

THIRD DIVISION

[**A.M. No. P-12-3043 [Formerly OCA I.P.I. No. 08-2953-P], January 15, 2014**]

ATTY. MARCOS R. SUNDIANG, COMPLAINANT, VS. ERLITO DS. BACHO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 124, CALOOCAN CITY, RESPONDENT.

DECISION

PERALTA, J.:

The instant administrative case arose from the complaint filed by Atty. Marcos P. Sundiang,^[1] charging respondent Erlito DS. Bacho, Sheriff IV of the Regional Trial Court of Caloocan City, Branch 124 (*RTC*), with extortion, neglect of duty and violation of Republic Act No. 3019.

The antecedents are as follows:

Plaintiffs spouses Rene Castañeda and Nenita P. Castañeda filed a complaint for *accion publiciana* against defendants Pedro and Rosie Galacan, Vicente Quesada, Pablo Quesada, Antonio and Norma Bagares for allegedly depriving them of the use and possession of a parcel of residential lot registered in their name, located in Camarin, Caloocan City.

After trial, the RTC rendered a Decision^[2] on October 8, 2001 in favor of the plaintiffs. The RTC ruled, among other things, that as owners of the subject property, plaintiffs have a better right over the property as against the defendants. The dispositive portion of the decision reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs and against the defendants and all persons claiming right under them, directing the latter to:

1. Vacate and surrender peaceful possession to the plaintiffs of the subject property, described under Transfer Certificate of Title No. 4844, located at Lot 7, Block 26, Maligaya Park, Barangay 177, Zone 15, Purok 4, Camarin, Caloocan City;
2. Pay the plaintiffs moral damages in the amount of P50,000.00;
3. Pay attorney's fees in the amount of Ten Thousand Pesos (P10,000.00); and
4. Costs of suit.

Defendants' counterclaim is DISMISSED for lack of merit.

SO ORDERED.^[3]

Defendants appealed before the Court of Appeals (CA), which affirmed the Decision of the RTC in its Decision dated August 5, 2003. Defendants then sought recourse before the Supreme Court, but the Court denied the petition in a Resolution dated January 28, 2004. In a Resolution dated March 29, 2004, the Court denied defendants' motion for reconsideration with finality.

On October 20, 2004, a Writ of Execution was issued by the RTC in favor of the plaintiffs. However, since the defendants refused to vacate the premises and remove the structures therein, the writ was not implemented. Hence, plaintiffs filed a motion praying for the issuance of writ of demolition. On November 12, 2004, the RTC issued the Writ of Demolition^[4] prayed for.

Complainant avers that prior to the issuance of the writ of demolition, respondent sheriff demanded One Hundred Fifty Thousand Pesos (P150,000.00) for the implementation of the writ. Consequently, respondent sheriff received the following amounts: Sixty Thousand Pesos (P60,000.00) on November 23, 2004; Fifty Thousand Pesos (P50,000.00) on December 10, 2004; and Forty Thousand Pesos (P40,000.00) on or about August 15, 2005. Despite receipt of the amounts, however, respondent sheriff failed to place the plaintiffs in possession of the subject property because he failed to remove the structures inside and in front of the subject property; hence, ingress and egress to the property was hindered.

On the other hand, respondent sheriff averred that he received the amount of Sixty Thousand Pesos (P60,000.00) from the complainant. However, he denied that he demanded such payment for his personal benefit. He explained that the amount was used to pay for the food and fees of the laborers, who were hired to undertake the demolition of the concrete structures on the subject property and those contracted to provide security for the workers during the demolition. He found it difficult to evict the defendants because the latter employed various means to prevent the implementation of the writ of demolition issued by the RTC. Nevertheless, respondent sheriff claimed that he was able to fully implement the writ and that the subject property was delivered to the possession of the plaintiffs on December 10, 2004, as evidenced by his Sheriff's Return. After the demolition and turn-over, however, some of the defendants and unidentified persons re-entered the subject property and reconstructed their houses thereon. Hence, the RTC found them guilty of indirect contempt and were meted the penalty of fine. Respondent sheriff further contended that the task of removing the shanties erected by the defendants outside the subject property is the function of the local government concerned and no longer the duty of respondent sheriff.

In a Resolution^[5] dated November 23, 2009, the Court referred the case to the Executive Judge of the RTC, Caloocan City, for investigation, report and recommendation. In her Report and Recommendation^[6] dated September 22, 2010, Investigating Judge Thelma Canlas Trinidad-Pe Aguirre recommended that the complaint against respondent sheriff be dismissed for want of evidence. Judge Trinidad-Pe Aguirre's Report was referred to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

In a Memorandum^[7] dated November 10, 2011, the OCA recommended that respondent sheriff be held liable for conduct prejudicial to the best interest of the service, and that he be suspended for a period of one (1) year. The OCA found that respondent disregarded the procedural steps laid down by Section 9 (now Section