

## SECOND DIVISION

[ **A.M. No. P-12-3087 (Formerly A.M. OCA IPI No. 08-2720-P), September 24, 2012** ]

**DIONISIO P. PILOT, PETITIONER, VS. RENATO B. BARON,  
SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 264, PASIG  
CITY, RESPONDENT.**

### R E S O L U T I O N

**PERLAS-BERNABE, J.:**

On October 8, 2007, complainant filed a letter-complaint<sup>[1]</sup> before the Office of the Court Administrator (OCA) of the Supreme Court charging respondent sheriff of grave misconduct<sup>[2]</sup> for his failure/refusal to conduct the auction sale of the levied property pursuant to the Order of Execution issued by the Regional Trial Court (RTC) of Pasig City, Branch 264 in Civil Case No. 66262.<sup>[3]</sup>

Complainant is the judgment obligee in the Decision<sup>[4]</sup> dated February 25, 2006 rendered in the aforementioned case, in the amount of P516,297.50 with legal interest from December 1993, moral and exemplary damages and attorney's fees, each in the amount of P50,000.00, as well as the costs of the suit.

To implement the writ of execution (writ) issued therein and for the payment of publication expenses, respondent sheriff asked and received from complainant the amount of P15,000.00 and thereafter, levied the house and lot of the judgment obligors, Spouses Noel and Gregoria Bambalan (Sps. Bambalan), located in Bo. Rosario, Pasig City and covered by Transfer Certificate of Title No. PT-78872. While the auction sale was scheduled on September 3, 2007, the same did not push through purportedly for lack of publication. Instead, it was reset to September 19, 2007, then to September 25, 2007 and later to October 5, 2007, which were all canceled on account of complainant's failure to heed respondent sheriff's additional demand of the amount of P18,000.00 for publication expenses.

On September 25, 2007, respondent sheriff instructed complainant to proceed to his office to receive the amount of P500,000.00 paid by the daughter of Sps. Bambalan. When the latter ignored the instruction, he offered to deliver the said amount for a sheriff's fee of 2.5% of the amount indicated in the notice of auction sale.<sup>[5]</sup> Moreover, on several occasions, he solicited money from complainant for his cellphone load and transportation expenses in the service of the notice of sale.

Despite directives<sup>[6]</sup> from the Court, respondent sheriff failed to submit his comment to the letter-complaint. A fine of P1,000.00,<sup>[7]</sup> later increased to P2,000.00,<sup>[8]</sup> was imposed upon him which he likewise failed to pay, prompting the Court to declare the case submitted for decision on the basis of the pleadings filed.

<sup>[9]</sup>

The complaint has merit.

Sheriffs play an important role in the administration of justice since they are tasked to execute final judgments of the courts that would otherwise become empty victories for the prevailing party if not enforced.<sup>[10]</sup> The 2002 Revised Manual for Clerks of Court characterizes sheriffs' functions as purely ministerial, to wit:

Sheriffs are ministerial officers. They are agents of the law and not agents of the parties, neither of the creditor nor of the purchaser at a sale conducted by him. It follows, therefore, that the sheriff can make no compromise in an execution sale.

As a ministerial officer, a sheriff is expected to faithfully perform what is incumbent upon him, even in the absence of instruction.<sup>[11]</sup> Thus, he must discharge his duties with due care and utmost diligence. In serving court writs and processes and in implementing court orders, he cannot afford to err without affecting the integrity of his office and the efficient administration of justice.<sup>[12]</sup>

Respondent sheriff, by his omission to file the required comment and to pay the fine imposed by the Court, disregarded the duty of every employee in the judiciary to obey the orders and processes of the Court without delay. The same evinces lack of interest in clearing his name in the face of grave imputations, constituting an implied admission of the charges.<sup>[13]</sup> Nonetheless, the Court evaluated and examined the records of the case and found sufficient basis in complainant's charges.

Records disclose that after levying on the property of the judgment obligors, respondent sheriff issued a notice of auction sale (notice) and accordingly scheduled the sale on September 3, 2007. It was, thus, incumbent upon him to comply with the requirements of Section 15, Rule 39 of the Rules of Court (Rules) prior to the sale, namely, (a) to cause the posting of the notice for 20 days in 3 public places in Pasig City where the sale was to take place; (b) to cause the publication of the notice once a week for two consecutive weeks in a newspaper of general circulation, selected by raffle; (c) to serve a written notice of the sale to the judgment obligors at least three days before the sale. However, notwithstanding receipt from the complainant of the amount of P15,000.00 under an assurance that he would take care of everything, no auction sale was conducted on the scheduled date for lack of the required publication. Worse, he asked anew for publication expenses in a higher amount, and solicited money for his cellphone load, transportation expenses in the service of the notice, as well as sheriff's fee of 2.5% of the minimum bid amount indicated in the notice. Moreover, instead of conducting the auction sale as re-scheduled, he unjustifiably insisted that complainant accept the P500,000.00 paid by the daughter of Sps. Bambalan which is below the amount sought to be recovered under the subject decision. He likewise failed to observe the proper procedural steps laid down in Section 10,<sup>[14]</sup> Rule 141 of the Rules in collecting sums of money from a party-litigant. He should have (a) prepared an estimate of expenses to be incurred; (b) obtained court approval for such estimated expenses; (c) caused the interested party to deposit with the Clerk of Court and Ex