

SECOND DIVISION

[A.M. No. P-04-1829, July 07, 2004]

GLORIA R. SAYSON, FRANCISCO R. RELLOROSA, RUSTICO Y. CAPARAS, COMPLAINANTS, VS. EFREN LUNA, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 37, QUEZON CITY, RESPONDENT.

R E S O L U T I O N

CALLEJO, SR., J.:

The instant administrative case arose from the Affidavit-Complaint^[1] dated August 4, 1999 of Gloria R. Sayson, Francisco R. Rellorosa and Rustico Y. Caparas charging Efren Luna, Sheriff III, Metropolitan Trial Court, Branch 37, Quezon City, with grave misconduct and/or conduct prejudicial to the best interests of the service relative to Civil Case No. 37-15744, entitled *Genaro Serrano v. Gregorio Rellorosa*.

The complainants alleged that the weekend before July 15, 1999, Gregorio Rellorosa informed them that his car would be levied upon pursuant to a writ of execution issued by the Metropolitan Trial Court of Quezon City, and that it was scheduled to be sold at public auction at 10:00 a.m. on July 15, 1999. Rellorosa requested them to participate in the bidding, to which they agreed, subject to the condition that in case one of them would win the bid, they would allow Rellorosa to redeem the car within one year at the bid price plus accrued interest.

The complainants alleged that at 9:00 a.m. of July 15, 1999, they met Rellorosa and agreed to pool their resources so that they would come out as the highest bidder. They also met the respondent sheriff that same morning. Upon being told that the scheduled auction sale had been postponed to July 19, 1999, the complainants left. They, however, later learned from Rellorosa that the respondent sheriff conducted the auction sale of the said car at 2:00 p.m. that same day.

In his comment, the respondent narrated that he levied the car in question pursuant to a writ of execution^[2] issued by the court. The auction sale was set at 10:00 a.m. of July 15, 1999, with due notice to Gregorio Rellorosa. Three days prior to the scheduled auction sale or on July 12, 1999, Gregorio Rellorosa filed a "Petition for Relief from Judgment with Urgent Prayer for Preliminary Injunction *Inter Alia* and Temporary Restraining Order to Stop Sheriff's Sale Scheduled on July 15, 1999."^[3] The respondent further averred that he came to see Gregorio Rellorosa alone in the morning of July 15, 1999, and informed the latter that his motion was denied. He also told Gregorio that the auction sale would not push through as scheduled, but would proceed any time of the day once the order was signed.

The respondent avers that he advised Gregorio to wait for the plaintiff, Genaro Serrano, to ask if the latter would postpone the auction sale, but Rellorosa immediately left.