

## THIRD DIVISION

[ **A.M. NO. P-06-2262 (FORMERLY A.M. OCA I.P.I. NO. 04-2067-P), October 31, 2006** ]

**ANGELO C. GUERRERO, PETITIONER, VS. ANTONIO O. MENDOZA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 56, MAKATI CITY, RESPONDENT.**

### DECISION

**CARPIO-MORALES, J.:**

In the consolidated Civil Case Nos. 03-002 and 03-122, both entitled *Arlene Bedayo, et al. v. Multitel International Holdings, Inc. et al.* (the civil cases), Branch 56 of the Regional Trial Court of Makati rendered a Joint Partial Decision. The trial court thereafter issued a writ of execution directing the sale of the properties of the defendants-judgment debtors. Since the proceeds of the sale of personal properties of the defendants were insufficient to satisfy the judgment, the auction sale of the real properties of the defendants was set on April 20, 2004, notice of which, dated March 22, 2004, was published in the *Balita* newspaper.

The scheduled execution sale did not push through as the RTC of Muntinlupa, Branch 204 issued an order, in the receivership proceedings involving the real properties of the therein defendant RAB Realty Inc., which was one of the defendants in the civil cases, directing the suspension of the above-said scheduled April 20, 2004 execution sale.

On August 11, 2004, the execution sale of the real properties of the defendants in the civil cases was finally conducted by Sheriff IV Antonio Mendoza.

Getting wind of the execution sale, Angelo C. Guerrero, one of the plaintiffs in the civil cases, filed before the Makati trial court a Motion to Nullify Execution Sale, raising as irregularities the following:

- a. Lack of publication of the notice of sale;
- b. Lack of service of the notice of sale upon complainant or his counsel;
- c. Apparent haste in conducting the execution sale;
- d. Grossly inadequate price for which the subject properties were sold;
- e. Lack of capacity of Atty. Nelson S. Clemente, a counsel to one of the plaintiffs, to participate and bid in the execution sale;
- f. Lack of personality of Herarc Realty Corp. to participate, bid, and win in the execution sale; and