



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 1, 2023** which reads as follows:*

“OCA IPI No. 20-5033-P (*Virginia O. Alacon v. Virginia D. Almario, Sheriff III, Branch 81, Metropolitan Trial Court, Valenzuela City*). – This refers to the Report and Recommendation¹ dated 09 March 2022 of the Judicial Integrity Board (JIB) on the verified Complaint² dated 06 March 2020 against Virginia D. Almario (respondent), Sheriff III, Branch 81, Metropolitan Trial Court (MeTC), Valenzuela City, for Grave Abuse of Authority, Grave Misconduct, Dishonesty and Neglect of Duty.

Antecedents

The case stemmed from an ejectment case before the MeTC where respondent was the Sheriff.³

Complainant Virginia O. Alacon (complainant), one of the defendants in a civil case, alleged among others, that on 19 February 2020, she went to the Land Bank of the Philippines (LBP) to withdraw her salary for the month of January 2020. To her dismay, she was informed by the bank teller that she cannot withdraw from her payroll account as the same had been garnished.⁴ She claimed, however, that the trial court in the ejectment case only directed her and her co-defendants to vacate the disputed premises without any other cost.⁵

¹ *Rollo*, pp. 111-117; Penned by Justice Rodolfo A. Ponferrada (Ret.) and concurred in by Chairperson Justice Romeo J. Calleja, Sr. (Ret.), Vice-Chairperson Justice Angelina Sandoval-Gutierrez (Ret.), and Justice Sesinando E. Villon (Ret.).

² *Id.* at 4-8.

³ *Id.* at 111.

⁴ *Id.* at 106.

⁵ *Id.* at 112.

According to complainant, she never received a formal notice of garnishment from respondent, and that despite her dire financial condition and failing health due to cancer, respondent still garnished her account.⁶ Allegedly, complainant has since been suffering from depression and sleepless nights due to the said garnishment.⁷

In her Comment⁸ dated 25 November 2020, respondent claimed that the administrative complaint stemmed from the Decision⁹ dated 21 January 2014 rendered by the MeTC in the ejectment case. In the said decision, complainant and her husband, as well as all those claiming rights under them, were ordered to vacate the subject property and restore its possession to the plaintiffs therein. They were further ordered to pay plaintiffs the amount of ₱5,000.00 a month starting January 2005 representing the monthly rentals until they vacate the property, with legal interest until full payment.¹⁰ The case eventually reached the Court of Appeals which affirmed the findings of the lower courts and subsequently issued an Entry of Judgment.¹¹

A Motion for Execution was subsequently filed which was granted on 16 August 2017 by the MeTC.¹² Thereafter, a Writ of Execution¹³ was issued. In the Sheriff's Report dated 04 September 2018, respondent reported that the writ of execution has been implemented and that only the money judgment remains unsatisfied. Respondent went to the residence of complainant on 29 October 2019 to inform her of the money judgment. She also explained the procedure that will be observed if complainant fails to settle the matter. In the absence of any real property registered in the name of the complainant, respondent proceeded to send a notice of garnishment¹⁴ dated 03 February 2020 to LBP and BDO Unibank, respectively.¹⁵ As the decision against complainant was already final and executory, respondent is duty-bound to enforce the writ of execution. There is also no truth to complainant's claim that plaintiffs already waived their right to collect the money judgment.¹⁶

⁶ Id.

⁷ Id.

⁸ Id. at 16-22.

⁹ Id. at 23-31. Penned by Presiding Judge Teresita Asuncion M. Lacandula-Rodriguez.

¹⁰ Id. at 31.

¹¹ Id. at 41.

¹² Id. at 48-51.

¹³ Id. at 52-53.

¹⁴ Id. at 85-86.

¹⁵ Id. at 108.

¹⁶ Id. at 109.



Recommendation of the Office of the Executive Director (OED)

In the Report and Recommendation¹⁷ dated 23 February 2021, the OED recommended that the complaint against respondent be dismissed for lack of merit.

In recommending the dismissal of the complaint, the OED found that the complainant failed to substantiate her allegations of Grave Abuse of Authority, Dishonesty, Grave Misconduct and Neglect of Duty against respondent. There was no order directing respondent to hold in abeyance the implementation of the writ. Respondent is duty-bound to enforce the writ as the decision of the court had long attained finality and only the satisfaction of judgment remains. Further, respondent's actions are actually consistent with the Court's pronouncement that a sheriff's duty in the execution of the writ is purely ministerial and has no discretion whether to execute it or not. Given the clear directives of the court, the presumption of regularity in the performance of duties weighs heavily on respondent's favor.¹⁸

Recommendation of the JIB

In its Report and Recommendation dated 09 March 2022, the JIB recommended the dismissal of the complaint for lack of merit.¹⁹

The JIB declared that the function or duty of respondent as sheriff to implement the writ of execution is purely ministerial. Thus, when a writ is placed in the hands of the sheriffs, it is their duty, in the absence of any instructions to the contrary, to proceed with celerity and promptness to execute it according to their mandate. Undeniably, the issuance of a notice of garnishment is an essential part of respondent's power nay duty to execute or implement the subject writ of execution. As there was no order from the court exempting complainant's salary from execution, respondent was only justified in issuing the notice of garnishment to satisfy the money judgment.²⁰

The case was thereafter transmitted to this Court.

¹⁷ Id. at 106-110. Signed by James D.V. Navarrete, Deputy Clerk of Court at-Large, Office of the Court Administrator and Acting Executive Director, JIB and Eduardo C. Tolentino, Acting SC Senior Chief Staff Officer, Research and Investigation Services, JIB.

¹⁸ Id. at 109.

¹⁹ Id. at 116.

²⁰ Id. at 115-116.

Ruling of the Court

We **ADOPT** the findings and recommendation of the JIB and resolve to dismiss the instant administrative case against respondent for lack of merit.

We cannot overemphasize that in administrative proceedings, only substantial evidence, *i.e.*, that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion is required.²¹ For the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing, and satisfactory proof.²² Complainant in this case miserably failed to discharge the burden.

A review of the records would reveal that aside from complainant's bare allegations, no other clear, convincing and satisfactory proof was presented to show that respondent committed Grave Abuse of Authority, Grave Misconduct, Dishonesty, or even Neglect of Duty, in the implementation of the notice of garnishment.

As aptly pointed by the JIB, while Section 13, Rule 39 of the Rules of Court²³ allows exemption of the salaries, wages or earnings of the judgment obligor for his or her personal services within the four months preceding the levy are as necessary for the support of his family, the application of such exemption is not the function or duty of the respondent. The duty of respondent to implement the writ of execution is purely ministerial. It was incumbent upon complainant to raise the matter of exemption to the court so that it could have duly ordered respondent to exempt or exclude complainant's salary from execution.²⁴ There being no order directing respondent to hold in abeyance the implementation of the writ, respondent was well within her mandated ministerial duty to issue the notice of garnishment to satisfy the money judgment.

WHEREFORE, the Court **RESOLVES** to **ADOPT and APPROVE** the findings of fact, conclusions of law, and recommendation of the Judicial Integrity Board in the Report and Recommendation dated 09 March 2022. Accordingly, the complaint against respondent Virginia D. Almario, Sheriff III of Branch 81, Metropolitan Trial Court of Valenzuela City is **DISMISSED** for lack of merit.

²¹ *In re Ong*, 743 Phil. 622, 668 (2014).

²² *Ferancullo v. Atty. Ferancullo, Jr.*, 538 Phil. 501, 511 (2006).

²³ Section 13. *Property exempt from execution.*- Except as otherwise expressly provided by law, the following property, and no other, shall be exempt from execution:


x x x x;

(i) So much of the salaries, wages, or earnings of the judgment obligor for his [or her] personal services within four months preceding the levy as are necessary for the support of his [or her] family; x x x.

²⁴ *Rollo*, p. 116.

SO ORDERED.” *Marquez, J., no part; Dimaampao, J., designated additional Member per Raffle dated 27 September 2022.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *3/1/23*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

277

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Ms. Virginia O. Alacon
Complainant
93 Esperanza Street, Don Pedro Village, Marulas
1440 Valenzuela City

Ms. Virginia D. Almario
Respondent – Sheriff III
Metropolitan Trial Court, Branch 81
1440 Valenzuela City

Office of Administrative Services (x)
Legal Office (x)
Court Management Office (x)
Financial Management Office (x)
Docket & Clearance Division (x)
OCA, Supreme Court

Hon. Raul B. Villanueva (x)
Court Administrator
Hon. Jenny Lind R. Aldecoa-Delorino (x)
Hon. Leo Tolentino Madrazo (x)
Deputy Court Administrators
Hon. Lilian Barribal-Co (x)
Hon. Maria Regina A. F. M. Ignacio (x)
Assistant Court Administrators
OCA, Supreme Court

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Supreme Court
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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)
Office of the Executive Director (x)
Office of the General Counsel (x)
Atty. James D.V. Navarrete (x)
Deputy Clerk of Court-at-Large
Judicial Integrity Board
Supreme Court

Philippine Judicial Academy (x)
Supreme Court

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