

ATTY. FLORANTE S. LEGASPI, COMPLAINANT, VS. ALEJANDRO L. TOBILLO, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 39, CALAPAN CITY, ORIENTAL MINDORO, RESPONDENT.

A.M. NO. P-05-1978 (FORMERLY OCA-I.P.I. NO. 04-1888-P). March 31, 2005

Ponente: CHICO-NAZARIO, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c74f6a14585b/>

CHICO-NAZARIO, J.:

Before Us is an administrative complaint[1] charging Alejandro L. Tobillo, Sheriff IV of the Regional Trial Court (RTC) of Calapan City, Oriental Mindoro, Branch 39, with Grave Neglect of Duty arising from his alleged refusal to implement the writ of possession in Civil Case No. R-4240.

Complainant is the counsel of plaintiffs Spouses Dr. Daniel Panganiban and Dr. Paula Panganiban in Civil Case No. R-4240, a case for a sum of money and damages with prayer for issuance of a Writ of Preliminary Attachment.

On 16 June 1993, by virtue of a writ of attachment issued by the court, Deputy Sheriff Emmanuel Latorza levied a parcel of land covered by Transfer Certificate of Title (TCT) No. T-65686 of the Registry of Deeds of Oriental Mindoro registered in the name of Cesar Al. Bautista.

On 01 March 1994, the trial court rendered a decision,[2] the dispositive portion of which reads:

ACCORDINGLY, premises considered, the Court hereby renders judgment in favor of the plaintiffs and against the defendants-spouses Cesar Al. Bautista and Placer Bautista, as follows:

In re: Civil Case No. 4240

- Ordering the defendants-spouses Cesar Al. Bautista and Placer Bautista to pay plaintiffs the sum of P1,122,000.00 representing the obligations of the defendants to the plaintiffs covered by the following checks:

CHECK NO DATE AMOUNT

PDB No. 38005575 June 12, 1993 P630,000.00

UCPB No. 202348 June 17, 1993 42,000.00

PNB No. 222693 June 18, 1993 10,000.00

PNB No. 216208 July 4, 1993 5,000.00

PNB No. 219272 July 4, 1993 5,000.00

UCPB No. 184158 July 4, 1993 100,000.00

UCPB No. 184169 August 4, 1993 100,000.00

PNB No. 219273 August 4, 1993 5,000.00

UCPB No. 184196 August 18, 1993 100,000.00

UCPB No. 184197 August 18, 1993 100,000.00

PNB No. 22269 September 18, 1993 5,000.00

PNB No. 222695 August 18, 1993 10,000.00

PNB No. 222694 July 18, 1993 10,000.00

On 14 April 1994, a writ of execution was correspondingly issued. On 16 June 1994, Clerk of Court V Rolando A. Caguete, commanded[3] Emmanuel A. Latorza, Sheriff IV of the RTC of Calapan City, Oriental Mindoro, Branch 39, to cause the execution of the said judgment, thus:

NOW THEREFORE, you are hereby commanded to cause the execution of the aforesaid judgment; to levy the goods and chattels of the defendants, except those that are exempt from execution and to make the sale thereof in accordance with the procedure outlined by Rule 39 Revised Rules of Court, and in such cases made and provided, together with all your lawful fees for the service of the writ.

In case sufficient personal property/ies of the defendants cannot be found whereof to satisfy the amount of said judgment, then you are directed to levy the real property of said defendants and to sell the same or so much thereof in the manner provided for by law for the satisfaction of said judgment. Likewise, return this writ into Court within sixty (60) days from receipt with your proceedings duly endorsed at the back thereof.

On 28 December 1994, the parcel of land in question covered by TCT No. T-65686 in the name of Spouses Cesar Al. Bautista and Placer Bautista was sold on execution by Sheriff Latorza. Being the highest bidders, a certificate of sale[4] was issued in the name of plaintiffs Spouses Dr. Daniel Panganiban and Dr. Paula Panganiban. Said certificate of sale was duly registered with the Office of the Register of Deeds of Oriental Mindoro on 10 November 1998 and annotated on the back of TCT No. T-65686 under Entry No. 2217, Doc. No. 2217.[5]

Despite the lapse of one (1) year period, spouses Bautista failed to redeem the same. Hence, a final deed of sale was issued[6] by Clerk of Court VI and Ex Officio Sheriff Luningning Y. Centron in favor of plaintiffs on 10 October 2001. As a consequence, TCT No. 115958 was issued in the name of plaintiffs.[7]

On 02 March 2002, a certain Milagros Pascual filed an omnibus motion[8] to intervene and prayed to adopt attached amended complaint as a complaint-in-intervention. She claimed that she has a legal interest in the subject matter of the case, having bought the land covered by TCT No. T-65686 from Spouses Cesar Bautista and Placer Bautista.

On 12 March 2002, the court denied[9] the motion on the ground that the same was filed after the case has long become final and executory and that the intervenor's right is protected in an action for annulment of sheriff sale earlier filed by said intervenor.

On 27 August 2002, plaintiffs filed a motion[10] for issuance of a writ of possession pursuant to Section 33, Rule 39 of the 1997 Rules on Civil Procedure considering that defendants failed to exercise their right of redemption within a period of one (1) year.

On 13 September 2002, the court issued an order[11] for issuance of a writ of possession and directing the sheriff of the court or any other proper officer to order the defendants and all persons claiming right under them to vacate the mortgaged property described in TCT No. 115958 and to surrender possession thereof to plaintiffs. Correspondingly, a writ of possession was issued[12] by Branch Clerk of Court Atty. Josephine Caranzo-Olivar.

On 06 November 2002, respondent Sheriff Alejandro L. Tobillo, replaced by Sheriff Latorza who retired on 16 April 2000, submitted his report,[13] thus:

This writ of possession was received by the undersigned Sheriff on October 14, 2002 and served on two (2) successive days, that is, from October 16 up to October 17, 2002, the proceedings thereon being:

That on October 16, 2002, the undersigned caused the service of the writ of possession upon the defendant Cesar Bautista at the Provincial Jail Center, Camilmil, Calapan City. Said defendant personally received a copy of the said writ and affixed his signature at the back of the original copy thereof which was attached to the record.

That on October 17, 2002, at around 2:00 o'clock in the afternoon, the undersigned tried to cause the service of the writ upon the intervenor Milagros Pascual who is residing at San Antonio (Pier) Calapan City. She personally received and signed on the same writ to acknowledge receipt thereof. Through conversation with her, the undersigned learned that the property subject of the writ is near her residence at San Antonio, Calapan City. The intervenor Milagros Pascual told the undersigned not to proceed thereto and instead, she would be the one to talk to her sister Normelita Marasigan who is presently occupying the place but the undersigned did not accede to her request. Both the undersigned and the intervenor Milagros Pascual went to the property subject matter of the writ, was able to talk to Normelita Marasigan and informed her as to why the undersigned is present thereat and that is, to inform them that the said land no longer belongs to them nor to defendants-spouses Cesar Bautista and Placer Bautista but it is now owned by the plaintiffs-spouses Dr. Daniel Panganiban and Dr. Paula Panganiban as well as Sps. Dr. Normando Legaspi and Angelita Legaspi by virtue of a court decision dated March 21, 1994. The undersigned repeatedly insisted that they have to vacate the property subject of the writ and gave them a period of fifteen (15) days to prepare and bring or take out all their belongings but the intervenor Milagros Pascual told the undersigned that she will first relay this matter to her lawyer.

The undersigned is initially returning this writ of possession for the information and guidance of the Honorable Court.

Complainant claimed he made several follow-ups for respondent to implement the writ, but the latter failed and refused to do so.

On 04 August 2003, respondent filed an urgent motion/manifestation,[14] asking the court a quo to issue an order directing either the continuance or discontinuance of the implementation of the writ of possession considering that he was informed of the certiorari case filed by defendants in the Court of Appeals.

On 08 August 2003, the court a quo issued an order[15] directing the continuance of the implementation of the writ of possession until such time that a restraining order will be issued by the trial court against the implementation of the same.

Up until recently, the writ of possession appears not to have been implemented. Complainant claimed that respondent sheriff's act of willfully and unlawfully refusing to implement the writ of possession for more than one (1) year despite follow-ups, constitutes gross neglect of duty and conduct unbecoming of a public official. A complaint was, thus, filed against Sheriff Tobillo.

On 30 March 2004, the Office of the Court Administrator (OCA) required[16] respondent to file his comment within ten (10) days from receipt.

On 03 May 2004, respondent filed an urgent ex parte motion[17] for extension of time to file answer, and was favorably acted upon by OCA on 17 June 2004.[18]

In his answer,[19] respondent denies that he refused to implement the writ of possession. He maintained that he

sought the proper guidelines from the court by filing an Urgent Motion/Manifestation asking the court to issue an order directing the continuance or discontinuance of the implementation of the writ of possession, as he received a copy of the petition for certiorari filed by defendant Milagros Pascual in the Court of Appeals. He stated that complainant did not make any formal effort to pursue his legal actions. He also stated that on 28 November 2003, the duty to implement the writ of possession was transferred to the Ex Officio Sheriff. He likewise maintained that the filing of the instant administrative complaint is premature, considering that the court has yet to rule on the motion filed by complainant to cite respondent for indirect contempt.

In his reply,[20] complainant averred he was constrained to file the administrative complaint because respondent refused to implement the writ despite follow-ups. He said he informed respondent that the writ of possession should be implemented considering that the Court of Appeals has not issued any restraining order to stop the implementation of the writ.

On 21 December 2004, the OCA submitted the following recommendations:

Respectfully submitted is our recommendation that the instant case be RE-DOCKETTED as a regular administrative matter and respondent Sheriff Alejandro L. Tobillo be ordered to pay a FINE in the amount of P10,000.00 with a stern warning that a repetition of similar acts shall be dealt with severely.

We agree in the findings of the OCA except for the recommended penalty.

Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice.[21]

The duty of sheriffs to promptly execute a writ is mandatory and ministerial. Sheriffs have no discretion on whether or not to implement a writ. There is no need for the litigants to "follow-up" its implementation.[22]

Sheriffs ought to know that they have a sworn responsibility to serve writs of execution with utmost dispatch. When writs are placed in their hands, it is their ministerial duty to proceed with reasonable celerity and promptness to execute them in accordance with their mandate. Unless restrained by a court order, they should see to it that the execution of judgments is not unduly delayed. Accordingly, they must comply with their mandated ministerial duty as speedily as possible.[23] Their unreasonable failure or neglect to perform such function constitutes inefficiency and gross neglect of duty.[24]

In the instant case, the court perceives a bit of lackluster attitude on the part of the respondent sheriff in the enforcement of the writ of possession in Civil Case No. R-4240. It appears that the decision was rendered on 01 March 1994 and respondent implemented the writ of possession dated 10 October 2002 by serving a copy thereof to defendants on 16 October 2002 and to intervenor Milagros Pascual on 17 October 2002, but the same remained unacted upon as intervenor Pascual told him she would still consult her lawyer. From then on, respondent sheriff did not make any action on the writ. It was only on 23 and 25 July 2003 when he tried to enforce the writ again but failed to do so as intervenor Milagros Pascual informed him that she had filed a petition for certiorari and injunction in the Court of Appeals. Instead of proceeding with the implementation of the writ, respondent filed a manifestation in the lower court asking whether he would continue with the implementation of the writ. Despite receipt of the order[25] dated 08 August 2003 directing the continuance of the implementation of the writ, respondent implemented the subject writ only on 15, 22 and 29 September and 14 October 2003. The writ remained unimplemented as the occupants refused to vacate the subject land.

Pursuant to the writ issued, respondent should have ousted defendants/intervenors from the subject lot. He failed to do so. That the occupants refused to vacate the premises as they would still consult a lawyer and that they filed a petition for certiorari in the Court of Appeals, were not valid excuses. The pendency of a petition for certiorari with any court is not sufficient excuse to defer the implementation of the said writ more specifically that the trial court had already ordered him to continue implementing the writ. Indeed, it was incumbent upon him to proceed without haste and to put the winning parties in possession of the premises and employ such means as may be necessary to enforce the writ.

The fact that respondent handed a copy of the writ to the defendants and filed his return does not mean that he had already discharged his duty. The essence of his job was to give the plaintiffs full control and possession of the subject lot. He miserably failed to do this.

Respondent's procrastination which resulted in the long delayed execution of the court's judgment is truly deplorable.[26] A judgment, if left unattended would be an empty victory for the prevailing party.[27] Rendered inutile is a decision left unexecuted or delayed indefinitely because of the sheriff's inefficiency, negligence, misconduct or ignorance. Moreover, the parties who are prejudiced tend to condemn the entire judicial system.[28]

All employees in the judiciary should be examples of responsibility, competence, and efficiency. As officers of the court and agents of the law, they must discharge their duties with due care and utmost diligence. Any conduct they exhibit tending to diminish the faith of the people in the judiciary will not be condoned.[29]

Time and again we have ruled that high standards are expected of sheriffs who play an important role in the administration of justice.[30] This was further expounded in the case of *Vda. De Abellera v. Dalisay*: [31]

At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants, hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.

In serving court writs and processes and in implementing court orders, they cannot afford to procrastinate without affecting the efficiency of court processes and the administration of justice.[32] Given their important functions as frontline representatives of the justice system, they should be imbued with a sense of professionalism in the performance of their duties. When they lose the people's trust, they diminish the people's faith in the judiciary.[33]

It is undisputable that the most difficult phase of any proceeding is the execution of judgment.[34] The officer charged with this delicate task is the sheriff. Despite being exposed to hazards that come with the implementation of the judgment, the sheriff must perform his duties by the book.[35] Respondent Tobillo failed to perform what was expected of him.

Clearly, respondent Tobillo failed to observe the degree of dedication to the duties and responsibilities required of him as a sheriff.[36] Through his failure, he breached his sworn duty to uphold the majesty of the law and the integrity of the justice system.[37] The court cannot countenance such dereliction of duty, as it erodes the faith and trust of the citizenry in the judiciary. As an implementing officer of the court, Sheriff Tobillo should set the example by faithfully observing, and not brazenly disregarding the Rules.

In the case of *Tisado v. Tablizo*, [38] a sheriff [39] who failed to enforce the Writ of Execution was suspended for

six months without pay. In the more recent case of *Gonzales La'O v. Hatab*,^[40] we dismissed respondent sheriff^[41] for his unreasonable delay in executing the judgment of the trial court in an ejectment case. In the case of *Dilan v. Dulfo*,^[42] respondent sheriff^[43] was ordered to pay a fine of Ten Thousand Pesos, for failure to implement the writ of execution as the occupants adamantly refused to vacate the premises. In this case, respondent has been an accountable officer of the court for more than twenty years and, thus, is presumed to have imbibed at least the fundamental rules and principles in implementing the writ of execution. But considering that the offense he committed appears to be the first and he is new to the position having been appointed Sheriff only on 08 October 2001, the Court is inclined to grant him certain leniency without, nonetheless, being unmindful of the fact that he had breached the provisions of the Rules of Court. For this reason, the Court is wont to impose the payment of a fine in the amount of Twenty Thousand Pesos.

WHEREFORE, respondent Sheriff Alejandro L. Tobillo, is hereby found guilty of gross neglect of duty, and a FINE of Twenty Thousand Pesos is imposed upon him. Upon receipt of this Decision, respondent or the Ex Officio Sheriff^[44] is hereby DIRECTED to immediately implement the subject writ. He is warned that a commission of the same offense or a similar act in the future will be dealt with more severely. Let a copy of this decision be attached to his personal records.

SO ORDERED.

Puno, (Chairman), Austria-Marrtinez, Callejo, Sr., and Tinga, JJ., concur.

[1] Rollo, pp. 1-8.

[2] Rollo, p. 30.

[3] Rollo, pp. 35-42.

[4] Rollo, pp. 46-48.

[5] Rollo, back of p. 52.

[6] Rollo, pp. 53-54.

[7] Rollo, p. 55.

[8] Rollo, pp. 56-58.

[9] Rollo, pp. 59-61.

[10] Rollo, pp. 62-65.

[11] Rollo, pp. 66-67.

[12] Rollo, p. 68.

[13] Rollo, pp. 69-70.

[14] Rollo, pp. 79-80.

[15] Rollo, pp. 71-72.

[16] Rollo, p. 73.

[17] Rollo, p. 74.

- [18] Rollo, p. 75.
- [19] Rollo, pp. 76-78.
- [20] Rollo, pp. 89-92.
- [21] *Mendoza v. Tuquero*, A.M. No. P-99-1343, 28 June 2001, 360 SCRA 21, citing *Smith Bell and Co. v. Saur*, A.M. No. P-1142, 31 March 1980, 96 SCRA 667.
- [22] *Ibid.*
- [23] *Aquino v. Lavasdia*, A.M. No. P-01-1483, 20 September 2001, 365 SCRA 441.
- [24] *Ibid.*
- [25] Rollo, pp. 71-72.
- [26] *Baes v. Bautista*, A.M. No. P-95-1160, 13 August 1996, 260 SCRA 527.
- [27] *Rosales v. Sta. Ana*, A.M. No. P-00-1400, 10 May 2001, 357 SCRA 688.
- [28] *Portes v. Tepace*, A.M. No. P-97-1235, 30 January 1997, 267 SCRA 185.
- [29] *Philippine Bank of Communications v. Torio*, A.M. No. P-98-1260, 14 January 1998, 284 SCRA 67.
- [30] *Balanag, Jr. v. Osita*, A.M. No. P-01-1454, 12 September 2002, 388 SCRA 630.
- [31] A.M. No. P-87-100, 12 February 1997, 268 SCRA 64.
- [32] *Bornasal, Jr. v. Montes*, A.M. No. P-97-1250, 06 October 1997, 280 SCRA 181.
- [33] *Dilan v. Dulfo*, A.M. No. P-99-1293, 11 March 1999, 304 SCRA 460.
- [34] *Moya v. Bassig*, A.M. No. 2796-P, 07 August 1985, 138 SCRA 49, 52.
- [35] *Florentino A. Caja v. Atilano G. Nanquil, Sheriff IV*, Regional Trial Court, Branch 72, Olongapo City, A.M. No. P-04-1885, 13 September 2004.
- [36] *Eduarte v. Ramos*, A.M. No. P-94-1069, 9 November 1994, 238 SCRA 37.
- [37] *Tisado v. Tablizo*, A.M. No. P-94-1025, 20 February 1996, 253 SCRA 646.
- [38] *Ibid.*
- [39] Who had been in service for 24 years.
- [40] A.M. No. P-99-1337, 05 April 2000, 329 SCRA 646.
- [41] Who had been in service for 14 years.
- [42] *Supra*, note 33.
- [43] Who had been in service for 36 years and had already applied for retirement.
- [44] 2002 Revised Manual for Clerks of Court, Chapter VI-D, 3.2.

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.