

**ROSANNA V. CASALME AND JOSE T. CASALME, JR., COMPLAINANT,  
VS. DEPUTY SHERIFF MARVIN S. RIVERA AND OIC-STENOGRAPHER  
III AGRIPINA N. CALUAG, OF THE RTC, BRANCH 18, MALOLOS,  
BULACA...**

*A.M. No. P-99-1314. June 25, 1999*

Ponente: MENDOZA J.

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**MENDOZA J.:**

This is a complaint, dated April 1, 1998, of Rosanna V. Casalme and Jose T. Casalme, Jr. against Marvin S. Rivera and Agripina N. Caluag, Deputy Sheriff and OIC-Stenographer III, respectively, of the Regional Trial Court (RTC), Branch 18, at Malolos, Bulacan.

Complainants allege that at five o'clock in the morning of March 27, 1998, respondent Rivera, together with two companions, came to their house and showed them a writ of execution issued on March 4, 1998 by respondent Agripina N. Caluag. The writ was issued in connection with the decision rendered on September 2, 1997 in Civil Case No. 368-M-97 ordering complainants to pay the plaintiff therein Wilfredo Castro the amount of P47,000.00, plus 20% interest per annum effective February 14, 1991 until the whole obligation is extinguished, and P5,000.00 as attorney's fees. According to complainants, Rivera demanded payment of P119,240.00 per his computation. When complainants asked for time so that they could show the writ of execution to their lawyer, Rivera allegedly demanded that they give him instead their Tamaraw FX vehicle. Complainants said they told Rivera that the Tamaraw FX was still being paid for even as they offered another vehicle to the sheriff. Nonetheless, Rivera issued a Notice of Levy on the Tamaraw FX indicating therein receipt of the same. When complainants received a copy of said Notice, they were surprised to see therein a notation "[For] Sale" together with a notice for auction of the said vehicle on a specified date and place. Complainants went to the RTC, Branch 18, at Malolos, Bulacan and talked to respondent Caluag. They told her that they never received the summons and copy of the decision in Civil Case No. 368-M-97, but Caluag referred them to the report of the process server Gerardo L. de Claro stating that complainants had been served summons through their niece and caretaker Neneth Hervez on June 9, 1997, while a copy of the decision was allegedly served on complainant Jose T. Casalme, Jr. on December 20, 1997 although he refused to sign a receipt for it.

In their comment, respondents state that they "merely did their duties as Court personnel as the records of Civil Case No. 368-M-97 will attest" and pray for the dismissal of the complaint against them. In its memorandum, dated April 30, 1999, the Office of the Court Administrator (OCA) recommends the dismissal of the complaint.

The recommendation of the OCA with respect to respondent OIC-Stenographer III Agripina N. Caluag is well taken.

Respondent Caluag, as the Officer-in-Charge, had a ministerial duty to issue the writ of execution in view of the order of execution, dated February 4, 1998, issued by the court.

Anent complainants' claim that they were deprived of due process because they had not allegedly been served either summons or a copy of the decision in Civil Case No. 368-M-97, complainants' remedy is judicial rather than administrative for, if true, the proceedings against them were void. Otherwise, unless enjoined by a court of competent jurisdiction, execution of the decision should follow as a matter of course.

On the other hand, while it was respondent Rivera's duty, as Deputy Sheriff, to enforce the writ, he has not explained why he tried to enforce the writ so early in the morning at five o'clock when there was not even an allegation that the property he wanted to levy upon was in danger of being hidden or concealed from him. For lack of any explanation for his unseemly, let alone highhanded and arbitrary, conduct, Sheriff Rivera exposed himself and his office to the suspicion that he had ulterior motives.

ACCORDINGLY, the complaint against respondent OIC-Stenographer III Agripina N. Caluag of the Regional Trial Court, Branch 18, of Malolos, Bulacan is DISMISSED. The Court, however, RESOLVED to REPRIMAND respondent Deputy Sheriff Marvin S. Rivera, also of the RTC, Branch 18, of Malolos, Bulacan. He is admonished to be more circumspect in his manner of enforcement of writs of execution and warned that repetition of the same or similar acts shall be dealt with more severely.

**SO ORDERED.**

Bellosillo, (Chairman), Puno, Quisumbing, and Buena, JJ., concur.

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