

## FIRST DIVISION

[ **A.M. No. P-01-1476 (Formerly OCA IPI No. 99-746-P), January 16, 2003** ]

**EMMA A. ALBELLO, COMPLAINANT, VS. JOSE O. GALVEZ,  
SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, BRANCH 2,  
LEGAZPI CITY, RESPONDENT.**

### DECISION

**VITUG, J.:**

Before the Court is a verified complaint filed by Emma Albello against Sheriff Jose Galvez of the Municipal Trial Court in Cities, Branch 2, of Legazpi City charging him with misrepresentation and dishonesty.

The complaint originated from Civil Case No. 3941, entitled "Bienvenida Atun-Banzuela, et al. vs. Rommel Albello," for forcible entry. The case involved a parcel of land situated in the municipality of Albay, Legazpi, covered by Transfer Certificate of Title No. 47499. On 23 October 1992, the trial court, Judge Raymund Jacob presiding, rendered its decision in favor of the plaintiffs Bienvenida Atun-Banzuela, et al.; the court adjudged:

"IN THE LIGHT OF THE FOREGOING, judgment is hereby rendered in favor of the plaintiffs:

"1. ordering the defendant Rommel Albello to discontinue constructing his house in the land in question and to vacate said premises;

"2. ordering the defendant to pay plaintiffs reasonable rentals at the rate of P50.00 a month from November 12, 1991 until he actually vacates the premises;

"3. ordering the defendant to pay plaintiffs P1,500.00 for attorney's fees and to pay the costs."<sup>[1]</sup>

Upon finality of the decision, a writ of execution was issued by the trial court for implementation by respondent sheriff. Respondent, in his sheriff's return, reported to the court that defendant Albello had already vacated the premises. A motion for demolition was later filed by the plaintiffs reiterating their plea that the defendant be directed to vacate the premises. This motion was subsequently withdrawn when the parties agreed to instead await the outcome of Civil Case No. 8804, entitled "Wilfredo A. Albello, et al. vs. Bienvenida Atun-Banzuela," for quieting of title concerning the same property. The trial court, in its order of 13 July 1994, confirmed thusly:

"In today's hearing of the Motion for Demolition filed by plaintiffs, through counsel, the parties and counsels agreed that there should be two sets of padlocks and two sets of keys which would be used in padlocking the main door of the residential house in question. One padlock, together with its key, should be in the possession of the Sheriff, while the other padlock, with its key, (would be) in possession of the plaintiffs.

"The defendant is advised by the court not to enter the premises until otherwise ordered. For humanitarian consideration and in the interest of justice, the plaintiffs are hereby withdrawing their motion for demolition pending the outcome of the quieting of title case involving the same parties before the Regional Trial Court.

"Mr. Jose Galvez, Deputy Sheriff, is hereby directed to repair to the premises in question and cause the padlocking of said main door and turn-over one padlock and its key to the plaintiffs while the other padlock and its key should be retained by said sheriff."<sup>[2]</sup>

On 15 October 1999, herein complainant, Emma Albello, wife of defendant Rommel Albello, filed a complaint before the Office of the Deputy Ombudsman, asseverating that respondent sheriff demanded and received from complainant's mother-in-law the amount of three thousand pesos (P3,000.00). The money was supposedly paid to respondent sheriff with the latter's assurance that he would take care of everything and open the padlocked property. The Office of the Deputy Ombudsman dismissed the letter-complaint and indorsed the records of the case to the Office of the Court Administrator for appropriate action.

Upon its receipt of the records, the Office of the Court Administrator required respondent to file his comment on the complaint. In his comment, respondent admitted having received the amount of three thousand pesos (P3,000.00) from complainant's mother-in-law but claimed that it was for attorney's fees intended for Atty. Caesar Daep who could help complainant facilitate access to the subject property. Later, however, he returned the money after Atty. Daep had refused to accept the case.

The Office of the Court Administrator, in its memorandum of 25 January 2001, recommended that an investigation be conducted in order to thresh out the factual issues of the case. The Court, in its resolution of 05 March 2001, adopted the recommendation and referred the case to Executive Judge Raymund Jacob of the Municipal Trial Court in Cities, Branch 2, of Legazpi City for investigation, report and recommendation.

The Investigating Judge, in his report of 24 August 2001, submitted his findings; he stated:

"After a careful perusal and evaluation of the evidence adduced and the demeanors of the witnesses, the undersigned Executive Judge finds the complainant's version more credible and deserves full consideration. The deportment and manner of testimonies, during the investigation, of the private complainant Emma Albello and witness Salve Albello, a 57-year old public elementary school teacher, were natural, frank, and sincere in