

SECOND DIVISION

[A.M. No. P-07-2383, December 15, 2010]

CRISPIN SARMIENTO, COMPLAINANT, VS. LUISITO P. MENDIOLA, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 20, MANILA, RESPONDENT.

DECISION

CARPIO, J.:

The Case

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.

The Facts

Crispin Sarmiento (Crispin) was charged with eight counts of violation of Batas Pambansa Blg. 22 before the Metropolitan Trial Court of Manila, Branch 20 (MeTC-Br. 20), docketed as Criminal Case Nos. 345095-102-CR . On 22 September 2003, he was acquitted of the charges for failure of the prosecution to prove his guilt.^[1] However, upon the prosecution's manifestation and motion that the decision did not mention any civil liability that was impliedly instituted in the criminal action, the trial court amended its decision on 3 February 2004 ordering Crispin to pay the private complainants, spouses Daniel and Blesilda Inciong (spouses Inciong), the amount of P295,000 as actual damages plus legal interest of 12% per annum to be reckoned from the filing of the case.^[2] After the decision became final and executory, the spouses Inciong filed a motion for writ of execution which motion was granted in the Order dated 18 April 2006.^[3] A writ of execution was issued on 8 August 2006.^[4]

On 24 August 2007, Crispin filed a Verified Complaint against respondent Luisito P. Mendiola (respondent), Sheriff III of the MeTC-Br. 20, charging the latter with Grave Misconduct, Manifest Partiality, Abuse of Authority, Oppression, Usurpation and Violation of Section 3(e) of Republic Act No. 3019 (RA 3019), otherwise known as the Anti-Graft and Corrupt Practices Act. Crispin alleged that on 12 February 2007, respondent and his companion, Claro Bacolod, a policeman employed in the Warrant Section of the Manila Police Department, forcibly took the Mercedes Benz of his brother, Tirso Sarmiento (Tirso), without presenting any writ of execution from the court. Crispin allegedly explained to them that he is not the owner of the vehicle but a mere caretaker. He showed to them the Deed of Sale of the subject vehicle executed on 24 January 2007 between the seller, Efren Panganiban (Efren), and the buyer, Tirso. He asserted that respondent's levy of the subject vehicle was illegal since a sheriff is not authorized to attach property not belonging to the judgment debtor.

In his Comment, respondent denied the charges. He alleged that he showed to Crispin the copy of the Order dated 18 April 2006 granting the issuance of the writ of execution and a Notice of Levy Upon Personal Property but Crispin refused to acknowledge these documents. Respondent further averred that he went to the house of Efren, the alleged seller, prior to the implementation of the writ of execution and he was assured by the latter's son that the car was already sold to Crispin about two or three years ago. Respondent contended that if Tirso was indeed the owner, then he should have been the one to have filed the instant administrative case. Respondent pointed out that he was not remiss in his duties as a court personnel and did not violate RA 3019 because he acted in good faith during the implementation of the writ of execution.

OCA Report and Recommendation

The Office of the Court Administrator (OCA) found respondent guilty of Simple Misconduct. An examination of the records would show that respondent levied upon the subject vehicle despite the fact that its ownership belonged to Crispin's brother as evidenced by the Deed of Sale executed on 24 January 2007, a month before the implementation of the writ of execution on 12 February 2007. Respondent failed to present evidence to bolster his claim that the subject vehicle was sold to Crispin.

The OCA opined that the court, in issuing a writ of execution, may enforce its authority only on the properties of the judgment debtor and the respondent must only subject to execution property belonging to the judgment debtor. If he levies on the properties of third persons in which the judgment debtor has no interest, he is acting beyond the limits of his authority. Thus, as found by the OCA, respondent's transgression constitutes simple misconduct which is classified as a less grave offense under Section 52, B(2), Rule IV of the Revised Uniform Rules on Administrative Cases where the penalty is suspension of one month and one day to six months, for the first offense and, dismissal from the service, for the second offense. Since this is respondent's first offense, the OCA recommended that respondent be fined P10,000.

The Court's Ruling

As admitted by respondent in his Comment, he levied a 1984 model Mercedes Benz with plate number PKY 703 but Crispin refused to hand the key of the car thus prompting him to engage the services of a wrecker to tow and bring the car to the court compound. He claims he acted in good faith and only performed his official duty in implementing the writ of execution.

We do not agree.

Sheriff Clavier M. Cachombo, Jr. (Clavier) was the one who first implemented the writ of execution on the same Mercedes Benz with plate number PKY 703. Apparently, respondent failed to read thoroughly the Sheriff's Partial Return dated 15 September 2006^[5] which was annexed in his Comment. It was stated therein that "upon verification with the Land Transportation Office, it was found out that the said motor vehicle was registered under the name of Efren Panganiban since June 2002 and until March 31, 2006 in San Juan, Metro Manila and was never registered under the name of the defendant." Thus, the service of the writ of execution was temporarily held in abeyance until such time that any property of the defendant,