

## SECOND DIVISION

**[ A.M. No. P-04-1920, August 17, 2007 ]**

**SPOUSES NORMANDY AND RUTH BAUTISTA, COMPLAINANTS,  
VS. ERNESTO L. SULA, SHERIFF IV, REGIONAL TRIAL COURT,  
BRANCH 98, QUEZON CITY, RESPONDENT.**

### DECISION

**CARPIO, J.:**

#### The Facts

On 6 December 2003, Ruth B. Bautista (Ruth) borrowed P300,000 from Ceniza C. Glor (Glor). The loan, payable in three months, bore a monthly interest of five percent. The three-month period commenced on 6 December 2003 and expired on 6 March 2004. To secure the loan, Ruth executed a chattel mortgage over her Honda CRV in favor of Glor.<sup>[1]</sup>

Upon maturity of the loan, Glor repeatedly demanded payment from Ruth. Despite the repeated demands, Ruth refused to pay her debt, or surrender possession of the vehicle.<sup>[2]</sup> Thus, on 6 May 2004, Glor filed with the Regional Trial Court, Branch 98, Quezon City (trial court), a civil case<sup>[3]</sup> for judicial foreclosure of chattel mortgage with prayer for the issuance of a writ of replevin.

Thereafter, the trial court issued a writ of replevin<sup>[4]</sup> dated 14 May 2004 directing Ernesto L. Sula (respondent), Sheriff IV of the trial court, to take possession of the vehicle and keep it in his custody:

WHEREAS, plaintiff Ceniza C. Glor, in the above-entitled case, having filed an application with this Court praying for the seizure and delivery to Ceniza C. Glor of the property, more particularly described hereafter, and having filed the affidavit required by the Rules of Court and executed to the defendant a bond in the sum of EIGHT HUNDRED THOUSAND PESOS ONLY (P800,000.00).

You are hereby ordered to take immediate possession of the following property which is now detained by the defendant, to wit:

MAKE & TYPE : Honda CRV (Station Wagon)

MOTOR NO. : PEWD7P100308

CHASSIS NO. : PADRD1830WV000347

PLATE NO. : HRS-555

and to keep the said property in your possession for five (5) days. At the expiration of the said period, you shall deliver, subject to the provisions of Sections 5, 6 and 7 of Rule 60 of the Rules of Court, to the plaintiff the said property, provided that your legal fees and all the necessary expenses are fully paid.

Respondent enforced the writ on 17 May 2004.<sup>[5]</sup> On 20 May 2004, spouses Normandy R. Bautista and Ruth B. Bautista (complainants) filed with the trial court an urgent motion<sup>[6]</sup> for the return of the vehicle and submission of counter-bond. On 21 May 2004, complainants filed a motion<sup>[7]</sup> to withdraw the urgent motion, attaching thereto an omnibus motion<sup>[8]</sup> for entry of appearance, urgent setting of hearing, and redelivery of the vehicle to them. Pursuant to Section 5 of Rule 60, complainants required the return of the vehicle to them by filing a counter-bond and serving Glor a copy of the counter-bond.<sup>[9]</sup>

Because the trial court failed to approve complainants' counter-bond within the five-day period provided in Section 6 of Rule 60, Glor, in a letter<sup>[10]</sup> dated 24 May 2004, asked respondent to deliver the vehicle to her. In a letter<sup>[11]</sup> dated 26 May 2004, complainants asked respondent not to deliver the vehicle to Glor because (1) pursuant to Section 5, they had required the return of the vehicle to them and filed the corresponding counter-bond; (2) the vehicle's delivery to Glor was not justified under Section 6; and (3) there was no order from the trial court directing the delivery to Glor. In a letter<sup>[12]</sup> dated 26 May 2004, Glor reiterated her demand on respondent to deliver the vehicle to her; otherwise, she would be constrained to pursue legal actions against him.

On 26 May 2004, complainants alleged that respondent approached them in the Quezon City Hall of Justice building asking them to wait for him by the benches at the back of the second floor. There, respondent told them that he was willing to ignore Glor's request in exchange for P20,000. With a little hesitation, they offered him P3,000 and promised to give the balance on the following day. Respondent agreed and immediately received the P3,000. On the next day, however, complainants did not give the balance. They asked respondent if he could give them more time to raise the money. Respondent was irked by this. Complainants alleged that:

At 4:50 P.M. he came to us at the designated place and while we were reading his Sheriff's Manifestation, he said he had not eaten lunch yet because in his words *"dahil sa paggawa ko ng Manifestation at sama ng loob dahil ako ang naipit dito sa kaso nyo, si judge kasi ang bagal mag-release ng order. Kakasuhan na ko sa Ombudsman ng plaintiff."* Trying to clarify what he meant about this, we ask [sic] him what we on our part need [sic] to do so that the property will be ensured that its [sic] under the custody of the court or "custodia legis" until such time that the Honorable Court could resolve our motion. However we were totally surprised when he said that *"Nasa sa inyo yan pero yun kasing kabila talagang desidido na makuha ang property, kung makapagbigay kayo ng kahit Twenty (20) Thousand sa akin magagawan natin yan ng paraan na di makuha ng plaintiff, yun ay kung gusto nyo lang, kasi pag napunta yan*

*sa kanila baka di nyo na makita yan".*

[With] those words from Sheriff IV Ernesto L. Sula it became clear to us that he was asking money to favor us in the disposition of the property, I replied that the only cash we have [sic] at the time was only Three (3) Thousand Pesos and ask [sic] him if he could accept it for the meantime and that we will come up with the balance on the following morning. He said "*Cge pero siguraduhin nyo lang maibigay nyo ang balanse bukas ng maaga kasi meron din akong bibigyan para safe din ako. Ganito kasi dito kailangan may nakakaalam na mas mataas para may proteksiyon tayo.*" At this point I asked my wife, Ruth B. Bautista what she thought about it and she said its [sic] up to me and thereafter I gestured to give him the Three (3) Thousand Pesos which he said "*Isimple mo lang ang abot para walang makapansin*" and I simply slipped the money in his hand and after he received the money put his hand immediately in his pocket. x x x

[O]n the following day 27th May 2004 at 8:10 A.M. We met him at the benches at the back of the 3rd floor of the Justice Hall Bldg. We immediately apologized and told him that we failed to borrow money for the balance of our agreement and ask [sic] if he could wait until at [sic] Friday 29th May 2004 to come up with the balance of our agreement because it might take some time before we can raise it. x x x He answered that "*Medyo mahirap pala kayong kausap*" and left us.<sup>[13]</sup>

On 27 May 2004, respondent filed a sheriff's manifestation asking the trial court's guidance on whether he should deliver the vehicle to Glor or keep it in *custodia legis*:

[T]his Manifestation is respectfully filed before the Honorable Court, in order that he maybe [sic] guided on whether he should release the vehicle as demanded by plaintiff or hold its release until such time that the Motions and Counter[-]bond filed by defendants is [sic] resolved as requested by the defendant.<sup>[14]</sup>

Without waiting for the trial court's instructions regarding the vehicle, respondent filed his sheriff's return on 28 May 2004 stating that he had already delivered the vehicle to Glor:

[O]n May 27, 2004, after the expiration of the five (5) days [sic] period and in the absence of any Court Order/s, undersigned turned-over the possession of the motor vehicle to the Plaintiff as per Court/Sheriff's Receipt hereto attached.<sup>[15]</sup>

On 31 May 2004, complainants alleged that they went to the trial court to check on the vehicle and to look for respondent. There, respondent admitted to them that he had already delivered the vehicle to Glor -- he acted on his own discretion. Complainants asked respondent how much he received from Glor and why he did not give them a chance to fulfill their agreement. He just said "*pasensiyahan na lang tayo.*"<sup>[16]</sup>

On 2 and 7 June 2004, complainants filed with the Office of the Ombudsman and the Office of the Court Administrator (OCA), respectively, a joint affidavit-

complaint<sup>[17]</sup> against respondent. Since the acts complained of were related to respondent's functions as an officer of the court, the Office of the Ombudsman, in its 1st Indorsement<sup>[18]</sup> dated 20 July 2004, referred the matter to the OCA.

In his comment<sup>[19]</sup> dated 4 August 2004, respondent prayed that the instant case be dismissed because:

1. Complainants' accusations against him were malicious and unfounded. They filed the instant case against him because they "amassed so much anxiety and wrath against respondent to the point of even telling telltales." They felt aggrieved because of the vehicle's delivery to Glor and its subsequent foreclosure.
2. He was only guided by the orders of the court and, in their absence, by the Rules of Court particularly Rule 60. Under Section 6 of the said Rule, the vehicle's delivery to Glor followed as a matter of course because she posted a bond which was approved by the court. On the other hand, up to the time of the delivery, complainants' counter-bond had not been approved by the court.
3. Complainants' accusation that he asked for P20,000 was incredulous and a total lie. He never dealt clandestinely with complainants, much less demanded money from them. He did not personally know Glor, nor was he acquainted with complainants.
4. Complainants had no evidence to support their accusation. If it were true that he asked and received money from them, it would have been easy for them to entrap him, yet, they did not do so.
5. He enjoyed the presumption of regularity in the performance of his duties.

In their comment<sup>[20]</sup> to respondent's comment dated 4 August 2004, complainants prayed that respondent be preventively suspended pending the investigation of the case. They alleged that they had a witness who was willing to testify on the circumstances surrounding respondent's demand and receipt of the money from them. However, the witness did not want to testify unless respondent was placed under preventive suspension because she was afraid that her testimony would endanger her means of livelihood inside the Hall of Justice building.

### **The Office of the Court Administrator's Report and Recommendations**

In its memorandum<sup>[21]</sup> dated 14 October 2004, the OCA found that respondent erred when he released the vehicle to Glor without waiting for the trial court's instructions on who had a better right over the vehicle. The OCA recommended that the case be re-docketed as a regular administrative matter and that respondent be held liable for grave abuse of authority and fined P4,000. The OCA recommended that the charges for violation of the Anti-Graft and Corrupt Practices Act, gross ignorance of the law, and conduct prejudicial to the best interest of the service be dismissed for insufficiency of evidence.

In a Resolution<sup>[22]</sup> dated 8 December 2004, the Court ordered the re-docketing of the case as a regular administrative matter and, in a Resolution<sup>[23]</sup> dated 16 March 2005, the Court required the parties to manifest if they were willing to submit the case for decision based on the pleadings already filed.

Complainants filed a motion<sup>[24]</sup> for further investigation and preventive suspension of respondent pending the investigation of the case. They prayed that the case be referred to the Executive Judge of the Regional Trial Court, Quezon City, for investigation. They also prayed that respondent be placed under preventive suspension to allow their witness to testify without fear of being harassed by respondent.

The Court noted complainants' motion for further investigation and preventive suspension and referred the case to the OCA for investigation, report, and recommendation.<sup>[25]</sup> In an Order<sup>[26]</sup> dated 24 August 2005, the OCA set the case for investigation on 15 and 16 September 2005. In the investigation, only respondent appeared.<sup>[27]</sup> The complainants filed a manifestation and motion<sup>[28]</sup> dated 10 September 2005 stating that although they were willing to participate in the investigation, they could not convince their witness to testify unless respondent was preventively suspended.

In a letter<sup>[29]</sup> dated 20 September 2005, the OCA returned the *rollo* of the case together with complainants' manifestation and motion to the Court for further instructions. In a Resolution<sup>[30]</sup> dated 10 October 2005, the Court noted the said letter and referred the same to the OCA for report and recommendation. Accordingly, the OCA set the case for investigation on 23 and 24 August 2006.<sup>[31]</sup> Again, only respondent appeared in the investigation. The complainants reiterated their claim that they could not participate in the investigation unless respondent was preventively suspended.<sup>[32]</sup>

In its Report<sup>[33]</sup> dated 13 September 2006, the OCA recommended that (1) the motion to preventively suspend respondent be denied; (2) the previous recommendation imposing a fine of P4,000 on respondent for grave abuse of authority be adopted; and (3) the charges for violation of the Anti-Graft and Corrupt Practices Act, gross ignorance of the law, and conduct prejudicial to the best interest of the service be dismissed for insufficiency of evidence.

### **The Court's Ruling**

*The Court finds respondent liable for simple misconduct.*

#### ***On the Charge of Violation of the Anti-Graft and Corrupt Practices Act, Gross Ignorance of the Law, and Conduct Prejudicial to the Best Interest of the Service***

Complainants bear the burden of proving, by substantial evidence, the allegations in the complaint. "Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."<sup>[34]</sup>