kung gusto mo idadawit kita baka hindi ka kayang ipagtanggol ng amo mo.*). Jimenez claimed that he was embarrassed and felt humiliated as respondent seemed to belittle his position as security guard.

On January 12, 2011, the Office of the Court Administrator (OCA), directed respondent to file his Comment on the charges against him.^[4]

In his Comment^[5] dated February 18, 2011, respondent claimed that he seized the subject vehicles in his capacity as Sheriff of the MTCC, Angeles City, and pursuant to the writs issued by the court. He claimed that the Mitsubishi L-300 with plate number CRK-128 was voluntarily and peacefully surrendered to him. Likewise, respondent claimed that he also exerted reasonable and lawful force in taking possession of the Mitsubishi L-300 van with plate number CRK-401 even though defendant Orlando David was able to instruct Jimenez to padlock the gate leading to the van.

Respondent sheriff denied uttering threatening words to Jimenez. He claimed that he merely tried to explain to Jimenez that he could end up being implicated in the case if he will prevent him from implementing a lawful order of the court.

With regard to the alleged violation of Administrative Circular No. 12, respondent claimed that he went to the Office of the Clerk of Court (OCC), MTCC, San Fernando City, Pampanga, to coordinate with the sheriff of the said court in the implementation of the writs. However, respondent alleged that the OCC-MTCC merely received the court processes he had in possession.

In his Reply^[6] dated April 5, 2011, complainant pointed out that respondent could not have complied with Administrative Circular No. 12^[7] and notified in writing the OCC-MTCC, San Fernando City, Pampanga. Complainant presented a copy of the security guard's logbook where it was shown that respondent arrived at Victorious Bakeshop around 10:08 in the morning to implement the writ on October 28, 2010, while the certified true copies of the writs which respondent presented indicated rubber-stamp marks on the upper right hand corner that the OCC-MTCC of San Fernando City received said copies much later or at 11:50 in the morning.

Complainant maintained that respondent merely submitted copies of the writs and made no notice in writing in seeking the assistance of the sheriff of the place where the execution shall take place. He asserted that respondent should not have proceeded with the execution of the writ unless and until the assistance of the Sheriff of San Fernando City is provided.

In a Memorandum^[8] dated November 9, 2011, the OCA found respondent sheriff guilty of Grave Abuse of Authority and Violation of Administrative Circular No. 12.

Thus, it recommended that the instant complaint be re-docketed as a regular administrative matter and that respondent be fined in the amount of P5,000.00.

We agree with the findings and recommendation of the OCA.

By the very nature of his duties, a sheriff performs a very sensitive function in the dispensation of justice. He is duty-bound to know the basic rules relative to the implementation of writs of execution, and should, at all times show a high degree of professionalism in the performance of his duties. The sheriff is the front-line representative of the justice system in this country, and if he loses the trust reposed in him, he inevitably diminishes, likewise, the faith of the people in the judiciary.^[9]

Indeed, Administrative Circular No. 12 is explicit as to the rules to be followed in the implementation of writs. Paragraph 2 thereof states:

x x x x

2. All Clerks of Court of the Metropolitan Trial Court and Municipal Trial Courts in Cities, and/or their deputy sheriffs shall serve all court processes and execute all writs of their respective courts ***within their territorial jurisdiction;***

x x x x

Paragraph 5 of the same circular is likewise clear and self-explanatory.

5. No sheriff or deputy sheriff shall execute a court writ outside his territorial jurisdiction without first notifying ***in writing,*** and seeking the assistance of, the sheriff of the place where the execution shall take place;

Guided by the above-mentioned Circular, it is clear that respondent's act of implementing the subject writs in San Fernando City, when his territorial jurisdiction is confined only to Angeles City, is a violation of the Circular and tantamount to abuse of authority. While respondent claimed that he personally informed the OCC of San Fernando City, he, however, failed to prove that he made written notice as required by Administrative Circular No. 12. A mere submission of the copies of the court processes to the OCC will not suffice as to the written notice requirement.

Precisely, Administrative Circular No. 12 was promulgated in order to streamline the service and execution of court writs and processes in courts and to better serve the public good and facilitate the administration of justice.^[10] The requirement of notice is based on the rudiments of justice and fair play. It frowns upon arbitrariness and oppressive conduct in the execution of an otherwise legitimate act. It is an amplification of the provision that every person must, in the exercise of his rights and in the performance of his duties, act with justice, give everyone his due, and observe honesty and good faith.^[11] An immediate enforcement of a writ does not mean the abdication of the notification requirement.^[12]