

## SECOND DIVISION

**[ A.M. NO. P-04-1832 (FORMERLY OCA IPI NO. 03-1572-P), February 23, 2005 ]**

**EMELITA F. GADIL, COMPLAINANT, VS. RONALD C. CORDOVA,  
SHERIFF IV, RESPONDENT.**

### DECISION

**PUNO, J.:**

Before us is an administrative complaint filed by complainant Emelita F. Gadil against Sheriff Ronald C. Cordova<sup>[1]</sup> accusing the latter of grave misconduct and abuse of authority.

The facts are as follows:

On February 8, 1996, complainant purchased Unit 9 of Trinar Townhouse<sup>[2]</sup> on installment from Trinidad dela Cruz, President of Trinar Development Corporation.<sup>[3]</sup> The complainant and her family occupied the unit in the same year.<sup>[4]</sup>

In January 2003, the complainant was informed that a Writ of Possession and Notice to Vacate were served by the respondent on the other unit owners of Trinar Townhouse.<sup>[5]</sup> The writ was issued by the Regional Trial Court of Las Piñas City<sup>[6]</sup> in LRC Case No. LP-02-0065 entitled "In Re: Ex-Parte Petition for Issuance of a Writ of Possession Under Act No. 3135, As Amended By Act No. 4118, Trinar Development (Spouses Deogracias Aranda and Perpetua Aranda), Union Bank of the Philippines, Petitioner."<sup>[7]</sup> Complainant subsequently learned that the unit she purchased was one of the townhouses sought to be recovered by Union Bank from Spouses Deogracias and Perpetua Aranda. On January 23, 2003, the complainant sent a letter to the respondent through her lawyer to inform him that: 1) the Writ of Possession and Notice to Vacate which were addressed to spouses Deogracias and Perpetua Aranda were not binding on the Complainant as she was not a party to the transaction between the spouses Aranda and Union Bank; 2) the Complainant did not derive ownership over Unit 9 of Trinar Townhouse from the spouses Aranda; and 3) there is a pending case filed at the Housing and Land Use Regulatory Board (HLURB) by the unit owners against Union Bank.<sup>[8]</sup>

Despite the complainant's letter, respondent visited the complainant's residence at 5:00 p.m. on January 24, 2003 together with Union Bank's representative Reynaldo Lardizabal, security guards, a barangay official and some armed men.<sup>[9]</sup> After reaching the residence, the respondent ordered the complainant to vacate and surrender possession of the townhouse unit.<sup>[10]</sup>

The complainant informed respondent that she had already paid for the unit and pleaded for mercy since she and one of her children were suffering from fever. She

requested that she be given sufficient time to verify why she was being ousted from her home. Respondent agreed to leave her after the complainant signed a paper stating that she was to vacate the townhouse on January 27, 2003.<sup>[11]</sup>

Thereafter, complainant filed a motion to issue a cease and desist order with the HLURB.<sup>[12]</sup> She also sent a letter to respondent requesting for the deferment of their eviction. Despite this, the respondent proceeded with the eviction and padlocked her house on January 27, 2003. A cease and desist order was issued by the HLURB on January 31, 2003.<sup>[13]</sup>

On January 31, 2003, complainant filed with the Las Piñas Regional Trial Court an Opposition to an *ex-parte* Motion (For Issuance of a Break-Open Order) with a supplemental motion to quash the writ of possession issued by it.<sup>[14]</sup> On February 3, 2003, the Regional Trial Court of Las Piñas City, acting on complainant's Opposition, declared the writ of possession it issued as unenforceable against complainant.<sup>[15]</sup> The court observed that the complainant was a third person in actual possession of the foreclosed property and not in privity with Trinar Development Corporation and spouses Aranda.<sup>[16]</sup> The court concluded that the complainant could not be ejected from the property by means of an *ex-parte* writ of possession as this would violate her right to due process.<sup>[17]</sup> The complainant then filed the present administrative complaint with the Office of the Court Administrator on February 19, 2003.<sup>[18]</sup> After investigation, the Court Administrator recommended that the respondent be penalized with a fine of P10,000.00 for simple misconduct, with a warning that repetition of the same or commission of a similar offense would be dealt with more severely.<sup>[19]</sup>

We agree with the Court Administrator's recommendation.

While the respondent correctly asserts that it is his ministerial duty to act on a writ of execution,<sup>[20]</sup> this duty has its limitations. As ruled in **Casano v. Magat**,<sup>[21]</sup> a sheriff ought to know what is inherently right and inherently wrong. In that case, the judgment debtor's lawyer informed the sheriff that the mortgage contract omitted to contain a stipulation authorizing the judgment creditor to extrajudicially foreclose the property. Despite the complainant's protestations, the sheriff proceeded with the extrajudicial foreclosure sale. The Court determined that the sheriff was administratively liable and pointed out that, though the issue may have been too technical for the sheriff to decide on the spot, it would have been prudent for him to have brought the protest to the attention of the court concerned.<sup>[22]</sup> We likewise declare that the respondent's carrying out the writ of execution despite the complainant's assertions without bringing the matter to the attention of the issuing judge constitutes simple misconduct. Indeed, the respondent forgets that he must not only act with promptness in implementing a writ of execution but must also perform this duty with the prudence, caution and attention that careful men usually exercise in the management of their affairs.<sup>[23]</sup>

**IN VIEW WHEREOF**, respondent Ronald C. Cordova is found **GUILTY** of simple misconduct and is hereby **ORDERED** to pay a fine of P10,000.00, with a **WARNING** that commission of the same or similar act in the future will be dealt with more severely.