

FIRST DIVISION

[A.M. No. P-00-1391, September 28, 2001]

LIBRADA D. TORRES, COMPLAINANT, VS. NELSON C. CABESUELA, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 9, MANILA, RESPONDENT.

R E S O L U T I O N

KAPUNAN, J.:

On July 3, 1998, this Court received from the Deputy Ombudsman for the Military the complete records of OMB-1-97-0659 entitled "Librada D. Torres versus Senior Inspector Elmer Beltejar, SPO1 Alfredo Caday, PO3 Armando Francisco, PO3 Randy Beltran, all members of the Philippine National Police Station, San Antonio, Nueva Ecija and Sheriff Nelson C. Cablesuela of the Metropolitan Trial Court (MeTC), Branch 9, Manila" for violation of Section 3(e) of Republic Act No. 3019^[1] (Anti-Graft and Corrupt Practices Act) relative to Civil Case No. 151528-CV of the MeTC, Branch 9, Manila docket.

It appears from the records that complainant Torres executed an affidavit-complaint dated December 20, 1996 alleging that she is one of the owners of San Antonio High School in San Antonio, Nueva Ecija. Said school is the owner of a Mitsubishi Pajero mortgaged to Philam Savings Bank, Inc. The school failed to pay its obligation so the bank filed a complaint for replevin and damages. On September 6, 1996, Judge Amelia A. Fabros of MeTC, Branch 9, Manila, granted the bank's prayer for a writ of replevin. Consequently, a writ of replevin addressed to respondent sheriff was issued. On December 2, 1996, said vehicle was taken from complainant's residence by the members of the PNP, San Antonio, Nueva Ecija, named herein. Later on, complainant filed a motion to amend the complaint to include herein sheriff as respondent in the complaint since it was by virtue of the "Sheriff's Deputization" issued by respondent that respondent police officers were able to "implement" the writ.

Respondent sheriff filed a motion to dismiss alleging that after Judge Fabros came out with the writ of seizure, he issued the "Sheriff's Deputization" addressed to the Chief of Police of San Antonio, Nueva Ecija requesting for assistance in the implementation of said writ. According to him, he "deputized" the police officers only after he attempted to implement the writ and found the vehicle at a local motorshop undergoing repairs. Because of this, he opted to "constructively seize" the vehicle by serving copies of the complaint, summons and bond to complainant and a certain Ignacio Gonzales.

Complainant filed her opposition and/or comment thereto contending that the act of the respondent in deputizing the police officers in implementing the writ of seizure did not find support in law and in the Rules of Court. She stated that respondent usurped the powers of Judge Fabros.

On September 26, 1997, the motion to dismiss was denied.

On November 20, 1997, the Deputy Ombudsman for the Military issued a resolution recommending the filing of an information for violation of Section 3(e) of R.A. No. 3019 against the police officers and herein respondent but dismissing the case for violation of R.A. No. 6713 and Article 177 of the Revised Penal Code. The same resolution likewise directed that a copy of the resolution be furnished the Supreme Court thru the Court Administrator for administrative proceedings against herein respondent.

On February 12, 1999, the Court Administrator required herein respondent to comment on the affidavit-complaint and amended complaint.

In his comment, respondent claimed that he issued the "Sheriff's Deputization" in good faith although he admitted that his act was unlawful. He contended that his only purpose for issuing the same was to seek the assistance of the Chief of Police of Nueva Ecija because he was not familiar with the place and for said Chief of Police to seize the vehicle. Moreover, he opined that complainant was a very powerful and influential person as shown by her ability to remove the vehicle from the motorshop without seeking the permission of the court.

On July 3, 2000, the Court issued a resolution directing the docketing of the case as a regular administrative proceeding and requiring the parties to manifest if they are willing to submit the case as the basis of the pleadings already filed. Only respondent sheriff filed a manifestation. Complainant's silence was considered as a conformer to the submission of the case for resolution on the basis of the pleadings thus filed.

In his report, the Court Administrator found the complaint meritorious and recommended that a fine of P5,000.00 be imposed upon the respondent, viz:

The act of respondent in issuing the Sheriff's Deputization is without legal basis.

First, respondent should have known that under Administrative Circular No. 12 (5) it is provided that "No sheriff or deputy sheriff shall execute a court writ outside his territorial jurisdiction without first notifying in writing and seeking the assistance of, the sheriff of the place where the execution shall take place".

Respondent's act of implementing the writ in Nueva Ecija when his territorial jurisdiction is confined only to Manila is a clear violation of the law. The proper recourse would have been to seek the assistance of the sheriff of Nueva Ecija rather than deputizing the police officer of said place.

Furthermore, in *Tordesillas vs. Basco* (108 SCRA 551, 556) it was held that under Sections 3 and 4 of Rule 60 of the Rules of Court, it is the personal duty and responsibility of the sheriff to personally implement the writ and it constitutes serious misconduct and gross negligence for a