

SECOND DIVISION

[**A.M. No. P-12-3097 (Formerly OCA IPI No. 09-3311-P), November 26, 2012**]

VICSAL DEVELOPMENT CORPORATION, COMPLAINANT, VS. ATTY. JENNIFER H. DELA CRUZ-BUENDIA, IN HER CAPACITY AS EX-OFFICIO SHERIFF OF THE OFFICE OF THE CLERK OF COURT – REGIONAL TRIAL COURT OF MANILA; AND MESSRS. NATHANIEL F. ABAYA, LUIS A. ALINA, LORELEX B. ILAGAN AND MARIO P. VILLANUEVA, IN THEIR CAPACITIES AS SHERIFFS IV OF THE OFFICE OF THE CLERK OF COURT – REGIONAL TRIAL COURT OF MANILA, RESPONDENTS.

D E C I S I O N

BRION, J.:

For consideration is the administrative complaint charging Sheriffs Nathaniel F. Abaya, Luis A. Alina, Lorelex B. Ilagan and Mario P. Villanueva (*respondent sheriffs*), and Clerk of Court Jennifer H. dela Cruz-Buendia (*Atty. Buendia*) (*respondents, collectively*) with grave abuse of discretion/authority in relation to Section 9 and Section 14, Rule 39 of the Rules of Court, and Section 6, Canon IV of the Code of Conduct for Court Personnel.

The present case stems from the decision dated July 14, 2006 of the Construction Industry Arbitration Commission (CIAC) in CIAC Case No. 20-2005, entitled "Dell Equipment & Construction Corp. v. Vicsal Development Corporation." The CIAC issued a writ of execution ordering Atty. Buendia, as Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Manila, to act under the following terms:

You are hereby commanded that, of the goods and chattels of Vicsal Development Corporation, x x x, you cause to be made the amount of **Seventeen Million One Hundred One Thousand Six Hundred Six Pesos and 23/100 (P17,101,606.23)** plus interest of six percent (6%) per annum from the time of promulgation of this award until award becomes final and executory, thereafter a twelve percent (12%) per annum shall be paid by Respondent on any balance remaining until full settlement thereof, together with your lawful fees for the services of this execution, all in Philippine currency. You shall render the foregoing sums to the said Claimant, aside from your own fees on this execution, and that you likewise return this Writ unto this Commission within fifteen (15) days from date of receipt hereof, with your proceedings endorsed thereon. But if sufficient personal property cannot be found whereof to satisfy this execution and lawful fees thereon, then you are commanded that of the lands and buildings of the said Respondent, you make the said sum of money in the manner required by the Rules of Court, and make

return of your proceedings with this Writ within thirty (30) days from receipt hereof.^[1] (*italics and emphasis supplied*)

Vicsal Development Corporation (*complainant*) refused to pay, arguing that the execution was premature. The respondent sheriffs garnished P58,966,013.70 from the complainant's bank deposits in Cebu and in Manila.

On December 9, 2009, Metrobank released a cashier's check for P21,445,714.20 in the name of Dell Equipment & Construction Corporation (DECC) to DECC's counsel. After the satisfaction of the money judgment, the garnishment of the complainant's bank deposits was lifted; the CIAC also lifted the levy made by DECC's counsel on the complainant's real properties.

On February 2, 2010, the respondent sheriffs sent by mail to the CIAC a Sheriff's Return reporting the proceedings they had undertaken.

The Administrative Complaint

The complainant asserts that the respondent sheriffs did not follow the prescribed procedure under Section 9, Rule 39 of the Rules of Court.^[2]

The complainant also asserts that the respondent sheriffs violated Section 14, Rule 39 of the Rules of Court when they omitted to: (1) include the fact of levy of the complainant's real properties in the Sheriff's Return; (2) file the Sheriff's Return within the prescribed period; and (3) serve the parties copies of the Sheriff's Return.

The complainant further argues that the respondent sheriffs failed and/or refused to implement the writ of execution within its terms, in violation of Section 6, Canon IV of the Code of Conduct for Court Personnel.

The Report and Recommendation of the Investigating Judge

In a Minute Resolution dated November 28, 2011, the Court assigned the case for formal investigation to Executive Judge Maximo M. dela Cruz, Jr. (Investigating Judge) of the Regional Trial Court of Manila. During the investigation, the parties presented their respective testimonial and documentary evidence.

After evaluation of the records and the evidence, the Investigating Judge submitted his Report and Recommendation dated July 17, 2012 to the Court, recommending:

- A. The administrative case for grave abuse of discretion/authority and violation of the Code of Conduct for Court Personnel filed against Respondent Atty. Jennifer H. dela Cruz-Buendia, Clerk of Court & Ex-Officio Sheriff, Regional Trial Court of Manila be DISMISSED for lack of merit.
- B. The Respondent Sheriffs Nathaniel Abaya, Luis Alina, Lorelex Ilagan and Mario Villanueva be found GUILTY of SIMPLE NEGLECT OF DUTY and be meted a penalty of FINE equivalent to ONE MONTH salary.^[3]

The Investigating Judge found no evidence that Atty. Buendia abused her authority or neglected to supervise the respondent sheriffs in implementing the writ of execution. The Investigating Judge observed that Atty. Buendia attended to the complainant's concerns despite being on leave of absence; she also required the respondent sheriffs to explain the garnishment of the complainant's bank deposits and the levy on the complainant's real properties.

The Investigating Judge also ruled that the respondent sheriffs did not violate Section 9, Rule 39 of the Rules of Court and Section 6, Canon IV of the Code of Conduct for Court Personnel, and found that the writ of execution was properly implemented.

Nevertheless, the Investigating Judge held the respondent sheriffs liable of violating Section 14, Rule 39 of the Rules of Court. The evidence showed that the respondent sheriffs failed to file the Sheriff's Return within the prescribed period and to furnish a copy thereof to the parties.

The Court's Ruling

Except for the recommended penalty, we find the findings of the Investigating Judge to be well-taken.

We state at the outset that the highest standard of professionalism in the performance of judicial tasks is demanded from every court personnel. The Court expects every court personnel to perform his/her duties promptly, with great care and diligence, having in mind the important role he/she plays in the administration of justice.^[4]

With respect to a sheriff's duty in implementing writs, the case of *Cruz v. Villar*^[5] teaches us that:

"[S]heriffs and deputy sheriffs, being ranking officers of the court and agents of the law, must discharge their duties with great care and diligence. In serving and implementing court writs, as well as processes and orders of the court, they cannot afford to err without affecting adversely the proper dispensation of justice." Sheriffs play an important role in the administration of justice and as agents of the law, high standards are expected of them. They should always hold inviolate and invigorate the tenet that a public office is a public trust. [citations omitted]

The procedure in enforcing a money judgment is found in Section 9, Rule 39 of the Rules of Court:

SEC. 9. Execution of judgments for money, how enforced –

(a) Immediate payment on demand. – The officer shall enforce an execution of a judgment for money by demanding from the judgment

obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. x x x.

x x x x

(b) Satisfaction by levy. – If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

x x x x

(c) Garnishment of debts and credits. – The officer may levy on debts due the judgment obligor and other credits, including bank deposits, financial interests, royalties, commissions and other personal property not capable of manual delivery in the possession or control of third parties. Levy shall be made by serving notice upon the person owing such debts or having in his possession or control such credits to which the judgment obligor is entitled. The garnishment shall cover only such amount as will satisfy the judgment and all lawful fees.

The garnishee shall make a written report to the court within five (5) days from service of the notice of garnishment stating whether or not the judgment obligor has sufficient funds or credits to satisfy the amount of the judgment. If not, the report shall state how much funds or credits the garnishee holds for the judgment obligor. The garnished amount in cash, or certified bank check issued in the name of the judgment obligee, shall be delivered directly to the judgment obligee within ten (10) working days from service of notice on said garnishee requiring such delivery, except the lawful fees which shall be paid directly to the court.

In the event there are two or more garnishees holding deposits or credits sufficient to satisfy the judgment, the judgment obligor, if available, shall have the right to indicate the garnishee or garnishees who shall be required to deliver the amount due; otherwise, the choice shall be made by the judgment obligee.

Under this rule, the duties of a sheriff are: (1) to first make a demand from the obligor for the immediate payment of the full amount stated in the writ of execution and of all lawful fees; (2) to receive payment in the form of cash, certified bank check payable to the obligee, or any other form of payment acceptable to the latter; (3) to levy upon the properties of the obligor, not exempt from execution, if the latter cannot pay all or part of the obligation; (4) give the obligor the opportunity to exercise the option to choose which property may be levied upon; (5) in case the