

SECOND DIVISION

[A.M. No. P-04-1799 (formerly A.M. OCA IPI No. 02-1476-P), March 31, 2004]

RENATO M. DAGUMAN, COMPLAINANT, VS. MELVIN T. BAGABALDO, SHERIFF IV, REGIONAL TRIAL COURT-OFFICE OF THE CLERK OF COURT, MUNTINLUPA CITY, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

The instant administrative complaint arose when Renato M. Daguman filed an Affidavit-Complaint^[1] dated September 20, 2002 against Melvin T. Bagabaldo, Sheriff IV, Regional Trial Court, Muntinlupa City, for dereliction of duty.

The complainant averred that he was a special assistant of the Spouses Oscar Martin and Mercedes Yvette Lopez and was authorized to represent and attend the auction sale of their property covered by Transfer Certificate of Title No. 175895, relative to Foreclosure Proceeding Case No. E-02-086. The auction was to be held at 10:00 a.m. on August 28, 2002, at the Muntinlupa City Hall Quadrangle, National Road, Putatan, City of Muntinlupa. According to the complainant, he reported to the Office of the Clerk of Court of the RTC of Muntinlupa City, while the respondent arrived at his office at about 11:40 a.m. The respondent, as the sheriff in charge of the auction sale, advised him to have lunch first and to come back at 1:00 p.m. He assured the complainant that the auction sale would be conducted after the lunch break, upon the arrival of the mortgagee's representative.

The complainant then returned to the respondent's office at 1:05 p.m., and, to his surprise, the latter informed him that the auction sale had already been conducted at 12:20 p.m. The respondent showed him the minutes of the auction sale indicating that the subject property was "sold" to DBS Bank of the Philippines, Inc.^[2]

According to the complainant, he was certain that no public auction took place because from 10:00 a.m. to 1:05 p.m., he stayed at the ground floor lobby of the Muntinlupa City Hall, facing the quadrangle where the supposed auction sale was to be held. The respondent never went out of his office from the time he arrived at 11:40 a.m. until 1:05 p.m. According to the complainant, the respondent even took his lunch together with his officemates inside his office. Finally, as can be gleaned from the Minutes of Auction^[3] duly certified by the respondent, the auction sale was held at 10:00 a.m. of August 28, 2002 "in front of the City Hall of Muntinlupa located at the Quadrangle of the City Hall of Muntinlupa," and closed at 12:20 p.m.

In his Comment, the respondent averred that the questioned auction proceedings were executed in accordance with law. Before reporting to the office on the scheduled date of the auction sale, he posted other notices of auction sales at the

Alabang Post Office of other similar cases filed in their *sala*. Because of the unexpected traffic in Alabang, he informed the office by phone that he would be late, but made the assurance that the scheduled auction sale would be conducted at 12:00 noon. The respondent admitted that the complainant arrived at his office at around 11:00 a.m. and claimed to be the Special Assistant of the mortgagors Spouses Lopez. The respondent averred that although the complainant did not present any valid identification card or a special power of attorney as evidence of his authority, he explained all the matters relating to the subject auction sale, and answered all the complainant's queries in a nice and orderly manner. The respondent then instructed the complainant to have lunch first and to come back afterwards, as the representative of the bank stepped out for a while. According to the respondent:

The mortgagee's representative came back at the office a minute after Mr. Renato M. Daguman left for lunch. After receiving the Affidavit of Publication and the formal bid of the said bank, the undersigned together with the bank's representative proceeded on a "stage" located at the Quadrangle of the City Hall of Muntinlupa to conduct the scheduled auction sale, and while we were on our way to the place of auction sale as stated in the notice, we earnestly and painstakingly looked for Mr. Daguman at the hallway and at the canteen so he can witness the sale, though according to him, he is not interested. The auction sale proceeded and terminated at 12:20 in the afternoon, and that was the only time we had our lunch inside the office. If Mr. Daguman was indeed at the lobby of the ground floor of the City Hall of Muntinlupa, as he alleged in the Complaint which is just a stone[\'s throw] away from the place where the auction sale took place, he would probably saw [*sic*] us conducting the auction sale and immediately rush to the place so he could observe the same, if that was his intention. Likewise, if indeed he was within the place of the sale or is so proximate thereat, the undersigned could have easily noticed him, thus he will be invited to observed [*sic*] the conduct of the sale.^[4]

The respondent prayed that the complaint be dismissed for being baseless, malicious, fabricated and was filed only to harass a public official.^[5]

On February 11, 2003, the complainant filed a Motion to Withdraw the Affidavit-Complaint^[6] dated September 20, 2002. He explained that the said affidavit-complaint was made in compliance to a stern directive of Dionisio Llamas, Jr. who sought leverage against their opponent, BPI Family Savings Bank, Inc. According to the complainant, this was made as the basis for the plan to file a petition for the annulment of the questioned auction sale. He concluded that he personally never intended to file the said complaint against the respondent as he found nothing irregular in the conduct of the said officer.

Thereafter, in a Letter dated May 22, 2003, Angelo E. Base, as the representative of the registered owners of the parcel of land subject of the auction sale, requested that he be furnished copies of the records of the case, as well as all court notices and/or correspondences regarding the complaint. Thus:

We wish to emphasize that the said complaint of Mr. Daguman was filed on his official capacity as an employee of California Bus Lines, Inc. and

upon the instructions and authority of the registered owners of the said real estate property namely Spouses Oscar Martin R. Lopez, Jr. & Mercedes Yvette Llamas Lopez, and Mr. Dionisio O. Llamas, Jr., President of California Bus Lines, Inc. For which reason, we would like to inform this Honorable Court that whether or not Mr. Daguman has expressed his disinterest to prosecute the administrative case against the sheriff who conducted the auction sale, the registered owners thereof shall have the right to proceed further with the complaint since they are the actual persons duly affected by the foreclosure being the registered owners thereof. It is interesting to note herein that he having no participation on the execution of the mortgaged contracts neither a privy to the case, shall also have no rights whatsoever to withdraw his complaint against the said sheriff. [7]

Upon the Court Administrator's recommendation,[8] the Court, in a Resolution[9] dated July 21, 2003, resolved to deny the complainant's motion to withdraw the affidavit-complaint, and to refer the matter to Executive Judge Juanita Tomas Guerrero, Regional Trial Court, Muntinlupa City, for investigation, report and recommendation.

In his supplemental complaint-affidavit,[10] Mr. Base made the following averments: (1) despite the fact that the auction sale was scheduled to take place at 10:00 a.m. of August 28, 2002, the respondent chose to arrive in his office at 11:00 a.m.; (2) the respondent, in proceeding with the auction sale despite the absence of the mortgagor's representative, deprived the mortgagors the right and the opportunity to witness the auction sale; (3) the respondent sheriff's act of advising Mr. Daguman to take his lunch first and assuring the latter that the auction sale would be conducted at 1:00 p.m. was highly improper, considering that he conducted the sale at 12:20 in the afternoon; (4) the respondent failed to submit sworn statements of his officemates to substantiate his claim that he really went out of his office and conducted the sale at the Muntinlupa City Hall; and, (5) the minutes of the auction sale duly certified by the respondent is a misrepresented document and could be used as a basis for falsification of public document considering the latter's admission that he arrived at around 11:00 a.m.

On November 3, 2003, the Executive Judge made a Partial Report, worded as follows:

On September 23, 2003, only Mr. Angelo Base and Melvin Bagabaldo appeared. There was no return showing that Mr. Daguman was notified, so the Process Server or Deputy Sheriff of the Court was directed to serve the subpoena under pain of contempt, to Mr. Daguman at his given address. Mr. Base submitted his Supplemental Affidavit on October 3, 2003. In the meantime, the Return of the notice sent to Mr. Daguman shows that the latter is now based in Samar, hence, the failure of notice to him.

On October 10, 2003, Mr. Base submitted his manifestation to the effect that Mr. Bagabaldo uttered threatening remarks against him in the presence of court personnel on October 7, 2003. Mr. Bagabaldo allegedly told him, "Namemersonal ka na, babalikan kita." Instead of appearing on October 28, 2003, for further investigation, Mr. Base filed a Motion for