

EN BANC

[A.M. No. CA-94-7-P, February 08, 1996]

**CLEMENTE SY, COMPLAINANT, VS. JAIME B. YERRO,
RESPONDENT.**

DECISION

PER CURIAM:

On January 7, 1994, an affidavit-complaint was filed by complainant Clemente Sy charging respondent Jaime B. Yerro, an employee of the Court of Appeals, with grave misconduct, usurpation of official function and violation of Civil Service Rules and Regulations.

The complaint arose from the implementation of a third alias writ of execution dated November 22, 1993 issued by the Regional Trial Court, Branch 16, Manila in Civil Case No. 143810, pursuant to a judgment ordering the eviction of tenants at the House International Building at Ongpin Street, Sta. Cruz, Manila. Complainant is a tenant of said building and the President of the House International Tenants Association.^[1]

Complainant alleges that on November 25, 1993, respondent appeared at the House International Building representing himself as a sheriff of the Regional Trial Court that issued the writ of execution. There, he posted notices of the said writ and served copies thereof on the tenants in said building. In the service of the writ, he purportedly kicked the doors of each unit, hurled invectives at the tenants and shouted "Mga putang ina ninyo!" and threatened them with forcible closure of their units.^[2]

On December 2, 1993, the day of actual implementation of the writ, complainant brought along his lawyer, Atty. Victoriano Yabut, to the House International Building. At around noon, they saw Sheriff Abel Sta. Ana of the Regional Trial Court, Branch 16, Manila, and his team implementing the writ of execution. They also saw respondent who, according to them, harassed the tenants of the building, gave orders and acted "like a team leader" overseeing their eviction and the levying on their properties. Recognizing respondent as an employee of the Court of Appeals, Atty. Yabut and complainant approached the sheriff who informed them that respondent introduced himself as a representative of the Manila Towers Development Corporation, the alleged owner of the House International Building and one of the prevailing parties to the case. On instructions of Atty. Yabut, complainant took photographs of respondent.^[3]

When Atty. Yabut confronted him, respondent admitted that he was an employee of The Court of Appeals but that he was on leave from the office that day. Atty. Yabut insisted that he had no business interfering with the implementation of the writ of execution, but respondent claimed he was the representative of the Manila Towers

Development Corporation and was a relative of Atty. Antonino San Juan, counsel for said corporation. Respondent turned his back and continued harassing the tenants that day.

The events that transpired were witnessed by Sheriff Sta. Ana and the members of his team which included Patrolman Manolo Ricafort of the Western Police District, Barangay Captain Aida Magluyan and Barangay Secretary Fermina Valdez.^[4]

On verification with the Court of Appeals, complainant learned that respondent was indeed a regular employee of said court with the position of Records Officer I assigned at the Criminal Cases Section of the Judicial Records Division. Respondent was officially absent on November 25, 1993 and on sick leave from December 2 to 3, 1993.^[5]

In his Comment, respondent denied all allegations and claimed that it was complainant and his lawyer who instead harassed Sheriff Sta. Ana and "created scenes" to forestall the eviction and levy. Respondent alleged that he was at the ninth floor of the building awaiting the arrival of Atty. San Juan with whom he had a previous appointment.

Dominador Tamisen, a former employee of the Court of Appeals, arrived and informed respondent that Atty. San Juan requested him (Tamisen) to witness the implementation of the alias writ of execution. At this time, the eviction started and Tamisen invited respondent to wait for Atty. San Juan at the second floor of the building. Respondent proceeded to the said floor and found the sheriff and his team implementing the writ.^[6] For no apparent reason however, Atty. Yabut approached respondent, berated and verbally abused him and even instructed complainant to take photographs of him (respondent) in the building.

In a Resolution dated January 18, 1995, we referred the complaint to the Clerk of Court of the Court of Appeals for investigation, report and recommendation. The parties and their respective witnesses were heard before the investigating officer who submitted her report on November 16, 1995. The investigating officer found respondent "guilty as charged" and that:

"x x x His conduct was evidently prejudicial to government service, a grave misconduct in violation of Presidential Decree No. 807 and Executive Order No. 292 as well as existing Civil Service rules and regulations.

WHEREFORE, it is hereby recommended that Yerro be suspended for a period of one (1) year, with a warning that a subsequent commission of a similar offense will warrant his dismissal from office."^[7]

We agree with the findings of the investigating officer but hold to dismiss the respondent.

Respondent admits that he was at the House International Building when the alias writ of execution was being posted on November 25, 1993 and implemented on