

**RAMON REYES, COMPLAINANT, VS. BENJAMIN L. CABUSAO,
SHERIFF III, METROPOLITAN TRIAL COURT, PASIG CITY, BRANCH
68, RESPONDENT.**

A.M. No. P-03-1676 (Formerly OCA IPI No. 02-1266-P). July 15, 2005

Ponente: CALLEJO, SR., J.

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CALLEJO, SR., J.:

The instant administrative complaint refers to the charge of dereliction of duty against Benjamin L. Cabusao, Sheriff III, Metropolitan Trial Court, Pasig City, Branch 68, relative to the implementation of a writ of execution in Civil Case No. 67026. The charges against the respondent are contained in the verified Complaint filed by Ramon Reyes dated December 3, 2001, to wit:

- Last January 21, 1999, Branch 159, Regional Trial Court of the City of Pasig, rendered a decision (Civil Case No. 67026), affirming the ruling of Branch 68, Metropolitan Trial Court of Pasig City, in Civil Case No. 4464, awarding both moral and exemplary damages to the plaintiff;
- After the decision became final and executory, a Writ of Execution was issued on March 10, 2000;
- From that time up to the present, Plaintiff made several oral requests to the sheriff, respondent Benjamin Cabusao, and the court staff to have the writ enforced;
- The only reason given by the court staff for failure to execute the writ was the Sheriff's inability to accommodate the writ due to the number of decisions sought to be executed by the Sheriff;
- Last August 28, 2001, Plaintiff filed an Ex Parte Motion for the Issuance of an Order to Compel the Sheriff to Enforce the Writ of Execution;
- Plaintiff has not received any written Reply as regards his Motion.
- Last November 26, 2001, counsel of Plaintiff was finally able to talk with the Sheriff and was informed that the Writ was unsuccessfully served thrice since the defendant has already abandoned his known address;
- Upon query with the Court staff, counsel of Plaintiff, found out that no report explaining the failure to serve the writ was filed by the Sheriff with the Court in violation of Supreme Court Administrative Circular No. 12;
- ...
- Furthermore, the Sheriff, despite the constant follow-up of the Plaintiff has not made any contact with the latter nor with his counsel in order to update them of the status of the case.
- Had the Sheriff served the Writ earlier and within the period prescribed by law, or at least, had informed the plaintiff or counsel of plaintiff at the earliest possible time, as regards the failure to serve the writ, then Plaintiff would not have suffered the agony of useless waiting, and could have immediately acted on the matter so as to prevent the apparent escape from liability of the respondent.[1]

The respondent denied the charges against him in his Comment[2] dated March 13, 2002. He pointed out that the wife of therein defendant voluntarily executed an affidavit[3] to disprove the charges against him. He further asserted, thus:

- On August 27, 2001, the undersigned went to the given address of Cesar Patindol but he could not be located and his whereabouts unknown. To obviate any possibility of cover-up, the undersigned did not introduce himself as a Sheriff when he was able to talk to Patindol's wife, but even the wife did not know of Patindol's whereabouts;

- The following day, August 28, 2001, [complainant] Ramon Reyes filed an Urgent Motion before the Court praying that the undersigned be directed to implement the writ of execution. Mr. Reyes did not even bother to first check or verify the facts before filing the said Motion, which is most unfair, as the Motion tended to create the impression that the undersigned was remiss in his duty, a far cry, however, from the truth;

- On August 31, 2001, the undersigned again proceeded to the residence of Cesar Patindol but he was informed by the neighbors that Cesar Patindol is no longer seen in the vicinity, a fact which was subsequently confirmed by Patindol's wife, who informed the undersigned that her husband abandoned them almost a year ago;

Nevertheless, the undersigned gave Patindol's wife a copy of the writ of execution and advised her to settle her husband's obligation;

- On September 12, 2001, the undersigned returned to Patindol's residence and again inquired about Cesar Patindol. Patindol's wife acknowledged the obligation and said that she and her family are willing to pay the obligation of her husband;

- That on September 24, 2001, the undersigned accompanied Mr. Reyes' counsel Atty. Robert Jay Quitain, to Patindol's residence in order for Mr. Reyes' counsel and Patindol's wife to make arrangement for the settlement of Patindol's obligation;

- On November 14, 2002, the undersigned again accompanied Mr. Reyes' lawyer to Patindol's residence and the lawyer informed Patindol's wife that his client, Ramon Reyes, refused to accept the settlement of the obligation on installment basis;

- On February 20, 2002, the undersigned, in the presence of Mr. Reyes' counsel, levied upon one (1) unit computer machine, Sampo, brand new, Millenium Edition, with mouse and computer, and scheduled the sale thereof at public auction on March 6, 2002 at the Justice Hall, Pasig City;

- On March 6, 2002, at exactly 10:30 a.m., the aforesaid computer was auctioned in the presence of Mr. Reyes and his counsel. The winning bidder was Mr. Reyes and a Certificate of Award/Sale was issued to Mr. Reyes in the presence of his counsel, copy of which is attached hereto as Annex 2.[4]

In its Report[5] dated October 1, 2002, the Office of the Court Administrator (OCA) recommended that the matter be re-docketed as a regular administrative matter and that the respondent be fined in the amount of P5,000.00 for the delay in the implementation of the writ of execution in the above civil case, and failure to submit a return of the writ of execution as required by Section 14, Rule 39 of the Rules of Civil Procedure.

The matter was, thereafter, referred to Executive Judge Jose P. Morillos, Metropolitan Trial Court of Pasig City, for investigation, report and recommendation. Hearings were, thereafter, set but the complainant failed to appear twice, prompting the Executive Judge to submit the case for decision upon motion of the respondent Sheriff.

In his Report dated April 30, 2004, the Executive Judge echoed the findings of the OCA, and concluded that the respondent was guilty of negligence, which consisted in failing to make a report of the writ of execution as required by Section 14, Rule 39 of the Rules of Court. He, likewise, recommended that the respondent be meted a

P5,000.00 fine.

The findings of the OCA and the Executive Judge are well taken.

By the very nature of his duties, a sheriff performs a very sensitive function in the dispensation of justice.[6] He is duty-bound to know the basic rules relative to the implementation of writs of execution, and should, at all times show a high degree of professionalism in the performance of his duties.[7] The sheriff is the front-line representative of the justice system in this country, and if he loses the trust reposed in him, he inevitably diminishes, likewise, the faith of the people in the judiciary.[8]

The fact that the respondent was charged of dereliction of duty for his alleged failure to implement the questioned writ of execution should have made him realize that the best evidence to prove that he was not remiss in his duties was the return of the writ. The duties of the sheriff relative to the making of a return of the writ of execution were enumerated in *Arevalo v. Loria*: [9]

It is mandatory for a sheriff to make a return of the writ of execution to the clerk or judge issuing it. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason or reasons therefore. The officer is, likewise, tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full or its effectivity expires.[10]

In this case, the writ of execution was issued on March 10, 2000, but as admitted by the respondent himself, his first attempt to implement it was made more than 17 months later, or on August 27, 2001. Such delay in the implementation of the writ cannot be countenanced, for as pointed out by the OCA, the "execution [of the judgment] is the fruit and end of the suit and the life of the law."

It is clear that by his actuations, the respondent Sheriff displayed conduct short of the stringent standards required of Court employees. He is guilty of simple neglect of duty, which has been defined as the failure of an employee to give one's attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference.[11] Civil Service Commission Memorandum Circular No. 19 classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.[12]

The Court notes that this is not the first time that the respondent has been administratively charged. In *Chupungco v. Cabusao, Jr.*, [13] he was meted a fine of P5,000.00 for failing to exercise reasonable diligence in the implementation of a writ of execution, resulting in the loss of personal property in his custody.

WHEREFORE, for simple negligence, respondent Benjamin L. Cabusao is hereby **SUSPENDED** for One Month (1) and One (1) Day. He is **STERNLY WARNED** that any repetition of the same act in the future shall be dealt with more severely.

SO ORDERED.

Puno, Chairman, Austria-Martinez, Tinga, and Chico-Nazario, JJ., concur.

[1] Rollo, pp. 1-2.

[2] *Id.* at 9-10.

[3] *Id.* at 7.

[4] Rollo, pp. 5-6.

[5] Id. at 11-12.

[6] Espina v. Gato, A.M. No. P-02-1580, 9 April 2003, 401 SCRA 40.

[7] Andal v. Tonga, A.M. No. P-02-1581, 28 October 2003, 414 SCRA 524.

[8] Camsa v. Rendon, A.M. No. MTJ-02-1395, 28 March 2003, 400 SCRA 1.

[9] A.M. No. P-02-1600, 30 April 2003, 402 SCRA 40.

[10] Id. at 48.

[11] Philippine Retirement Authority v. Rupa, 415 Phil. 713 (2001).

[12] Cañete v. Manlosa, A.M. No. P-02-1547, 3 October 2003, 412 SCRA 580.

[13] A.M. No. P-03-1758, 10 December 2003, 417 SCRA 365.

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