

FIRST DIVISION

[A.M. No. P-11-2972 (FORMERLY OCA I.P.I. NO. 10-3430-P), September 28, 2011]

YOLANDA LEACHON CORPUZ, COMPLAINANT, VS. SERGIO V. PASCUA, SHERIFF III. MUNICIPAL TRIAL COURT IN CITIES, TRECE MARTIRES CITY, CAVITE. RESPONDENT.

D E C I S I O N

LEONARDO-DE CASTRO, J.:

Before the Court is an administrative case for grave abuse of authority and gross ignorance of the law filed by Yolanda Leachon Corpuz (Yolanda) against Sergio V. Pascua (Pascua), Sheriff III, Municipal Trial Court in Cities (MTCC), Trece Martires City, Cavite.

The facts of the case are as follows:

Upon the complaint of Alicia Panganiban (Panganiban), Criminal Case Nos. 2079 to 2082 for violations of Batas Pambansa Blg. 22 were instituted against Juanito Corpuz (Juanito) before the MTCC. In an Order^[1] dated June 16, 2009, the MTCC approved the Compromise Agreement^[2] dated May 25, 2009 executed between Panganiban and Juanito (in which Juanito promised to pay Panganiban the sum of P330,000.00) and dismissed provisionally Criminal Case Nos. 2079 to 2082. On January 25, 2010, the MTCC allegedly rendered a judgment based on the Compromise Agreement, but there was no copy of said judgment in the records of this case. When Juanito failed to comply with his obligations under the Compromise Agreement, Panganiban filed Motions for Execution dated January 4, 2010 and February 25, 2010 of the MTCC judgment. On March 17, 2010, the MTCC acted favorably on Panganiban's Motions and issued a Writ of Execution addressed to the Sheriff of the MTCC of Trece Martires City, with the following decree:

NOW, THEREFORE, you are hereby commanded to proceed to accused Juanito Corpuz who resides at No. 118 Lallana, Trece Martires City, for him to pay private complainant the amount of Php330,000.00 less the amount of Php50,000.00 allegedly paid for the first installment.

In (sic) 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, you 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 for execution, giving the latter, the option to immediately choose which property may be levied upon, sufficient to satisfy the judgment. If the judgment obligor does not exercise the option, you shall first levy on the personal properties of any

and then on the real properties, if the personal properties are insufficient to answer for the. You shall only (sic) so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees, and make a report to this Court every thirty (30) days on the proceeding taken, until the judgment is satisfied in full, or its effectivity expires.^[3]

On June 2, 2010, Yolanda, Juanito's wife, and her daughter were in her office at the Cavite Provincial Engineering Office of Trece Martires City. At around three o'clock in the afternoon, Sheriff Pascua arrived at Yolanda's office and demanded that Yolanda surrender the Toyota Town Ace Noah with Plate No. 471, which was registered in Yolanda's name, threatening to damage the said vehicle if Yolanda would refuse to do so. Sheriff Pascua tried to forcibly open the vehicle. Yolanda called her brother to ask for help. Yolanda's brother arrived after one hour. Yolanda, with her daughter and brother, went out of the office to face Sheriff Pascua. Deeply embarrassed and humiliated, and to avoid further indignities, Yolanda surrendered the key to the vehicle to Sheriff Pascua, but she did not sign any document which Sheriff Pascua asked her to sign.

Offended, humiliated, and embarrassed, Yolanda was compelled to file the present administrative complaint^[4] against Sheriff Pascua. In addition to the aforementioned incident on June 2, 2010, Yolanda alleged in her complaint that Sheriff Pascua kept possession of the vehicle and even used the same on several occasions for his personal use. Yolanda attached to her complaint pictures to prove that Sheriff Pascua, instead of parking the vehicle within the court premises, in accordance with the concept of *custodia legis*, parked the vehicle in the garage of his own house. Yolanda also claimed that her vehicle was illegally confiscated or levied upon by Sheriff Pascua because the Writ of Execution, which Sheriff Pascua was implementing, was issued against Juanito, Yolanda's husband. Yolanda further pointed out that Sheriff Pascua has not yet posted the notice of sale of personal property, as required by Rule 39, Section 15 of the Rules of Court.

In his Comment,^[5] Sheriff Pascua denied that he threatened and used force in levying upon the vehicle in question, and avowed that he was the one maligned when he served the Writ of Execution at Yolanda's residence on April 21, 2010 and at Yolanda's office on June 2, 2010. Yolanda delivered unsavory remarks in an unconscionable manner, maligning Sheriff Pascua in the presence of other people, during both occasions. When Sheriff Pascua first served the Writ of Execution, Yolanda uttered to him, "*Ipaglalaban ko ng patayan kapag kumuha kayo ng gamit dito, matagal ko ng pag-aari ang mga ito.*"^[6]

Sheriff Pascua averred that after the levy, he politely informed Yolanda that he would temporarily keep the vehicle at his place as there was no safe parking within the court premises. The lower floors of the building where the courts are located are being used as classrooms of the Cavite State University, and the vacant lot thereat serves as parking area for judges, prosecutors, and doctors and staff of the City Health Office. Sheriff Pascua believed that it was not safe to park the vehicle within the City Hall premises because of his personal experience, when the battery of his owner-type jeep, parked in the vicinity, was stolen. Sheriff Pascua already stated in the Sheriff's Return dated June 4, 2010 that he was keeping temporary custody of Yolanda's vehicle. He asserted that he never used the vehicle as he owns

an owner-type jeep, which he uses for serving writs and other court processes, as well as for his family's needs. He likewise contradicted Yolanda's claim that no public auction has been scheduled. In fact, Yolanda already received on July 9, 2010 the Notice to Parties of Sheriff's Public Auction Sale and Notice of Sale of Execution of Personal Property.

Lastly, Sheriff Pascua argued that he only took Yolanda's vehicle after verification from the Land Transportation Office (LTO) that it was registered in Yolanda's name. Yolanda is the wife of Juanito, the accused in Criminal Case Nos. 2079 to 2082, and the vehicle is their conjugal property, which could be levied upon in satisfaction of a Writ of Execution against Juanito.

Yolanda filed a Reply^[7] dated September 17, 2010, belying the averments in Sheriff Pascua's Comment. Yolanda insisted that Sheriff Pascua committed an error in levying upon the vehicle solely registered in her name to satisfy a Writ of Execution issued against her husband and an impropriety in parking the vehicle at his (Sheriff Pascua's) home garage.

In his Rejoinder^[8] dated October 5, 2010, Sheriff Pascua maintained that he acted in accordance with law. It was not his duty as sheriff to show proof that the personal property he was levying upon to execute the civil aspect of the judgment was conjugal; rather, the burden fell upon Yolanda to prove that the said property was paraphernal. Sheriff Pascua further reiterated that he never used Yolanda's vehicle for his needs. The pictures submitted by Yolanda only showed that the vehicle was parked at his home garage. No picture or evidence was presented to prove that he used the vehicle. Sheriff Pascua lastly averred that he had no intention of delaying the public auction of the vehicle and was merely following the proper procedure for the reasonable appraisal of the same. He had already filed a Notice of Attachment/Levy upon Personal Property with the Register of Deeds of Trece Martires City, requested certified true copies or photocopies of the Official Receipt and Certificate of Registration of the vehicle to be used for the auction sale, and gave notice of the auction sale to Yolanda six days prior to the scheduled sale. He also gave Yolanda the opportunity to file a Third-Party Claim or proof that the vehicle was her paraphernal property, but Yolanda failed to file anything until the day of the auction sale.

On November 17, 2010, the Office of the Court Administrator (OCA) submitted its report,^[9] with the following recommendation:

RECOMMENDATION: Respectfully submitted for consideration of the Honorable Court our recommendation that:

1. The instant administrative complaint be RE-DOCKETED as a regular administrative matter;
2. Sergio V. Pascua, Sheriff III, Municipal Trial Court in Cities, Trece Martires City, Cavite, be REPRIMANDED for impropriety in taking the vehicle and parking the same at his garage; and

3. Sergio V. Pascua, be SUSPENDED for a period of one (1) month and one (1) day for Simple Neglect of Duty, with a stern warning that a repetition of the same or similar act shall be dealt with more severely.^[10]

In a Resolution^[11] dated February 9, 2011, we required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.

Sheriff Pascua^[12] and Yolanda^[13] submitted their Manifestations dated April 11, 2011 and April 12, 2011, respectively, stating that they were submitting the case for resolution based on the pleadings filed.

Resultantly, the case was already submitted for resolution.

After a thorough review of the records, the Court finds that Sheriff Pascua, in levying upon Yolanda's vehicle even though the judgment and writ he was implementing were against Juanito, then parking the same vehicle at his home garage, is guilty of simple misconduct.

A sheriff performs a sensitive role in the dispensation of justice. He is duty-bound to know the basic rules in the implementation of a writ of execution and be vigilant in the exercise of that authority.^[14]

Sheriffs have the ministerial duty to implement writs of execution promptly. Their unreasonable failure or neglect to perform such function constitutes inefficiency and gross neglect of duty. When writs are placed in the hands of sheriffs, it is their ministerial duty to proceed with reasonable speed and promptness to execute such writs in accordance with their mandate.^[15]

At the same time, sheriffs are bound to discharge their duties with prudence, caution, and attention which careful men usually exercise in the management of their affairs. Sheriffs, as officers of the court upon whom the execution of a final judgment depends, must be circumspect and proper in their behavior.^[16]

In the instant case, Sheriff Pascua failed to live up to the standards of conduct for his position.

Despite the undisputed facts that the MTCC Judgment and Writ of Execution in Criminal Case Nos. 2079 to 2082 were against Juanito only, and the Toyota Town Ace Noah with Plate No. 471 was registered in Yolanda's name solely, Sheriff Pascua proceeded to levy upon the vehicle, invoking the presumption that it was conjugal property.

The power of the court in executing judgments extends only to properties unquestionably belonging to the judgment debtor alone.^[17] An execution can be issued only against a party and not against one who did not have his day in court. The duty of the sheriff is to levy the property of the judgment debtor not that of a third person. For, as the saying goes, one man's goods shall not be sold for another