



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated December 07, 2022 which reads as follows:*

**“OCA IPI No. 18-4846-P (Bernadette Pomer-Elepano, Bonifacio Pomer, and Marissa Cope v. Ernesto M. Visda,<sup>1</sup> Sheriff III, Branch 18, Metropolitan Trial Court, Manila).** — We resolve the present Administrative Complaint<sup>2</sup> filed by Bernadette Pomer-Elepano (Elepano), Bonifacio Pomer (Pomer), and Marissa Cope (Cope) (collectively, complainants) against Ernesto M. Visda (respondent), Sheriff III of Branch 18, Metropolitan Trial Court (MeTC) of Manila, accusing the latter of abuse of authority and misconduct relative to the implementation of the writ of execution in Civil Case No. 186947,<sup>3</sup> entitled “*Yolanda S. Pomer v. Norma Dela Cruz, et al.*”

In its Report and Recommendation<sup>4</sup> dated 07 December 2021, the Judicial Integrity Board (JIB) recommended the dismissal of the complaint against respondent considering that complainants failed to substantiate the charges against the latter.<sup>5</sup>

We adopt the JIB’s findings and recommendation.

It is well-settled that the sheriff’s duty in the execution of a writ is purely ministerial; he is to execute the order of the court strictly to the letter. He has no discretion whether to execute the judgment or not. When the writ is placed in his hands, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to implement it in accordance with its mandate. It is only by doing so could he ensure that

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<sup>1</sup> *Rollo*, p. 122.

<sup>2</sup> *Id.* at 2-6.

<sup>3</sup> *Id.* at 17, 110.

<sup>4</sup> *Id.* at 110-116.

<sup>5</sup> *Id.* at 115.

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the order is executed without undue delay. This holds especially true where the nature of the case requires immediate execution. Absent a temporary restraining order (TRO), an order of quashal, or compliance with Section 19,<sup>6</sup> Rule 70 of the Rules of Court, the sheriff has no alternative but to enforce the writ.<sup>7</sup>

We agree with the JIB that the administrative case against respondent should be dismissed. Certainly, respondent was not remiss in his duty in implementing the writ of execution which was done in the presence of two police officers and *barangay* officials. Notably, no TRO was issued. Hence, there was no reason for respondent to desist from implementing the subject writ.

It is settled that ejectment cases are summary in nature, for they involve perturbation of social order which must be restored as promptly as possible.<sup>8</sup> Accordingly, technicalities or details of procedure which may cause unnecessary delays should carefully be avoided. Hence, when an officer duly qualified to act under a writ of execution in an ejectment case should be obstructed by a lock or a latch, he is not expected to lie in wait around the premises until such time as the tenants arrive. He has the right to employ force necessary to enable him to enter the house and enforce the judgment. If the rule was otherwise, the prevailing party will be at the mercy of his adversary who will stop at nothing to thwart execution.<sup>9</sup> Clearly, respondent, after finding the property abandoned and the door locked from the outside, had the right to employ force necessary which enabled him to enter the house and enforce the judgment.

As correctly observed by the JIB, with regard to complainants' claim that several properties were damaged during the implementation of the writ of execution, the same deserves scant consideration.<sup>10</sup> An inventory<sup>11</sup> of the items taken out of the property was made by respondent and signed by Melissa Ulanday (Ulanday), complainants' representative. Surely, Ulanday would have taken note of the items which were damaged before she signed the list. A perusal of the inventory does not show that there were any damaged property except for "2 electric fan *na sira*."<sup>12</sup> Thus, as between complainants' bare assertion and the list submitted by respondent, the latter has a greater probative value.

Moreover, if complainants' properties were indeed damaged, they only have themselves to blame. In the Notice to Pay and to Vacate Premises<sup>13</sup> which respondent served upon Norma dela Cruz, Cope, and all

<sup>6</sup> SECTION 19. Immediate Execution of Judgment; How to Stay Same.

<sup>7</sup> *Balmaceda-Tugano v. Marcelino*, A.M. No. P-14-3233, 14 October 2019.

<sup>8</sup> *Sierra Grande Realty Corp. v. Ragasa*, G.R. No. 218543, 02 September 2020.

<sup>9</sup> *Nicdao v. Esguerra*, A.M. No. P-03-1718, 469 Phil. 261, 269 (2004).

<sup>10</sup> *Rollo*, p. 115.

<sup>11</sup> *Id.* at 84-93.

<sup>12</sup> *Id.* at 91.

<sup>13</sup> *Id.* at 80.

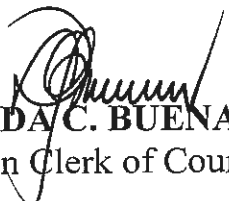
persons claiming rights under them, who refused, however, to sign it, it was stated that they were being asked to vacate peacefully and voluntarily, and surrender possession of the subject premises. Having been apprised of the said notice, complainants should have removed their belongings before the lapse of the grace period given to them.

Finally, complainants' allegation regarding the absence of *barangay* officials during the implementation of the writ should likewise fail. If complainants believed that what was stated in the sheriff's return were not true, they should have instituted the proper action in the proper forum. Whatever irregularities attended the execution of the writ of execution should be referred to the same court which rendered the decision. This is because any court which issued a writ of execution has the inherent power, for the advancement of justice, to correct errors of its ministerial officers and to control its own processes.<sup>14</sup>

**WHEREFORE**, the administrative Complaint against Ernesto M. Visda, Sheriff III, Branch 18, Metropolitan Trial Court, Manila, is hereby **DISMISSED** for lack of merit.

**SO ORDERED.**" *Hernando, J., on wellness leave; Marquez, J., took no part; Kho, J., designated additional Member per Raffle dated 20 September 2022.*

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court *124*

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

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**JAN 25 2023**

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<sup>14</sup> *Mejia-Espinoza v. Cariño*, 804 Phil. 248, 257 (2017).

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Complainant  
No. 560 Corcuera Street  
Tondo, 1012 Manila

Mr. Ernesto M. Visda  
Respondent – Sheriff III  
Metropolitan Trial Court, Branch 18  
1000 Manila

Mr. Bonifacio Pomer & Ms. Marissa Cope  
Complainants  
No. 513 Peñalosa Street  
Tondo, 1012 Manila

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Court Administrator  
Hon. Jenny Lind R. Aldecoa-Delorino (x)  
Hon. Leo Tolentino Madrazo (x)  
Deputy Court Administrators  
Hon. Lilian Barribal-Co (x)  
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OCA, Supreme Court

Hon. Romeo J. Callejo, Sr. (x)  
Hon. Angelina Sandoval-Gutierrez (x)  
Hon. Sesinando E. Villon (x)  
Hon. Rodolfo A. Ponferrada (x)  
Hon. Cielito N. Mindaro-Grulla (x)  
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Office of the General Counsel (x)  
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Supreme Court

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