

## **THIRD DIVISION**

**[ A.M. No. RTJ-01-1615, June 19, 2001 ]**

**WINNIE BAJET, PETITIONER, VS. JUDGE PEDRO M. AREOLA  
REGIONAL TRIAL COURT OF QUEZON CITY (BRANCH 85),  
RESPONDENT.**

### **D E C I S I O N**

#### **PANGANIBAN, J.:**

Attaining the objective of fully executing the judgment against the defendant in an ejectment case does not justify the immediate and ex parte issuance of an order authorizing demolition. The Rules of Court specifically requires that motions on the matter must be duly heard first, before an order of demolition may be issued.

#### **The Case**

In a sworn letter-complaint dated September 20, 1999, filed by Winnie Bajet, Judge Pedro M. Areola of the Regional Trial Court of Quezon City (Branch 30) was charged with palpable violation of the Constitution, grave abuse of authority, oppression, gross ignorance of the law and incompetence.

#### **The Facts**

Complying with the directive of the court administrator, respondent filed his Comment by way of a "2nd Indorsement" dated December 1, 1999, denying liability for the acts complained of.

In his Report dated December 15, 2000, then Court Administrator Alfredo L. Benipayo related the complainant's and the respondent's versions of the factual antecedents as follows:

"As claimed by the complainant, one of the defendants in the abovesited case, the antecedent facts of the case are as follows:

- ` 1. June 23, 1999 - plaintiff filed his Motion to Endorse Alias Writ of Execution [with] the Office of the Clerk of Court for immediate implementation;
- ` 2. June 26, 1999 - defendants filed their Motion to Quash Alias Writ of Execution;
- ` 3. August 16, 1999 - respondent issued an Order giving plaintiff ten (10) days to file his comment on the motion to quash, and the defendants the same period to file their reply;

`4. August 27, 1999 - defendants received plaintiff's Comment on the motion to quash alias writ of execution, and at the same time plaintiff's Motion to Issue Writ of Demolition;

`5. August 30, 1999 - defendants filed their Opposition to the Motion to Issue Writ of Demolition;

`6. September 2, 1999 - defendants received respondent's August 16, 1999 Order giving them ten (10) days from receipt of the plaintiff's Comment on their Motion to Quash Alias Writ of Execution within which to file their reply. On even date, the defendants also received respondent's Order denying their motion to quash alias writ of execution;

`7. September 3, 1999 - respondent issued an Order granting plaintiff's motion to issue writ of demolition;

`8. September 13, 1999 - Deputy Sheriff Pedro Borja caused the demolition of complainant's house resulting [in] the loss of some of her jewelries and money;'

"Complainant contends that respondent judge abused his authority when he denied their motion to quash alias writ of execution before the expiration of the 10 day period he gave them within which to file their reply.

"Complainant likewise assail, for lack of hearing, the Order of respondent granting plaintiff's motion to issue writ of demolition.

x x x

x x x

x x x

"Respondent relays the information that on 25 July 1998, defendants including herein complainant, filed a petition for certiorari with the Court of Appeals assailing the Order granting the motion for execution pending appeal. The Court of Appeals denied the petition and declared that it was mandatory for the RTC to order the execution of the appealed judgment.

"With regard to his denial of defendant's motion to quash alias writ of execution, respondent avers that the same was because the motion was a mere rehash of a previous motion which the court already denied on 31 May 1999.

"As to his Order granting the plaintiff's `Motion for an order to Break In or for a Writ of Demolition', respondent argues that even if the motion did not have notice of hearing, the same was not fatal because the motion was a non-litigious one."

### **OCA Recommendation**