

**RAMIL LUMBRE, COMPLAINANT, VS. JUSTINIANO C. DELA CRUZ,
SHERIFF, METROPOLITAN TRIAL COURT, BRANCH 38, QUEZON CITY,
RESPONDENT.**

A.M. No. MTJ-01-1379. September 10, 2002

Ponente: VITUG, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/3e27482995b6/>

VITUG, J.:

In a sworn letter-complaint, dated 27 May 2000, complainant Ramil Lumbre has charged respondent sheriff Justiniano C. de la Cruz with dereliction of duty for his failure to implement a writ of execution. The matter relates to Civil Case No. 13818, entitled "Spouses Ramil Lumbre and Leticia Lumbre vs. Spouses Cesario Baluyot and Cynthia Baluyot," for rescission of contract and recovery of a sum of money and damages before the Metropolitan Trial Court, Branch 33, of Quezon City.

Complainant, the plaintiff in the civil case, averred that on 23 January 1998, then Presiding Judge Ricardo Buenviaje rendered a decision in favor of the spouses Lumbre. When the defendants had failed to appeal therefrom, complainant, through counsel, filed a motion for execution of the judgment. On 7 August 1998, Judge Buenviaje issued an order granting the writ of execution but it was only on 23 March 1999, or more than seven months later, when respondent sheriff issued a notice of levy and sale on execution of personal property, scheduling the auction sale on 7 April 1999. The auction sale did not proceed on its scheduled date on account of a motion of third party claimant Bonifacio Magno. The motion, filed on 06 April 1999 before pairing Judge Augustus Diaz of MeTC, Branch 38, Quezon City, sought the issuance of an order lifting the notice of levy. On 6 September 1999, Judge Diaz ordered the suspension of the auction sale until the plaintiff would have filed an indemnity bond. The plaintiff complied by posting the bond. On 24 September 1999, respondent sheriff gave notice resetting the auction sale to 01 October 1999; however, in an order, dated 30 September 1999, Judge Diaz suspended the auction sale. Complainant's counsel filed a motion for reconsideration. On 19 October 1999, Judge Diaz lifted the notice of levy, stating that the subject property was not owned by the defendants, the spouses Baluyot, but by third party claimant Bonifacio Magno. In the same order, Judge Diaz inhibited himself from resolving complainant's motion for reconsideration of the 30th September 1999 order. The case was later assigned to Judge Henri Inting of Branch 53, MeTC, Quezon City, who ultimately denied complainant's motion for reconsideration.

Citing the various incidents that had transpired from the time the decision was rendered on 23 January 1998 until the issuance of the order on 19 October 1999, respondent sheriff, in his comment, maintained that the writ of execution had been properly served and attributed its non-implementation to the motion filed by the third party claimant.

The matter was referred to the Office of the Court Administrator ("OCA") for evaluation, report and recommendation. In its memorandum, dated 20 August 2001, the OCA found respondent sheriff guilty of dereliction of duty for failing to implement the writ of execution within a reasonable time. The OCA pointed out

that while the late Judge Buenviaje issued the writ of execution on 07 August 1998, it was several months later, or only on 23 March 1999, that respondent sheriff caused the posting of the notice of levy and scheduled sale on execution of personalty. The excuse that the delay should be attributed to the motion filed by the third party claimant was not accepted by the OCA considering that the claim was only filed after March 1999. Thus, the OCA recommended that respondent be ordered to pay a fine of Five Thousand Pesos with warning that a repetition of the same or similar act would be dealt with severely.

The Court agrees with OCA. When a writ of execution is placed in the hands of a sheriff, it is his duty, in the absence of contrary instructions, to have it implemented forthwith. The sheriff is primarily responsible for the speedy and efficient service of all court processes and writs originating from the court and its branches, including such as may be properly delegated to him by other courts.[1] The delay of more than seven months, from the time the writ of execution was issued by the court on 07 August 1998 to the time when respondent sheriff posted the notice of sale or levy on 23 March 1999, is an inordinately long period for respondent to act thereon. The importance of the role played by all court personnel in the administration of justice is never to be taken lightly. It is the sheriffs particularly who are depended on, and who must properly attend to, the proper implementation of court decrees and orders, and they are expected to do so with utmost diligence and dispatch.

WHEREFORE, the Court finds Justiniano de la Cruz, Sheriff III, Branch 38, Metropolitan Trial Court in Cities, Quezon City, guilty of inexcusable delay in carrying out a lawful writ of execution and hereby imposes on him the recommended FINE of Five Thousand Pesos with warning that a repetition of the same or similar act shall be dealt with severely.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Ynares-Santiago, and Carpio, JJ., concur.

[1] *Jumio vs. Egay-Eviota*, 231 SCRA 551.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.