

EN BANC

[A.M. No. P-00-1371 (Formerly OCA IPI No. 98-410-P), January 23, 2002]

**DEVELOPMENT BANK OF THE PHILIPPINES (DBP),
COMPLAINANT, VS. RUBEN S. NEQUINTO, SHERIFF IV,
REGIONAL TRIAL COURT, BRANCH 145, MAKATI CITY,
RESPONDENT.**

R E S O L U T I O N

PER CURIAM:

At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants, hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.^[1]

The Case

Before the Court is an administrative complaint filed by the Development Bank of the Philippines (hereafter, DBP) against Sheriff Ruben S. Nequinto (hereafter, Sheriff Nequinto), Sheriff IV Regional Trial Court, Makati, Branch 145 for (a) dereliction of duty and violation of Administrative Circular No. 12 (Acting as special sheriff for a party litigant) in connection with the implementation of the writ of execution (pending appeal); (b) violation of the clear provisions of Sec. 9, Rule 39 of the 1997 Rules of Civil Procedure; (c) knowingly violating Sec. 14, Rule 39 of the 1997 Rules of Civil procedure; (d) grave abuse of authority; and (e) conduct prejudicial to the interests of the government and/or a government financial institution.

The Facts

On June 14, 1993, the Court appointed respondent Ruben S. Nequinto, Regional Trial Court Deputy Sheriff, Regional Trial Court, Branch CXLV, Makati (now Sheriff IV, Regional Trial Court, Makati, Branch 145) and to this date has been with the Court for twenty-four (24) years.^[2]

On October 17, 1996, FPHC filed with the Regional Trial Court, Makati, Branch 147^[3] a case for collection of sum of money^[4] against DBP.

On August 8, 1997, the trial court rendered a summary judgment against DBP. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing, the Court finding merit in the motion for summary judgment, hereby renders judgment in favor of the plaintiff and against defendant, ordering the latter to pay the former:

"1. the sum of P19,998,400 as unpaid rentals inclusive of interest at 12% per annum as of 31 March 1995, plus interest at 12% per annum on the amount of P9,999,200 after 31 March 1995 until full payment of the principal;

"2. attorney's fees equivalent to 20% of the amount claimed in the preceding paragraph;

"3. the costs.

"SO ORDERED."

On September 3, 1997, FPHC filed with the trial court a motion for execution pending appeal; DBP filed a motion for reconsideration of the trial court's decision. [5]

On November 24, 1997, the trial court granted FPHC's motion for execution pending appeal, thus: [6]

"WHEREFORE, in view of the foregoing, the Court, finding the "Motion For Execution Pending Appeal" to be well-taken, hereby grants the same. Let a writ of execution issue accordingly upon the filing of a bond in the amount of P30 million, subject to the approval of the court.

"SO ORDERED."

On November 25, 1997, FPHC filed an *ex-parte* motion for appointment of special sheriff with the trial court, praying that Sheriff Nequinto of Branch 145 be appointed to implement the writ of execution. [7]

On November 25, 1997, the trial court designated Sheriff Nequinto as special sheriff to implement the writ of execution as the regular deputy sheriff of Branch 147 was in Isabela. [8] Accordingly, the trial court issued a writ of execution directed to Sheriff Nequinto. We quote the writ: [9]

"TO: Special Sheriff RUBEN S. NEQUINTO
Regional Trial Court
Makati City

"GREETINGS:

"WE COMMAND YOU that of the goods and chattels of DEVELOPMENT BANK OF THE PHILIPPINES with address at DBP Building, Makati Avenue corner Sen. Gil Puyat Avenue, Makati City, Metro Manila, you cause to be made the following:

"1) the sum of P19,998,400 as unpaid rentals inclusive of interest at 12% per annum as of 31 March 1995, plus interest at 12% per annum on

the amount of P9,999,200 after 31 March 1995 until full payment of the principal;

"2) attorney's fees equivalent to 20% of the amount claimed in the preceding paragraph;

"3) the costs.

"together with your lawful fees for service of this execution all in money of the Philippines which plaintiff recovered in this Court on August 18, 1997 against the defendant and that you tender the same to said plaintiff aside from your own fees on this execution, and to like-wise return this writ into this Court Immediately thereafter with you proceedings indorsed thereon.

"But if sufficient personal property cannot be found whereof to satisfy this execution an lawful fees thereon, then you are commanded that of the lands and buildings of defendant you cause to be made the sums of money in the manner required buy law and the Rules of Court, and to make return of your proceedings with this Writ immediately thereafter.

We quote the Court Administrator's narration of how respondent Sheriff implemented the writ:^[10]

"On November 26, 1997, respondent Sheriff accompanied by FPHC's counsel, Atty. Fernando F. Manas, Jr., and FPHC's representatives Atty. Pedro Malabanan an Anthony Jay B. Consunji, proceeded to the DBP Head Office building at Sen. Gil Puyat Avenue, Makati City.

"After gaining entry into DBP's premises, respondent went to the Cash Management Department and announced his threat to seal the Banks' vault and to levy DBP's computers and office equipment if his demand for payment is not complied with. Respondents Sheriff told Bank officials that the amount to be executed against DBP is P46,310,684.94 which amount greatly exceeds the one stated in the Writ of Execution.

"The lawyers of the Bank requested the respondent to give them time to verify the Writ of Execution in his possession. The respondent sheriff was also informed that DBP had not yet received any copy of the Order granting FPHC's motion for execution pending appeal. They also called the Sheriff's attention to the fact that the amount sought to be enforced (P46,310,684.93)^[11] does not correspond to the amount indicated in the writ. Respondent was also shown a copy of DBP's own computation of the amount taking into account the interests and costs.^[12] Moreover, respondent was advised that his manner of enforcing the writ (sealing the Bank's vault) will disrupt, if not paralyze the bank's and its branches' operations. However, despite the Bank's objections, respondent insisted on sealing the bank's vault if he is not paid in cash and threatened to forcibly seize any money he may possibly retrieve from the teller's cages. Because of the respondent's adamant insistence to seal the Bank's vault, the Bank was constrained, under protest, to issue a

Manager's Check for P10 Million to respondent^[13] and offered to the respondent its property covered by TCT No. 196837 located in Sta. Cruz, Manila which has an appraised value of P18,387,900.00 to be levied upon, pursuant to Section 9, Rule 39 of the 1997 Rules of Civil Procedure. Respondent refused to accept the offer and insisted that he be paid in cash.

"In spite of the said payment and offer of real property for levy, respondent issued a "notice of Levy or Sale on Execution"^[14] wherein he made it appear that he was levying on certain personal properties of DBP which he did not specifically describe but generally referred to as : "fifteen (15) units Personal computers 386 MITAC, Samsung; One Hundred (100) units office tables with chairs." Unknown to the complainant respondent also served notices of garnishment of DBP's deposits with the Land Bank of the Philippines and the PCI Bank.

"In view of respondent's unjustified rejection of DBP's offer and patently abusive manner in implementing the writ, complainant bank filed a "Motion for Approval of Supersedeas Bond and for Holding in Abeyance the Implementation of the Writ of Execution and Sale on Execution"^[15] calling the attention of the Judge to the irregularities in the proceedings of respondent. Respondent sheriff, on December 2, 1997, proceeded to bank's head office for the purpose of conducting the "sale" of the alleged "levied properties" despite knowledge of DBP's Motion and the fact that respondent was served with a letter from the Bank's Chief Legal Counsel interposing vigorous objection to the scheduled sale on execution.^[16]

"In his "sheriff's Report on Execution" dated 3 December 1997 respondent falsely made it appear that he was prevented from entering the building of DBP.^[17] In the same Report, respondent willfully and deliberately concealed the fact that the bank had issued a P10 Million check to him, that it had offered for levy its real property valued at P18 Million and that he issued Writs of Garnishments involving DBP's deposits with the Land Bank of the Philippines and other banks."

On January 27, 1998, DBP through its Chief Legal Counsel, Atty. Carlos R. Cruz filed with the Office of the Court Administrator, Supreme Court (hereafter, OCA) an administrative complaint against Sheriff Nequinto praying that he be disciplinarily dealt with.^[18]

On March 31, 1998, the Court Administrator required respondent sheriff Nequinto to answer the above mentioned complaint within ten (10) days from notice. On May 14, 1998, respondent sheriff submitted his answer to the complaint. He admitted that he "threaten (*sic*) to seal the banks' vault but such thing is impossible." He also admitted that he levied on fifteen (15) units personal computers, 386 MITAC, Samsung, one hundred(100) units office tables with chairs and scheduled the sale on December 2, 1997, without even posting notices nor posted sheriff's guard at the DBP building. On December 2, 1997, respondent sheriff tried to enforce the notice of levy on execution at the DBP building but he was not let-in and was even pushed out of the building.^[19]