

FIRST DIVISION

[A. M. No. MTJ-02-1401, August 15, 2003]

ARSENIA LARIOSA, COMPLAINANT, VS. JUDGE CONRADO B. BANDALA, MUNICIPAL TRIAL COURT, NEW CORELLA, DAVAO DEL NORTE AND SHERIFF IV JAIME P. MORTA, JR., REGIONAL TRIAL COURT, TAGUM CITY, DAVAO DEL NORTE, RESPONDENTS.

D E C I S I O N

VITUG, J.:

In an affidavit-complaint, dated 15 December 1999, complainant Arsenia Lariosa has charged respondent Judge Conrado B. Bandala of the Municipal Trial Court (MTC) of New Corella, Davao del Norte, and Sheriff Jaime P. Morta, Jr., of the Regional Trial Court (RTC) of Tagum City, Davao del Norte, with Grave Misconduct and Grave Abuse of Authority in relation to Civil Case No. 193, entitled "Estanislao Pasion, et al. vs. Porfirio Royo, Sr., et al.," for forcible entry.

In her affidavit-complaint, complainant claimed that on 23 November 1999, about three o'clock in the morning, she and her family were suddenly awakened by the pounding of their door. When complainant opened the door, several men led by Estanislao Pasion, the plaintiff in the case for forcible entry, pushed the door open. Respondent sheriff Jaime Morta then went inside the house and started demolishing the place. Complainant averred that she was caught by surprise for neither she nor her husband were among the defendants in the forcible entry case.

The Office of the Court Administrator (OCA), in separate indorsements, both dated 29 February 2000, required respondent Judge Conrado B. Bandala and respondent Sheriff Jaime P. Morta, Jr., to comment on the affidavit-complaint within ten (10) days from their receipt thereof.

In his comment, respondent Judge asserted that the decision in the case for forcible entry had become final and executory following the dismissal by the Supreme Court of two petitions, docketed G.R. No. 117144 and G.R. No. 117391, assailing the decision in the forcible entry case. A writ of execution was thus issued on 14 July 1998. In the sheriff's return, dated 12 August 1998, sheriff Morta informed the trial court that he had also served a copy of the writ of execution on Divino Manaay, Maximo Lariosa and Damie Cagoco who, like complainant, were not defendants in the forcible entry case but were found to be occupying the land involved in the litigation upon leave or concession of Porfirio and Bienvenida Royo, the defendants in the case. The refusal of some of the defendants to vacate the premises prompted the plaintiffs to file a motion for a special order of demolition which was granted by the trial court in its order of 03 December 1998. Since the writ did not include the other occupants of the property, including complainant, a special order of demolition was issued on 15 September 1999 giving said occupants, being privies of the defendants, ten (10) days within which to vacate the premises. Complainant