



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **05 May 2021** which reads as follows:*

“OCA IPI No. 18-4806-P (*Mary Magdalene D. Cerrada v. Sheriff IV Sean Raphael P. Alhambra, Office of the Clerk of Court, Regional Trial Court [RTC], Manila*). –

Antecedents

Complainant Mary Magdalene D. Cerrada charged respondent Sean Raphael P. Alhambra with abuse of authority relative to Civil Case No. 98-88266 entitled “*Jimmy T. Go, Co-owner and doing business under the name and style Noah’s Ark Merchandising v. Bank of the Philippine Islands (formerly Far East Bank and Trust Company, et al.)*.”

Complainant essentially alleged: On January 31, 2018, respondent Sean Raphael P. Alhambra, Sheriff IV, Office of the Clerk of Court (OCC), Regional Trial Court (RTC), Manila issued a Notice of Sheriff’s Sale¹ of two (2) real properties owned by Jimmy Go subject of Civil Case No. 98-88266 on March 1, 2018, from 10:00 o’clock in the morning to 2 o’clock in the afternoon, in front of the OCC, RTC, Manila.

On March 1, 2018, she arrived at the venue before 8:30 in the morning to participate in the auction sale as Jimmy Go’s representative. She was informed that she had until 2 o’clock in the afternoon to submit her bid. When the auction sale started, respondent accepted the sealed bid submitted

¹ Rollo, pp. 5-7.

by Atty. Luz Panganiban (Atty. Panganiban), who was representing Millpoint Properties Development Corporation (Millpoint). Respondent, however, did not accept her bid even though she had been in the room as early as 8:30 in the morning. Respondent simply told her that the auction was over. Despite her insistent demands, respondent refused to accept her bid.

The auction sale was rigged. Her name was not included in the list of bidders, yet, respondent mentioned in the minutes² of the auction sale that she came “late.”³

In his Comment,⁴ respondent countered, in the main: On March 1, 2018 at 10 o’clock in the morning, he went in front of the OCC and announced that the bidding for the public auction was open and all interested bidders should write their names and sign the minutes as proof of their presence. Complainant, for Jimmy Go; Atty. Panganiban, for Millpoint; and Jacob Ballos (Ballos) and Atty. Elaine Rambaosa (Atty. Rambaosa), both representing Asset Pool A (APA), affixed their names to the minutes. Thereafter, he instructed them anew to submit their sealed bids and that he would open the same at 2 o’clock in the afternoon after the final call for other interested bidders had been concluded. Accordingly, Ballos and Atty. Panganiban submitted their respective bids. Atty. Rambaosa, who merely accompanied Ballos, did not submit a sealed bid. On the other hand, complainant, who introduced herself as Jimmy Go’s sister, requested for ample time to make a bid. He told her to submit a sealed bid before 2 o’clock in the afternoon.

Before 2 o’clock in the afternoon, Ballos, Atty. Rambaosa, and Atty. Panganiban returned to the OCC Sheriff’s Office and waited for the closing of the auction and the result of the bidding.

At exactly 2 o’clock in the afternoon, he went out of the office and made a final call for any other interested bidders to submit their sealed bids. After announcing three (3) times that the bidding will be closed if there were no other bidders, he declared the bidding closed. He returned to his desk, opened the sealed bids, and found Atty. Panganiban, with a bid of ₱2,700,000.00, as the highest bidder. He then proceeded to complete the minutes of the auction sale after finding Atty. Panganiban to be the highest bidder.

As he was writing the summary of the minutes, complainant arrived and asked him to accept her bid. He declined and explained that the bidding had already been closed at 2 o’clock. Complainant, however, insisted that her bid be accepted. Ballos and Atty. Panganiban then urged complainant to show her bid. They told her to open her envelope to prove that it contained a check amounting to her purported bid of ₱4,000,000.00. Instead of showing the

² *Id.* at 8.

³ *Id.* at 2-3.

⁴ *Id.* at 12-15.

check, complainant declared that she would just redeem the property. Ballos,⁵ Atty. Panganiban,⁶ and Sheriff IV Nathaniel F. Abaya (Abaya),⁷ who were all present during the incident, corroborated this account of the incident.

He did not abuse his authority. In refusing to accept complainant's late bid, he merely performed his duty in accord with the rules, the Notice of Sheriff's Sale, and his oath as a sheriff.

Report and Recommendation of the Office of the Court Administrator

The Office of the Court Administrator (OCA), through Court Administrator Jose Midas P. Marquez and Assistant Court Administrator Maria Regina Adoracion Filomena M. Ignacio, recommended that the complaint be dismissed for lack of merit.

The OCA noted that the bidding was already closed when complainant returned to the OCC's office to submit her bid. Thus, he cannot be faulted for declining her late bid. Aside from her bare statements and plain imputation that the auction sale was rigged, complainant failed to present any evidence to prove her charge against respondent.⁸

Ruling

The Court adopts the factual findings, legal conclusions, and recommendations of the OCA.

Apart from her bare allegations, complainant failed to adduce any evidence showing that respondent abused his authority in refusing to accept her bid and "rigged" the auction. On the contrary, respondent was able to show that he only followed the standard procedure in conducting the auction sale and the schedule indicated in the Notice of Sheriff's Sale.

Record shows that the subject properties were scheduled to be sold at public auction on March 1, 2018, not later than 2 o'clock in the afternoon. The Notice of Sheriff's Sale expressly stated the date, time and place of the public auction, *viz.*:

"NOW THEREFORE, by virtue of the said Writ of Execution and in accordance with Rule 39, Sec. 19 of the New Rules of Court, the undersigned sheriff hereby gives notice in general that on **MARCH 1, 2018 at 10:00 o'clock in the morning or soon**

⁵ *Id.* at 16-17.

⁶ *Id.* at 18-19.

⁷ *Id.* at 22.

⁸ *Id.* at 28-30.

thereafter but not later than 2:00 o'clock in the afternoon in front of the Office of the Clerk of Court, Room 400, 4th Floor, City Hall, Manila, will sell at public auction to the highest bidder, for CASH or MANAGER'S CHECK and in Philippine Currency, all the rights, title, interests, shares, claims and participation which plaintiff JIMMY T. GO, co-owner and doing business under the named and style Noah's Ark Merchandising might have over the real property described above in order to satisfy the Writ of Execution, together with interest, costs, sheriff's fees and expenses of sale."⁹ (Emphasis supplied)

Respondent made it clear that the bidding was supposed to be closed at 2 o'clock in the afternoon.

First, after complainant, Atty. Panganiban, Ballos, and Atty. Rambaosa affixed their names to the minutes of the auction, respondent instructed them to submit their sealed bids before he opened them at 2 o'clock in the afternoon, following the final call for other interested bidders. Only Ballos and Atty. Panganiban complied.

Second, respondent specifically gave complainant until 2 o'clock in the afternoon when the latter asked for time to make a bid for Jimmy Go.

Third, respondent made the final call at exactly 2 o'clock in the afternoon. He went to the open area in front of the OCC and shouted three (3) times the announcement that the bidding shall be closed should there be no other bidders. Only Ballos, Atty. Rambaosa and Atty. Panganiban were present and no one else made a bid. Respondent, thus, closed the submission for bids and opened the sealed bids of Ballos and Atty. Panganiban.

By the time complainant returned to submit her bid, the auction had already been closed, Atty. Panganiban/Millpoint was declared as the highest bidder, and respondent was already finishing the minutes of the auction sale. Respondent clearly explained to complainant that her late bid could no longer be accepted because the bidding was already closed.

Granting that complainant was already at the OCC as early as 8:30, she did not specifically allege, much less prove, the exact time she submitted her bid to respondent. On the other hand, Ballos, Atty. Panganiban, and Abaya all corroborated respondent's claim that complainant belatedly submitted her purported bid past 2 o'clock in the afternoon.

As regards the Sheriff's Minutes of Sale, complainant was named therein as one of the attendees representing the owner of the auctioned properties, Jimmy Go. Complainant herself was the one who affixed her name thereto. She was not listed as a bidder precisely because she failed to timely

⁹ *Id.* at 13.

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submit her bid. Respondent, thus, had to indicate in the minutes that complainant came back “late” to submit her bid, not only for purposes of documentation, but also to show why her bid was no longer accepted.

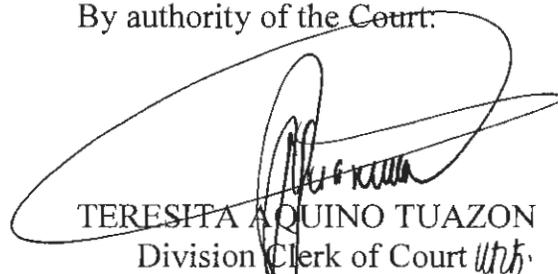
In administrative cases, the complainant bears the burden of proving by substantial evidence the allegations in her complaint.¹⁰ In the absence of factual or legal basis for the charge, the case must be dismissed.¹¹

It is settled that allegation does not amount to proof.¹² Hence, complainant’s bare allegation of abuse of authority, sans any supporting evidence, will not suffice to hold respondent administratively liable.

WHEREFORE, the Court resolves to **DISMISS** the complaint against respondent Sean Raphael P. Alhambra.

SO ORDERED.” (J. Lopez, *J.*, additional member)

By authority of the Court:



TERESITA AQUINO TUAZON
Division Clerk of Court *Utah*
28 MAY 2021 5127

¹⁰ *Office of the Court Administrator v. Yu*, 800 Phil. 307, 398 (2016).

¹¹ *Rivera v. Mendoza*, 529 Phil. 600, 606 (2006).

¹² *Villarosa v. The Honorable Ombudsman*, G.R. No. 221418, January 23, 2019.

HON. COURT ADMINISTRATOR

Jose Midas P. Marquez (x)

HON. DEPUTY COURT ADMINISTRATOR

Raul B. Villanueva (x)

Jenny Lind Aldecoa-Delorino (x)

Leo T. Madrazo (x)

ASSISTANT COURT ADMINISTRATOR

Hon. Lilian C. Baribal-Co (x)

Hon. Maria Regina Adoracion

Filomena M. Ignacio (x)

Legal Office (x)

Court Management Office (x)

Financial Management Office (x)

Docket & Clearance Division (x)

Office of Administrative Services (x)

Office of the Court Administrator

Supreme Court, Manila

MARY MAGDALENE D. CERRADA (reg)

Complainant

05 Pall Mall St.

East Fairview, Quezon City

SEAN RAPHAEL P. ALHAMBRA (reg)

Sheriff IV

Office of the Clerk of Court

Regional Trial Court

Manila

THE CLERK OF COURT (reg)

Office of the Clerk of Court

Regional Trial Court

Manila

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OFFICE OF THE CHIEF ATTORNEY (x)

OFFICE OF THE REPORTER (x)

PHILIPPINE JUDICIAL ACADEMY (x)

Supreme Court, Manila

Please notify the Court of any change in your address.

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