

## SECOND DIVISION

**[ A.M. NO. P-05-1959 (FORMERLY OCA IPI NO. 04-1834-P), February 15, 2005 ]**

**VICENTE DE LA CRUZ, JOHNNY SANOS, ARTEMIA LEGUARDA, FRANCISCO GAZO, GERMAN BUTRON, ROSA JUMAWAN, VIRGIE ESTRADA, CLIMACO PATOC, AND RUTH CALAYO, C O M P L A I N A N T S, VS. EXPEDITO B. BATO, SPO1 JERRY CAMARADOR, PO3 SAMUEL ANSOK, PO3 LUIS LAKANDULA, SPO3 AUREA, JOHN DOES, MTCC, BRANCH 1, DUMAGUETE CITY, DUMAGUETE POLICE STATION, DUMAGUETE CITY, R E S P O N D E N T S.**

### D E C I S I O N

**CHICO-NAZARIO, J.:**

In a Mass Affidavit<sup>[1]</sup> dated 07 August 2003, Vicente De la Cruz, Johnny Sanos, Artemia Leguarda, Francisco Gazo, German Butron, Rosa Jumawan, Virgie Estrada, Trifuna Duhaylungsod, Climaco Patoc and Ruth Calayo charged Expedito B. Bato, Sheriff III of the Municipal Trial Court in Cities (MTCC), Branch 1, Dumaguete City, with abuse of authority and grave coercion relative to Civil Case No. 2000-169 entitled, "*Eufemio B. Diaz, et al. v. Gaudencia Elnar*," for unlawful detainer.

Complainants stated therein that they are the lessees/possessors of Lot 710, covered by Transfer Certificate of Title (TCT) No. 464, located at Colon Extension, Dumaguete City. They claimed that the contracts they obtained from the family of Joaquina Llorente were for an indefinite period of time and that they were allowed to construct their respective houses with the assurance that they can stay thereat for as long as they would want to.

Complainants disclosed that the ownership of Lot 710 is under legal dispute between the family of Eufemio Diaz and the Heirs of Joaquina Llorente, namely: Emilia Carino, Leopoldo Noay, Aquilino Carino, Proculo Carino and Orencio Carino, in Civil Case No. 10829 entitled, "*Emilia Carino, et al. v. Eufemio Diaz, et al.*," for Declaration of Void and Fictitious Documents, Quieting of Title, Cancellation of Certificates of Titles and Damages before the Regional Trial Court (RTC) of Dumaguete City, Branch XLIII. During the pendency of the said case, the family of Eufemio Diaz filed an unlawful detainer case against complainants, docketed as Civil Case No. 2000-169, in the MTCC of Dumaguete City. On 30 March 2001, the MTCC rendered a decision<sup>[2]</sup> in favor of the family of Eufemio Diaz and against complainants, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiffs and against the defendants (except Aurora Villamil and Alfredo Eran and Lita Eran) as follows:

1. Ordering defendants, members of their respective families and all persons acting in their behalf to vacate from the premises of the land (Lot No. 710 and Lot No. 711-B) and house involved in this case;
2. Ordering defendants to pay plaintiffs the sum of P200.00 a month as rental for each of the house of the defendants from the respective dates they received the letter of demand until they finally vacate the premises;
3. Ordering defendants to demolish or remove their respective houses from the land of the plaintiffs, except that which is occupied by defendants Vicente and Minda de la Cruz for being owned by plaintiffs;
4. Ordering each defendant to pay plaintiffs the sum of P3,000.00 as Attorney's fees; and
5. Ordering defendants to pay the costs of the suit.

Defendants' counterclaim is dismissed for lack of merit.

On 06 May 2003, the family of Eufemio Diaz filed a motion for issuance of a writ of execution and writ of demolition to enforce said judgment. The motion for issuance of the writ of execution was granted<sup>[3]</sup> but the motion for writ of demolition was denied.

On 02 July 2003, Jesus L. Kadusale, Jr., Branch Clerk of Court of MTCC of Dumaguete City, Branch 1, issued an order<sup>[4]</sup> directing the City Sheriff of Dumaguete City to implement the writ of execution.

On 03 July 2003 and 07 July 2003, respondent sheriff went to Lot 710 to implement the writ. On these two occasions, complainants alleged they showed to respondent sheriff: (1) a certification of the pendency of Civil Case No. 10829; and (2) their lease contracts with the heirs of Joaquina Llorente. They claimed respondent sheriff ignored said documents and threatened to padlock their respective homes.<sup>[5]</sup>

On 16 July 2003, respondent sheriff returned to the lot accompanied by two (2) carpenters and four (4) armed policemen and padlocked complainants' houses. At ten o'clock in the morning of the same day, a conference was conducted attended by complainants and respondent sheriff. Complainants explained that respondent sheriff was not authorized to padlock because they have their lease contracts from the heirs of Joaquina Llorente. Respondent sheriff refused to heed anyone and openly declared that "*Mo-padlock ko karong adlaw. Walay makapugong nako*" (I will padlock today. No one can stop me). They added that complainants' lawyer even talked with respondent sheriff and told him that they were in the process of filing a motion for reconsideration of the order directing the issuance of the writ of execution. Complainants likewise said they talked to Clerk of Court Jesus Kadusale, Jr., who agreed to hold the execution with the assurance that their lawyer would file the said motion that afternoon. This notwithstanding, respondent sheriff at around 12:00 o'clock in the afternoon proceeded to padlock the doors of complainants' dwellings and placed placards with notation "Private Property, No Trespassing."<sup>[6]</sup>

On 18 July 2003, respondent sheriff submitted his return of service<sup>[7]</sup> with the statement that the writ of execution had been fully satisfied.

Thereafter, the Mass Affidavit/Complaint was filed alleging that the actuations of respondent sheriff showed abuse of authority and grave coercion. Complainants maintained that respondent sheriff with two (2) hired carpenters and four (4) armed policemen, with abuse of authority and without their permission, proceeded to padlock the doors of their houses, preventing them to have lunch and to have access to their things. They alleged that the incident prevented one of the complainants, Rosa Jumawan, access to her granddaughter who was sleeping inside the house. In addition, complainants asserted that they suffered sleepless nights, public humiliation, wounded feelings, besmirched reputation and other similar feelings.

In his comment,<sup>[8]</sup> respondent sheriff maintained that the charges against him had no legal and factual bases and that they were filed only to harass him.

On 27 October 2004, the Office of the Court Administrator (OCA) submitted its report<sup>[9]</sup> recommending the dismissal of the complaint for lack of merit.

We concur in the recommendation of the OCA.

The central issue is whether or not respondent sheriff's acts constitute abuse of authority and grave coercion.

Records show that the Writ of Execution, addressed to the city sheriff or any of the lawful deputies of Dumaguete City, was issued on 02 July 2003 by the MTCC of Dumaguete City, pursuant to its 30 March 2001 Decision which had become final and executory. The writ specifically directed respondent sheriff to (1) order complainants to vacate the property; (2) pay plaintiffs Eufemio Diaz the sum of P200 a month as rental for each of the house of the complainants from the date they received the letter of demand until they finally vacate the premises; (3) demolish their respective houses from the land; (4) pay the sum of P3,000 as attorney's fees; and (5) pay the costs of suit. On 03 July 2003, all the complainants were given copies of the Order dated 20 June 2003, granting the issuance of a writ of execution but they refused to acknowledge receipt thereof.<sup>[10]</sup>

Respondent sheriff's directives and actuations were consistent with Section 10(c) of Rule 39,<sup>[11]</sup> which reads:

(c) *Delivery or restitution of real property.* The officer shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peaceably vacate the property within three (3) working days, and restore possession thereof to the judgment obligee; otherwise, the officer shall oust all such persons therefrom with the assistance, if necessary, of appropriate peace officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property. Any costs, damages, rents or