

THIRD DIVISION

[A.M. NO. P-05-2031, December 09, 2005]

**D.R. CATV SERVICES, INC. COMPLAINANT, VS. JESUS R. RAMOS,
SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 41,
QUEZON CITY, RESPONDENT.**

RESOLUTION

GARCIA, J.:

Before us is a complaint-affidavit of Louel Malvin M. Arevalo for and in behalf of complainant D.R. CATV Services, Inc., charging respondent Jesus R. Ramos, Sheriff III, Metropolitan Trial Court (MeTC) of Quezon City, Branch 41, with grave abuse of authority arising from the implementation of a writ of execution issued in a criminal case.

The facts:

Following the trial of Criminal Case No. 096318-19, a prosecution for violation of Batas Pambansa Blg. 22 filed at the instance of one Armi dela Cruz-Carreon against Danilo Red, President of D.R. CATV Services, Inc., the MeTC of Quezon City found Danilo Red guilty as charged. On appeal, however, the Regional Trial Court (RTC) at Quezon City set aside the judgment of conviction, but nonetheless found Danilo Red civilly liable and, accordingly, ordered him to pay the offended party the amount of P1,100,000.00, representing the face value of the dishonored check, plus interest and attorney's fees.

Commanded to implement the corresponding writ of execution^[1] issued by the RTC for the civil aspect of the case was respondent Jesus R. Ramos, Sheriff III, MeTC, Quezon City, Branch 41.

Pursuant to the writ, respondent Ramos repaired to the Province of Marinduque and, via a Notification^[2] dated August 4, 2004, advised Danilo Red to pay the money judgment aforesaid within five (5) days from receipt thereof. As related in the herein complaint, respondent, even before the expiration of the five-day period, proceeded to levy on the equipment owned by D.R. CATV and cut the cable wire connected to lampposts, thus effectively paralyzing the operation of D.R. CATV's cable TV services in the town of Buenavista, Marinduque.

According to complainant, he informed the respondent as to who really owned the equipment thus seized, only to be told in an arrogant tone to file a third-party claim. Continuing, complainant alleged that despite D.R. CATV's filing of a third-party claim, respondent still refused to release the equipment. And to compound matters, the levied equipment valued at P2.6 million were placed by respondent in the possession of one Jose Antonio "Bong" Carreon in violation of Section 7, Rule 57 of the Rules of Court.^[3]

In compliance with a directive from the Office of the Court Administrator (OCA), respondent submitted his Comment^[4] dated October 11, 2004. In it, respondent professed good faith in executing the writ in question, which he claimed to have served upon Danilo Red through his mother, Luciana Red. Upon being apprised of the levy, Danilo Red, so respondent alleged, called and pleaded for more time to settle his obligation. Respondent adds that upon being informed that Danilo Red owns and operates D.R. CATV, as the letters "D.R." in fact refer to the initials of Danilo Red, he initially levied upon the equipment found outside the office of the cable company since the office was still closed. Levy on the other properties of the company followed.

Respondent admits, however, about being told by herein complainant, who is no less the company's secretary, that the levied properties pertained in ownership to the corporation, not to Danilo Red, and about the matter of the filing of a third-party claim. He also acknowledged bringing the levied equipment to the house of Mr. Bong Carreon, albeit explaining that he did so only for safekeeping because there was no available bonded warehouse within the area.

Upon OCA's recommendation embodied in its report of April 26, 2005, the Court, in its Resolution^[5] of June 11, 2005, ordered the re-docketing of this case as a regular administrative matter and required the parties to manifest whether or not they are willing to submit the case for resolution on its merits on the basis of the pleadings already filed. In his manifestation,^[6] respondent responded in the affirmative.

In its aforementioned report, the OCA finds respondent guilty of abuse of authority and recommends that he be fined P5,000.00 with warning. We quote the pertinent portion of the report:

EVALUATION: In issue herein is the propriety of respondent's actions in the enforcement of the judgment on the civil liability of Mr. Danilo Red. Extant in the records are a number of instances that respondent strayed from the regular course observed in execution of judgments pursuant to the Rules of Court. Specifically, the 5-day period prescribed in the Notice was not observed; the notice and the writ itself were served not on the judgment debtor himself but on his mother who refused to acknowledge receipt thereof; the properties seized belong to a named corporation; and, the levied properties were not duly deposited in accordance with the Rules of Court but in the house of the judgment creditor.

Respondent did not deny the foregoing, but instead proffered explanations for his actions. Sadly, said explanations, to our mind, do not warrant a deviation from the rules, nor justify the apparent haste in the implementation of the writ. Particularly reprehensible was the levying on the properties of the corporation, D.R. CATV, to satisfy a personal judgment against a stockholder thereof on the very presumptuous excuse that he pierced the veil of corporate fiction, a function which is purely judicial in nature and beyond the scope of the ministerial duties of a Sheriff.

Time and again, the court has stressed the heavy burden of responsibility