

THIRD DIVISION

[A.M. No. P-09-2644 (Formerly OCA IPI No. 08-2787-P), June 30, 2009]

EDGARDO A. QUILO, COMPLAINANT, VS. ROGELIO G. JUNDARINO, SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH 19, MANILA, RESPONDENT.

DECISION

CHICO-NAZARIO, J.:

Before this Court is an administrative Complaint^[1] for Grave Misconduct, Oppression, Coercion, and Harassment, filed by Edgardo A. Quilo (Quilo) against respondent Rogelio G. Jundarino (Sheriff Jundarino), Sheriff III of the Metropolitan Trial Court (MeTC) of Manila, Branch 18.

Teodula Bajao (Bajao) filed an Unlawful Detainer Case against Eduardo Saclag, Zoilo Fulong, Alena Bertos and Talia Saclag (Saclag, *et al.*), before the MeTC, docketed as Civil Case No. 158273-CV.

On 20 November 1998, the MeTC rendered a Decision in Bajao's favor, ordering Saclag, *et al.*:

1. to vacate the premises and surrender possession thereof peacefully to the plaintiff [Bajao];
2. to demolish any structure built on the said property;
3. to pay attorney's fees in the amount of P20,000.00; and
4. pay the costs of suit.^[2]

Saclag, *et al.*, appealed to the Regional Trial Court (RTC) of Manila, Branch 19. In its Decision dated 13 September 1999, the RTC affirmed with modification the MeTC Decision dated 20 November 1998, thus:

WHEREFORE, the appealed judgment is hereby AFFIRMED but MODIFIED to read, thus:

WHEREFORE, Judgment is hereby rendered in favor of [Bajao] ordering [Saclag, *et al.*] and all persons claiming rights under them:

- a) to vacate the premises located at **2519 Granate St., Sta. Ana, Manila** and surrender possession thereof to [Bajao];

- b) to demolish all structures built on the parcel of land;
- c) to pay [Bajao] the sum of P20,000.00 for attorney's fees; and
- d) to pay the cost of suit.

[Saclag, *et al.*'s] counterclaim is denied for lack of merit.^[3] (Emphasis ours.)

Once again, Saclag, *et al.* sought relief from the Court of Appeals by filing an appeal, docketed as CA-G.R. SP No. 55448. In a Resolution dated 26 November 1999, the Court of Appeals denied the appeal of Saclag, *et al.*, for having been filed out of time.

The Court of Appeals similarly denied the Motion for Reconsideration of Saclag, *et al.*, in its Resolution dated 13 July 1998.

Refusing to give up, Saclag, *et al.*, filed an appeal before this Court, docketed as G.R. No. 142592. However, this Court denied the appeal in a Resolution dated 14 June 2000, for failure of Saclag, *et al.*, to show that any reversible error had been committed by the Court of Appeals.

The 14 June 2000 Resolution of this Court, denying the appeal of Saclag, *et al.*, in G.R. No. 142592, became final and executory on 28 July 2000, and was accordingly recorded in the Book of Entries of Judgments.

Upon Bajao's motion, a Writ of Execution was issued by MeTC Judge Felicitas O. Laron-Cacanindin (Judge Cacanindin) on 28 November 2007. The writ commanded the MeTC Sheriff:

1. to cause the immediate surrender of the physical possession of the subject premises located at **2519 Granate St., Sta. Ana**, Manila by the defendants [Saclag, *et al.*] and all persons claiming rights under them and turn-over the peaceful possession of the same to the plaintiff [Bajao];
2. to demolish all structures built on the parcel of land subject thereon;
3. that of the goods and chattels of the defendants [Saclag, *et al.*], you cause to be made the sum of P20,000.00 for and as attorney's fees;
4. plus costs, together with your lawful fees for the service of this execution and that you render the same to the plaintiff [Bajao] aside from your own fees on this execution.^[4] (Emphasis ours.)

It was in implementing the aforementioned Writ of Execution in Civil Case No. 158273-CV that Sheriff Jundarino's path crossed Quilo's.

On 9 April 2008, Quilo filed a Complaint before the Office of the Court Administrator (OCA) charging Sheriff Jundarino with Grave Misconduct, Oppression, Coercion, and Harassment, docketed as A.M. No. MTJ-08-2787. Quilo made the following allegations in his Complaint:

1. *Na noong ika-12 ng Pebrero 2008, sa pagitan ng alas-10:00 at alas 11:00 ng umaga ang nabanggit na si Sheriff Rogelio Jundarino kasama ang isang pang Sheriff ng MeTC Branch 19 na hindi nagpakilala ay nagtungo sa aming tirahan sa 2518 Granate St., San Andres Bukid, Maynila dala ang nilagdaan niyang Notice To Pay/Vacate and Demolish Pr[e]mises na may lakip (attachment) na Writ of Execution na may lagda naman ni MeTC Presiding Judge Felicitas O. Laron-Cacanindin (dito ay nakalakip bilang Annexes "A" at "A-1");*
2. *Na dahil sa wala naman akong nalalaman na may nagdemanda laban sa akin at hindi naman sa akin nakapangalan ang nasabing Notice/Writ, maliban pa sa hindi rin sa akin naka-address (2519 Granate St., San Andres, Manila) ito, kung kaya tinanggihan ko itong tanggapin mula kay Sheriff Rogelio Jundarino. Subalit pilit pa rin niya itong ibinibigay sa akin, at nang mabatid ni Sheriff na hindi ko talaga ito kukunin ay iniwan nya na lamang ito sa semento sa harapan ng aking bahay at sabay ng pasigaw na pagsasabi ni sheriff sa akin na "ikaw ang una kong tatrabahuin at ipapademolis sa sandaling magmatigas pa kayo sa pagbabalik ko!" Na narinig mismo ng aking asawang si Zenaida Quilo at ilan pang mga kapitbahay na naroon ng oras na iyon.*
3. *Na dahil sa pangyayaring iyon, ako at ang aking asawa na si Zenaida Quilo ay halos hindi na makatulog at makakain dahil sa pag-aalala na baka nga gibain ang aming tirahan at wala na kaming masisilungan.*
4. *Na noong ika-3 ng Marso 2008, ako at ang isang kapitbahay na si Ednaloy Villahermosa ay kumausap sa isang kaibigan na siya namang tumulong sa amin upang maikonsulta nga ang nasabing pangyayari sa isang abogado na nagresulta sa pagsasagawa ng isang Mosyon upang mapigilan nga ang binabalak na pagdedemolis sa aming tirahan.*
5. *Noong ika-5 ng Marso 2008, ako at si Ednaloy Villahermosa (isa ring actual occupant) sa nasabing lupain na may katulad kong address ay pormal na ngang lumagda at nagsumite ng Motion To Quash Writ of Execution And Recall of the Notice to Pay/Vacate And Demolish Premises (dito ay inilakip bilang Annex "B") sa MeTC Branch 19, Manila upang maipatigil ang bantang demolisyon sa aming lugar. Ang nasabing Mosyon ay may nakatakdang petsa ang pagdinig sa Marso 28, 2007;*
6. *Na habang ako ay nasa Davao noong ika-27 ng Marso 2008, sa pagitan ng alas 2:00 at 2:30 ng hapon, si Sheriff Rogelio Jundarino*

ay muling nagtungo at sapilitang pumasok sa loob ng aming bahay sa 2518 Granate St., San Andres Bukid, Maynila kasama ang nagpakilalang Plaintiff na si Teodula Bajao, dalawang (2) kamag-anak nito (isang apo at isang anak). Samantalang napansin naman ng aking mga kapitbahay na sa harapan ng aming lugar ang humigit-kumulang ay mga labinlimang (15) kalalakihan na pawang may mga dalang kagamitan/instrumento na pandemolis ng bahay (na kasama ngang dumating ni Sheriff Rogelio Jundarino ng oras ding iyon), at isang lalaki na mukhang abogado na hindi naman nagpakilala.

7. Na ayon pa sa aking asawang si Zenaida Quilo, habang nasa loob na ng aming bahay ang apat (4) na sina Sheriff Rogelio Jundarino, Teodula Bajao, apo at anak ni Teodula Bajao, ay pilit na ngang inutusan ni Sheriff Rogelio Jundarino ang aking asawa na simulan ng gibain ang aming bahay at ilabas ang lahat ng aming kagamitan sa loob ng bahay dahil nga sa nakatakda na raw niyang (Sheriff Rogelio Jundarino) ipademolis ito sa araw ding iyon, at ayon pa kay Sheriff Jundarino, siya ay binibigyan lamang ng pitumpu't dalawang oras (72) upang maipatupad ang kautusang ng korte na idemolis ang aming kabahayan.
8. Na sa kabila ng kawalan ng Special Order of Demolition (na isang rekisitos sa kasong Ejectment bago magsagawa ng Demolisyon) at pakiusap ng aking asawa at iba pang naninirahan sa lugar na iyon na mayroon pang nakabinbing "Motion to Quash Writ of Execution...na diringgin kinabukasan Marso 28, 2008," si Sheriff Jundarino ay nagmatigas at ipinakita sa lahat ng naroon na determinado niyang ipatutupad ang Writ of Execution at nagbanta pa si Sheriff Jundarino na kukumpiskahin ang aming kagamitan gaya ng TV set at Refrigerator. At sinabi rin ni Sheriff na tanging Temporary Restraining Order lamang ang makakapigil sa kanyang huwag ipatupad ang demolisyon o kaya'y gumawa na lamang ng isang kasulatan na nagsasaad na kusang loob na aalis at gigibain ng mga naninirahan dito ang mga kabahayan.
9. Na dahil sa naramdamang takot mula sa nakaambang demolisyon at pagbabanta ng pagkumpiska ng aming mga kagamitan mula kay Sheriff Rogelio Jundarino ng araw na iyon, at sa patuloy na pamimilit ni Sheriff Jundarino na sumulat na lamang sa isang papel na nagsasaad na humihingi nga kami ng palugit na araw sa Plaintiff, kung kaya't ang aking asawa ay gumawa nga ng kasulatan na nagsasabing humihingi ng hanggang Abril 10 na palugit upang boluntaryong idemolis ang aming istruktura.
10. Na ang nasabing kasulatang iyon ay nilagdaan ng aking asawa ng labag sa kanyang kalooban.
11. Na ang nasabing kasulatan iyon ay kinuha rin ni Sheriff Rogelio Jundarino at hindi binigyan ng kahit isang kopya ang lahat ng lumagda sa kasulatang nabanggit dahil tanging siya lang daw dapat ang may hawak nito upang patunayan niya (Sheriff Rogelio

Jundarino) na mayroon na ngang napagkasunduan na boluntaryo naming lilisanin ang lugar na kinatitirikan ng aming mga bahay sa araw o bago dumating ang Abril 10.

12. *Na ako ay nagsumite din sa kagagalang-galang na korte (MeTC Branch 19) ng aking sinumpaang salaysay (Affidavit) upang suportahan ang nauna ko ng ipinahayag sa aming Motion to Quash Writ of Execution And Recall Of The Notice To Pay/Vacate And Demolish Premises (dito ay nakalakip bilang Annex "C").*^[5]

Quilo requested in his Complaint that an investigation of the incidents of 12 February 2008 and 27 March 2008 be conducted and that Sheriff Jundarino be meted the appropriate administrative penalty.

The OCA, thru then Court Administrator Zenaida Elepaño, required^[6] Sheriff Jundarino to comment on Quilo's Complaint within 10 days.

In his Comment,^[7] Sheriff Jundarino denied having gone to Quilo's house on 12 February 2008, but admitted to going there on 27 March 2008, together with the MeTC process server, Bajao, and Bajao's relatives, for the sole purpose of serving the Notice to Pay/Vacate and Demolish Premises. Quilo refused to accept the said Notice.

Sheriff Jundarino likewise averred that there was no truth to Quilo's allegation that Sheriff Jundarino and his companions forcibly entered the premises. On the contrary, Sheriff Jundarino went inside the premises with the prior permission and authority of the residents thereof. He was very civil with the residents and even advised them to consult a lawyer. Moreover, it was because of the request/plea for an extension made by Quilo's wife that the execution of the judgment in Civil Case No. 158273-CV was temporarily suspended. Sheriff Jundarino acceded to the extension when the residents signified their willingness to voluntarily vacate the premises before 10 April 2008.

Sheriff Jundarino further denied that he uttered, "*ikaw ang una kong tatrabahuin x x x*" and that he was only given 72 hours within which to implement the writ of the court. Sheriff Jundarino maintained that these statements attributed to him were fabricated. Sheriff Jundarino also argued that if indeed the claims of Quilo and his neighbor Ednaloy Villahermosa (Villahermosa) - that they were not parties to Civil Case No. 158273-CV and that they were residing at an address different from the subject of said civil case - were true, then what were they afraid of and why did they seek the quashal of the writ of execution? There was no clear reason why Quilo and Villahermosa needed to ask for the quashal of the writ, which would only delay the implementation thereof.

Sheriff Jundarino asserted that Quilo was blatantly lying when the latter denied any knowledge of Civil Case No. 158273-CV. Sheriff Jundarino attempted to establish that Quilo was claiming rights under one of the defendants in Civil Case No. 158273-CV, namely, Talia Saclag. Sheriff Jundarino pointed out that Quilo admitted in his Affidavit, executed on 8 April 2008, that he was renting the premises from one Domeriano Gealogo, somehow related to Cristina F. Gealogo, who was the sister of