

## THIRD DIVISION

**[ A.M. No. P-11-2986 [Formerly A.M. OCA IPI No. 10-3460-P], June 13, 2012 ]**

**SPOUSES RAINER TIU AND JENNIFER TIU, COMPLAINANTS, VS. VIRGILIO F. VILLAR, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK OF COURT, PASAY CITY, RESPONDENT.**

### D E C I S I O N

**MENDOZA, J.:**

This is an administrative matter for Grave Misconduct, Grave Abuse of Authority and Conduct Prejudicial to the Best Interest of the Service filed against respondent Virgilio F. Villar, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Pasay City (*Sheriff Villar*), relating to the implementation of the Writ of Preliminary Attachment in Civil Case No. R-PSY-10-02698-CV, a case for Sum of Money and Damages, captioned as "*Henry Sia and Hankook Industrial Sales Co. v. Spouses Rainer Tiu and Jennifer Calacday Tiu, et al.*"<sup>[1]</sup>

The factual antecedents are as follows:

On February 17, 2010, Henry Sia (*Sia*) and Hankook Industrial Sales Co. filed a Complaint for Sum of Money and Damages with prayer for Preliminary Attachment against Classique Concept International Corporation (*Classique*), First Global Ventures, Inc. (*First Global*) and herein complainants, spouses Rainer and Jennifer Tiu (*Spouses Tiu*), before the Regional Trial Court, Pasay City, Branch 115 (*RTC*). In its Order<sup>[2]</sup> dated February 25, 2010, the RTC granted the prayer for the issuance of a writ of preliminary attachment. Accordingly, on March 8, 2010, the Writ of Preliminary Attachment addressed to Sheriff Carlos G. Tadeo and Sheriff Virgilio Villar was issued. Preliminarily, on March 17, 2010, Sheriff Villar served copies of the summons, complaint and the writ of preliminary attachment to Spouses Tiu in the office of First Global at Unit 1905 Raffles Corporate Center, Emerald Avenue, Ortigas Center, Pasig City. The copies were received by Grace Tan Bauco (*Bauco*), who introduced herself as the company's General Manager and Caretaker, after efforts to personally serve them to Spouses Tiu failed. Thereafter, Sheriff Villar attached the personal properties found in said address.

Unperturbed, Spouses Tiu moved to have the case against them dismissed on the ground of improper venue.<sup>[3]</sup>

In its Order<sup>[4]</sup> dated July 8, 2010, the RTC granted the motion and ordered the release of the attached properties in favor of Spouses Tiu. The decretal portion of the order reads:

WHEREFORE, under Rule 4, Sec. 2, in relation to Rule 16, Sec. 1 (c), because of improper venue, the defendants' Motion to Dismiss and Supplemental Motion to Dismiss are GRANTED, and this case is DISMISSED.

*The writ of preliminary attachment dated March 8, 2010 previously issued by this Court is set aside, and everything seized thereby be immediately returned by the sheriff responsible to the defendants.*  
[Emphasis ours]

SO ORDERED.<sup>[5]</sup>

The motion for reconsideration filed by the group of Sia was denied by the RTC in a subsequent order<sup>[6]</sup> dated July 16, 2010. The RTC reiterated its previous order to return the attached items to Spouses Tiu. The *fallo* reads:

WHEREFORE, finding no cogent or legal reason to reverse or modify the Order dated July 8, 2010, the plaintiffs' Motion for Reconsideration with Motion to Conduct Ocular Inspection is DENIED.

Sheriff Virgilio Villar is directed to immediately return to defendants the seized items.<sup>[7]</sup>

Acting on the RTC's directive, Sheriff Villar submitted his Sheriff's Report with Urgent Prayer for Issuance of Clarificatory Order.<sup>[8]</sup> He wanted to be clarified on whether or not he should wait for the trial court's order to attain finality before returning the attached personal properties.

In the meantime, Sia filed his Notice of Appeal and Very Urgent Motion to Stay Enforcement of Order to Return Seized Properties while Spouses Tiu filed an Urgent Ex-Parte Motion to Cite Sheriff Virgilio Villar in Contempt of Court.<sup>[9]</sup>

Not contented with the motion, Spouses Tiu also lodged the present administrative complaint<sup>[10]</sup> against Sheriff Villar for his alleged questionable actions regarding the implementation of the writ of attachment against them.

*First*, Spouses Tui alleged that there was no proper service of summons upon them by Sheriff Villar before the writ of attachment was implemented. They claimed that Sheriff Villar merely left a copy of the summons with one of their employees in violation of the rule on personal service of summons to the parties concerned as required by the Rules of Court. *Second*, they averred that Sheriff Villar improperly implemented the writ against them without prior coordination with the Sheriff's Office of Pasig City. *Third*, they insinuated that Sheriff Villar asked for money for the release of their seized properties. *Fourth*, they charged that Sheriff Villar maliciously refused to return their attached properties despite the RTC's clear directive after the case against them was dismissed.

In his Comment,<sup>[11]</sup> Sheriff Villar denied all the charges against him. He denied the

allegation of Spouses Tiu that there was no valid service of summons for the writ of preliminary attachment. He explained that he effected a substituted service after several unsuccessful attempts to personally serve the summons on them. He also added that he made the proper coordination with the Sheriff's office of Pasig City before implementing the writ of preliminary attachment against them. He denied receiving P35,000.00 from their driver in exchange for the release of the couple's seized properties. He asserted that he had no ill-motive against the return of the seized properties to them and even sought clarification from the RTC.

Incidentally, the RTC, in its Order<sup>[12]</sup> dated August 17, 2010, gave due course to the Notice of Appeal and stated that by virtue of Sia's timely appeal it had no recourse but to elevate the entire records of the case, including the issue of the return of Spouses Tiu's attached properties, to the Court of Appeals.

The Office of the Court Administrator (OCA), in its Report<sup>[13]</sup> dated June 22, 2011, stated that the factual and conflicting allegations of the parties must be threshed out in an appropriate investigation considering the seriousness of the charge being imputed against Sheriff Villar. Accordingly, the OCA made the following recommendations:

RECOMMENDATION: We respectfully submit for the consideration of the Honorable Court the recommendation that the instant administrative complaint against Virgilio F. Villar, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Pasay City, be RE-DOCKETED as a regular administrative matter and REFERRED to the Executive Judge of the Regional Trial Court, Pasay City for investigation. The report and recommendation relative to the investigation shall be submitted within sixty (60) days from receipt of the records of the administrative complaint.<sup>[14]</sup>

In its Resolution<sup>[15]</sup> dated September 12, 2011, the Court resolved to re-docket the administrative complaint into a regular administrative matter and referred the same to the Executive Judge of the Regional Trial Court, Pasay City for investigation, report and recommendation.

In his Report and Recommendation<sup>[16]</sup> dated February 8, 2012, Executive Judge Edwin B. Ramizo (*Judge Ramizo*) recommended the dismissal of the administrative complaint against Sheriff Villar.

Judge Ramizo found that Sheriff Villar complied with the instruction embodied in Administrative Circular No. 12 requiring a sheriff to notify in writing the sheriff of the place where the execution of a writ is to take place. He likewise found nothing irregular in the substituted service of summons effected by Sheriff Villar as the same complied with the requisites mandated by the Rules of Court. Furthermore, the investigating judge saw no bad faith when Sheriff Villar failed to return the attached properties after the dismissal of the case and the issuance of the RTC order to release the seized properties. According to him, Sheriff Villar merely retained the properties because he was uncertain whether or not he should wait for the finality of the order dismissing the case. Judge Ramizo gave no weight to Spouses Tiu's