

SECOND DIVISION

[A.M. No. P-02-1572 (Formerly OCA I.P.I No. 01-1034-P), April 24, 2002]

**BIENVENIDO R. MERCADO, COMPLAINANT, VS. NESTOR CASIDA,
SHERIFF III, METROPOLITAN TRIAL COURT, PASIG CITY,
RESPONDENT.**

RESOLUTION

DE LEON, JR., J.:

For resolution is an administrative complaint filed by complainant Bienvenido R. Mercado, Director of Sta. Clara Management and Realty Co., Inc., against respondent Nestor Casida, Sheriff III of the Metropolitan Trial Court of Pasig City, charging the latter with grave misconduct in the implementation of a writ of execution issued by the Housing and Land Use Regulatory Board (HLURB) in HLURB Case No. REM-111199-10770 entitled "Spouses Jesus and Ester Rana, Ma. Lourdes Martinez, Marilou Avila and Ronaldo Rana vs. Sta. Clara Management and Realty Company, Inc."

The said writ of execution was issued pursuant to a Decision rendered by the HLURB, the dispositive portion of which reads as follows:

WHEREFORE PREMISES CONSIDERED, JUDGMENT IS HEREBY RENDERED IN FAVOR OF THE COMPLAINANTS AND ORDERING THE RESPONDENT STA. CLARA MANAGEMENT AND REALTY COMPANY, INCORPORATED TO IMMEDIATELY REFUND TO THE COMPLAINANTS AS FOLLOWS:

JESUS/ESTER RANA	P637,598.00
MA. LOURDES MARTINEZ	255,000.00
MARILOU AVILA	30,000.00
RONALDO RANA	30,000.00

FURTHER, RESPONDENT STA. CLARA MANAGEMENT AND REALTY COMPANY INCORPORATED IS LIKEWISE ORDERED TO PAY EACH OF THE COMPLAINANTS MORAL DAMAGES OF P50,000.00 EACH AND COMPLAINANTS ARE LIKEWISE ORDERED TO PAY THE CORRESPONDING FILING FEES THEREOF.^[1]

In a letter-complaint dated January 8, 2001 addressed to the Office of the Court Administrator (OCA), the complainant alleged that in implementing the said writ of execution, the respondent barged into the temporary office of the corporation which happens to be complainant's residence, without explaining the purpose of his visit. Respondent also deprived the complainant's wife of the opportunity to read and understand the contents of the writ of execution. Complainant further claimed that

what was levied on by the respondent were his family's personal belongings and not those of Sta. Clara Management and Realty Co., Inc. According to the complainant, respondent failed to make a complete list of the personal properties he levied upon. Complainant also alleged that according to an eyewitness, respondent delivered the personal properties that were levied upon to the house of Jesus Rana, one of the complainants in HLURB Case No. REM-111199-10770.

Lastly, complainant attached to his letter-complaint, a certification^[2] by the Office of the Clerk of Court and Ex-Officio Sheriff of the Regional Trial Court of Pasig City that it has not received any writ of execution issued by the HLURB in connection with HLURB Case No. REM-111199-10770, and that no payment of legal fees for the implementation of the said writ was ever made. The same Office also certified that there is no order addressed to the respondent to enforce the said writ of execution.

In his Comment dated May 4, 2001, respondent does not deny the fact that he had implemented a writ of execution that was not addressed to him but to the Ex-Officio Sheriff or any of the Deputy Sheriffs of the RTC of Pasig City. He explains, however, that on January 4, 2001 at around 7:30 in the morning, Ronaldo Rana and Marilou Martinez, complainants in HLURB Case No. REM-111199-10770, came to his house and requested his assistance in the implementation of the said writ. Rana and Martinez begged for his assistance in the implementation of the writ of execution since they could not afford to pay the legal fees of the Sheriff of the RTC of Pasig City, and the complainant was about to abscond and dispose of his properties. Respondent asserts that he was merely "acting in good faith and for humanitarian reasons"^[3] when he acceded to the request of Rana and Martinez to implement the writ of execution free of charge.

As regards his failure to explain the purpose of his visit and to give the complainant's wife the opportunity to read the writ of execution, respondent claims that when he served the writ to complainant's wife, the latter refused to receive the same, and passed it on to her secretary whose signature appears thereon. Furthermore, respondent denies the allegation that he did not make a complete inventory of the properties he levied upon. On the contrary, a proper Inventory/Levy of the properties was made as evidenced by the Notice of Levy which was also signed by the complainant's secretary.

The OCA found no evidence to support complainant's allegations that: (1) the respondent did not afford his wife fair opportunity to read the writ of execution; (2) no proper inventory was made of the properties levied upon; and (3) respondent delivered the seized properties to the house of Jesus Rana. The OCA, therefore, found no sufficient basis to hold respondent guilty of grave misconduct in implementing the writ of execution.

We agree with the OCA.

The OCA pointed out that the writ was served on and read by the complainant's secretary who signed it when complainant's wife refused to receive the same. Assuming, therefore, that complainant's wife was not able to read the writ, it was not due to lack of opportunity to do so but because she chose not to be informed. Anent the alleged absence of a complete inventory of the properties levied upon, the OCA opined that this is simply belied by the fact that the Notice of Levy