

## **SECOND DIVISION**

**[ A. M. No. P-98-1270. (Formerly OCA IPI No. 96-210-P), November 27, 2000 ]**

**ANTONIO ABANIL, COMPLAINANT, VS. ABEL FRANCISCO B. RAMOS, JR., RESPONDENT.**

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

**QUISUMBING, J.:**

Before us is an administrative complaint for grave misconduct, conduct prejudicial to the best interest of the service and giving unwarranted benefits, advantage or preference in the discharge of official functions filed by Antonio Abanil against Abel Francisco B. Ramos, Jr., Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Iriga City.

The antecedent facts of this case are as follows:

On August 3, 1995, complainant, while in the house of Domingo Hosana, Barangay Chairman of Santiago Young, Nabua, Camarines Sur, executed a promissory note to pay Luis Oliva on November 30, 1995, the amount of seventy-nine thousand pesos (P79,000.00) as part of the amicable settlement purportedly agreed upon by the complainant and Oliva. Respondent signed as a witness in the said execution of the promissory note.<sup>[1]</sup>

Early in 1996, Oliva filed before the Municipal Circuit Trial Court (MCTC) of Nabua-Bato, Camarines Sur, an action, docketed as Barangay Case No. 1-96, against complainant for the execution of the amicable settlement. On July 5, 1996, the MCTC issued a writ of execution. Thereafter, respondent, pursuant to the said writ, levied on the jeepney of the complainant and scheduled the same for auction sale on August 5, 1996.

On August 5, 1996, complainant, in his effort to stop the scheduled auction sale, filed a petition for injunction with prayer for preliminary injunction docketed as Civil Case No. IR-2827 with the Regional Trial Court of Iriga City. Executive Judge Reno Gonzales issued a temporary restraining order enjoining respondent from implementing the auction sale of said jeepney.

On the same date, complainant filed with the MCTC a motion to set aside the writ of execution already issued. The MCTC ordered respondent to cease and desist from proceeding with the auction sale.

On August 6, 1996, Oliva, filed an opposition to the motion filed by complainant in Barangay Case No. 1-96 and to the petition for injunction docketed in Civil Case No. IR-2827. The copies of the opposition was received by Atty. Julito Sernal, counsel of the complainant on August 7, 1996.