

## THIRD DIVISION

**[ A.M. No. MTJ-07-1680 (Formerly OCA I.P.I. No. 07-1876-MTJ), November 28, 2008 ]**

**KATIPUNAN NG TINIG SA ADHIKAIN, INC. (KATIHAN) BY  
GODOFREDO S. BONGON, COMPLAINANT, VS. JUDGE LUIS  
ZENON O. MACEREN, SHERIFF ANTOLIN ORTEGA CUIZON,  
METROPOLITAN TRIAL COURT, BRANCH 39, QUEZON CITY,  
RESPONDENTS.**

### RESOLUTION

**NACHURA, J.:**

Before us is respondent Sheriff Antolin Ortega Cuizon's motion for reconsideration of the Decision of the Court dated August 17, 2007, suspending him for a period of three (3) months without pay with a warning that a commission of the same or similar acts will be dealt with more severely.

The antecedents:

Complainants were among the unlawful occupants of the parcels of land owned by Carmen Lopez, which were subsequently sold to Efrain Limsui (Limsui). On September 14, 2005, Limsui filed a case for ejectment and damages against the informal settlers of the property before the Metropolitan Trial Court (MeTC) of Manila, Branch 39, Quezon City. The case was entitled "*Efrain Limsui, represented by his Attorney-in-fact, Apolonio Magno v. Damayang Magkakapitbahay ng 81 Linaw Street, Inc. and B.I.G.K.I.S. Neighborhood Association, and their members and all persons claiming rights under them.*" Complainants' group was not impleaded as respondent in the complaint.

On September 19, 2005, summonses were served on the defendant associations. However, no answer was filed by them. On September 26, 2005, a Compromise Agreement was executed and presented to the MeTC. On November 2, 2005, the MeTC rendered a Decision based on the compromise agreement. Under the agreement, defendant associations consented to vacate the property voluntarily and remove the structures that they erected on the land, in exchange for the financial assistance that Limsui would give them.

On October 21, 2005, complainants filed a Verified Manifestation and Motion before the MeTC, stating that they were also residents of the land and that they were in danger of being evicted without due process of law. Respondent judge merely noted the verified manifestation and motion since complainants were not parties to the case.

On November 23, 2005, the MeTC issued an Order granting the issuance of the writ of execution for the enforcement of the Decision dated November 2, 2005. On

November 30, 2005, a Writ of Execution was issued by the MeTC. On the same day, respondent sheriff issued a notice to vacate the property. On June 28, 2006, respondent sheriff, without authority from the MeTC, issued a final notice of demolition. On July 7, 2006, he submitted the Sheriff's Report to the MeTC, that is, after almost eight months from the issuance of the writ of execution.

Complainants filed the present administrative complaint against respondents. They contend that due to the writ of demolition issued by respondent judge, they were ejected from the property without due process of law. They aver that they should not be affected by the decision rendered by respondent judge because they are not parties to the case before the MeTC. They filed the administrative case against respondent sheriff because he issued a notice of demolition without order or authority from the MeTC.

On August 17, 2007, the Court issued the assailed Decision, the *fallo* of which reads:

**WHEREFORE**, in view of the foregoing, the administrative complaint against Judge Luis Zenon O. Maceren is **DISMISSED** for lack of merit. Sheriff Antolin Ortega Cuizon is **SUSPENDED** for a period of three (3) months without pay, with a **WARNING** that the commission of the same or similar acts shall be dealt with more severely.

**SO ORDERED.**

Respondent judge was exonerated from administrative liability because there was no concrete evidence that he acquiesced to, or participated in, respondent sheriff's act of directing the demolition of complainants' structures on the subject property without authority from the court. On the other hand, respondent sheriff was held administratively liable for exceeding his authority in issuing a final notice of demolition without any order from the MeTC and for belatedly filing the sheriff's report.

On September 26, 2007, respondent sheriff filed a Motion for Reconsideration, insisting that he committed no infraction in issuing a notice of demolition without authority from the MeTC and for not filing the sheriff's report within the time mandated by the Rules of Court. He argued that he could not be held administratively liable for ordering the demolition of the structures because the parties themselves had agreed to the demolition under the compromise agreement. Likewise, he maintained that he could not be held liable for failure to make periodic reports on the progress of execution since in the Sheriff's Report dated July 7, 2006, he stated that on July 3, 2006, Limsui's counsel informed him that defendant associations agreed that they would voluntarily remove their structures on July 4, 2006.

We are not persuaded.

Granting that the demolition of the structures erected on the property was sanctioned by the decision based on the compromise agreement, an outright removal of the same is not allowed by the Rules of Court, Section 10(d), Rule 39 of which provides: