

SECOND DIVISION

[A.M. No. P-05-1955 (Formerly OCA I.P.I. No. 04-1883-P), November 12, 2007]

CARMELITA LAO LEE, COMPLAINANT, VS. LOUIE C. DELA CRUZ, SHERIFF IV, RTC-BRANCH 75, VALENZUELA CITY, RESPONDENT.

RESOLUTION

TINGA, J,:

This resolves the administrative matter concerning respondent Louie C. Dela Cruz, Sheriff IV of the Regional Trial Court (RTC) of Valenzuela City, Branch 75, which stemmed from an Affidavit-Complaint filed on 26 February 2004 by Carmelita Lao Lee with the Office of the Court Administrator. Respondent was charged with obstruction of justice, inefficiency and incompetence in the performance of his duty and conduct unbecoming a government official relative to Civil Case No. 267-V-02 entitled *Carmelita Lao Lee v. Romy and Lina Lamsen, et al.*

As both parties opted that an investigation be conducted instead of having the case submitted for decision based on the pleadings, the records of the case were transmitted to Hon. Maria Nena J. Santos, Executive Judge, RTC of Valenzuela City, for investigation.

In her Investigation Report and Recommendation,^[1] the investigating judge narrated the following facts:

Herein complainant is the plaintiff-appellee in Civil Case No. 267-V-02 for Ejectment, entitled "Carmelita Lao Lee vs. Sps. Romy and Lina Lamsen and all persons claiming rights under them." The Court a quo, Metropolitan Trial Court, Br. 82, Valenzuela City, decided the case in favor of plaintiff-appellee. On appeal with the Regional Trial Court, Branch 75, the decision was affirmed by Acting Presiding Judge Dionisio Sison on 10 April 2003, who subsequently issued on 3 July 2003 a Writ of Execution pursuant to Sec. 21, Rule 70 of Rules of Court. In the meantime, incidents relative to the issued writ transpired but were disposed of in the Order dated 15 January 2004, where Respondent Sheriff was directed to immediately execute the Writ of Execution pending appeal.

A Notice to Vacate dated 27 January 2004 was issued and served by the respondent on defendant-appellants on the same day. It was duly received by Lina Lamsen, one of the defendants-appellants. The Notice gave the defendants fifteen (15) days from receipt, within which to vacate the subject premises.

Around 9:00 to 10:00 o'clock in the morning of 12 February 2004, which is the 16th day from the service of the notice to vacate, respondent went

to the Barangay Hall of Dalandanan, Valenzuela City to seek assistance in the implementation of the Writ of Execution on the losing defendants-appellants Spouses Romy and Lina Lamsen at No. 7-A Marcelo St., Dalandanan, Valenzuela City. Barangay Kagawad Benito Encarnacion, Jr. and Barangay Tanod Ernesto Galang accompanied respondent to defendant-appellants' premises. The place was padlocked but the respondent destroyed it using a 'barreta de cabra' so the complainant, respondent, Encarnacion and Galang were able to enter the house. The occupants of the house were not around although their things were there. Respondent then proceeded to inventory the items but did not carry them outside the house. The arrival of defendant-appellant Romy Lamsen at the subject premises interrupted the inventory. The implementation of the writ was stopped and respondent padlocked the house again then, along with Encarnacion and Galang went back to the Barangay Hall of Dalandanan to enter in the Barangay Blotter what transpired.

The complaint and respondent agreed to meet in Br. 75 the following day, 13 February 2004. Complainant arrived between 10:00 to 11:00 o'clock in the morning and filed an "Ex-Party (sic) Motion to Break Open" dated 13 February 2004, but was not acted upon by the acting Presiding Judge as the premises was already opened the day before. Like the previous day, respondent went to the Barangay Hall of Dalandanan, Valenzuela City to seek for barangay assistance. Three (3) barangay tanods accompanied the respondent and proceeded to the premises of the defendants, arriving there [at] more or less 1:00 o'clock P.M. Thereafter, around 2:00 o'clock, defendant Mr. Lamsen arrived with the Temporary Restraining Order issued by the Court of Appeals and the implementation of the writ was stopped. On 20 February 2004, respondent submitted a "Sheriff's Partial Return" with even date.

Essentially, the charges against respondent were in connection with the following incidents, namely (a) when respondent served a Notice to Vacate dated 27 January 2004 on spouses Lamsen to implement the Writ of Execution dated 3 July 2003; (b) when allegedly respondent demanded from complainant P8,000.00 for execution expenses, with the advertence that if the amount is not given expenses would be deducted from the rentals deposited with the court; (c) when respondent discontinued the service of the orders of the court after

defendant had threatened him with a suit, a development that resulted in delay during which spouses Lamsen succeeded in securing a Temporary Restraining Order (TRO) from the Court of Appeals that prevented the execution of the writ altogether, and; (d) when respondent showed bias in favor of the defendants who were also "Pangalatoks" like him.

Respondent denied having deliberately delayed the execution of the writ, and claimed that it was complainant's suggestion to give defendants fifteen (15)-day grace period to allow her (complainant) time to prepare the money needed for the execution. Respondent explained that the execution of the writ on 12 February 2004 was not fully carried out due to the failure of the complainant to provide him with men to assist in carrying the articles which he had already inventoried. Further, he continued the inventory of the articles inside the premises and stopped the writ's