

**VICENTE RAUT-RAUT, REPRESENTED BY JOVENCIO RAUT-RAUT,  
COMPLAINANT, VS. ROMEO B. GAPUTAN, SHERIFF IV, REGIONAL  
TRIAL COURT, BRANCH 27, GINGOOG CITY, MISAMIS ORIENTAL,  
RESPONDENT.**

*A.M. No. P-14-3214 [Formerly OCA I.P.I. No. 11-3747-P]. September 14, 2015*

Ponente: PERALTA, J.

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**PERALTA, J.:**

Before us is an administrative Complaint[1] filed by Vicente Raut-Raut (complainant), represented by Jovencio Raut-Raut against Romeo B. Gaputan (Gaputan), Sheriff IV, Branch 27, Regional Trial Court, Gingoog City, Misamis Oriental for Abuse of Authority relative to Civil Case No. 515-M, entitled Lolita U. Estabaya, et al. vs. Hilario Raut-Raut.

The facts are as follows:

Complainant Raut-Raut is one of the heirs of the defendant in the above-mentioned civil case. On July 31, 2002, a Decision was rendered by Branch 27, RTC, Gingoog City, Misamis Oriental, in favor of the plaintiffs in the same case, the dispositive portion of which reads:

WHEREFORE, premises considered, judgment is hereby rendered in favor of the plaintiffs, and directing defendant Hilario Raut-Raut to restore to the plaintiffs the possession and enjoyment of their shares of the properties left by their deceased father, Leopoldo Udarbe, which is one-half of the properties he has acquired from the third-party defendant Hendrieta Udarbe by virtue of the Deed of Absolute Sale of 5 August 1974 executed by said third-party defendant in his favour (page 291, rollo).

Defendant Hilario Raut-Raut is likewise ordered to pay to each of the plaintiffs the amount of P15,000.00 for the unrealized profits or harvest corresponding to their shares.[2]

On November 12, 2003, the trial court issued a Writ of Execution[3] ordering Gaputan to enforce the judgment in the subject case. Complainant lamented that Gaputan proceeded with the implementation of the writ of execution despite plaintiff Lolita Estabaya's failure to file a bond approved by the trial court.

Complainant further asserted that Gaputan did not follow the dispositive portion of the decision because he delivered one-half of the titled land of Vicente Raut-Raut who filed the third-party claim and not one-half of those subject of the sale. Gaputan wrongfully executed the writ against the titled property of Vicente and Ruben Raut-Raut in Cuenco Estate, Tagpaco, Gingoog City, Misamis Oriental, which was previously awarded to them as farmer-beneficiary of the Department of Agrarian Reform's Comprehensive Agrarian Reform Program (CARP).

Moreover, complainant pointed that Gaputan filed the Sheriffs Return[4] only on July 14, 2005, or almost two (2) years from his receipt of the writ of execution on November 12, 2003. He further insisted that the Amended Sheriffs Return dated April 24, 2009 is null and void as it was already barred by prescription. He explained that the decision can only be executed within live (5) years from its rendition, however, the Amended Sheriffs Return

was made more than seven (7) years thereafter, thus, the same has no legal force and effect.

In a Resolution[5] dated November 15, 2011, the Office of the Court Administrator (OCA) directed Gaputan to file his comment on the charges against him.

In his Comment[6] dated December 12, 2011, Gaputan denied the allegations with regard to certain irregularities in the implementation of the Writ of Execution in Civil Case No. 515-M. Gaputan claimed that on November 17, 2013, he personally served a copy of the writ of execution upon defendant Hilario Raut-Raut at his residence in Barangay Tagpako, Gingoog City, Misamis Oriental. However, the implementation of the writ was never fully satisfied due to several circumstances which allegedly disrupted the enforcement of the writ, to wit: (1) Gaputan believed that half of the litigated property still needed to be delineated to ascertain the extent of the award to be delivered to Lolita U. Estabaya and her co-plaintiffs, which consisted of half of the improvements mentioned in the Deed of Absolute Sale dated August 5, 1974, pursuant to the July 31, 2002 Decision; (2) plaintiffs failed to raise the amount needed to defray the expenses for the survey of the property; (3) on April 25, 2004, Hilario Raut-Raut died; and, (4) on March 1, 2005, respondent received an Affidavit of Third-Party Claimant filed by complainant Raut-Raut, the son and successor-in-interest of Hilario Raut-Raut.

Nevertheless, Gaputan reported in his Amended Sheriffs Return[7] dated April 24, 2009, that on February 28, 2006, he turned over to one of the plaintiffs, Lolita Estabaya, the other half of the litigated property pursuant to the court's decision.

Gaputan further explained that at the time he filed the subject Sheriffs Report on July 14, 2005, he actually thought that the filing of the Sheriffs Report which summarized all the incidents that transpired in the course of his attempt to execute the decision already constitute substantial compliance with his mandate to file a periodic sheriffs report.

In a Memorandum[8] dated March 20, 2014, the OCA found Gaputan guilty of Simple Neglect of Duty. It, thus, recommended that the instant complaint be re-docketed as a regular administrative complaint and that respondent be fined in the amount of P2,000.00.

On June 25, 2014, the Court resolved to re-docket the instant administrative complaint against Gaputan as a regular administrative matter.

We agree with the findings and recommendation of the OCA except as to the imposition of penalty.

Section 14, Rule 39 of the Rules of Court makes it mandatory for a sheriff to make a return of the writ of execution to the Clerk of Court or to the Judge issuing it immediately upon satisfaction, in part or in full, of the judgment.[9] If the judgment cannot be satisfied in full, the sheriff shall make a report to the court within thirty (30) days after his receipt of the writ and state why full satisfaction could not be made.[10] The sheriff shall continue 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.[11] Failure of a sheriff to make periodic reports on the status of a writ of execution warrants administrative liability.[12] The reason behind this requirement is to update the court on the status of the execution and to take the necessary steps to ensure the speedy execution of decisions.[13]

In the instant case, by Gaputan's admission,[14] it is undisputed that he actually failed to make a periodic report on the proceedings in relation to the implementation of the writ. He was directed to Execute the Writ of Execution on November 12, 2003 but he submitted the Sheriffs Return only on July 14, 2005, and the Amended Sheriff's Return was reported only on April 24, 2009. While Gaputan offered several explanations as to why the writ remained unsatisfied for a long time, he, however, failed to satisfactorily explain the reason why he failed to make the necessary periodic reporting of the proceedings, and the long delay in the submission of the Sheriffs Return.

A sheriff's duty in the execution of a writ is purely ministerial; he is to execute the order of the court strictly to the letter. He has no discretion whether to execute the judgment or not. He is mandated to uphold the majesty of the law as embodied in the decision. When a writ is placed in the hands of a sheriff, it is his duty, in the absence of any instructions to the contrary, to proceed with reasonable celerity and promptness to execute it according to its mandate.[15]

Gaputan has no discretion whatsoever with respect to the manner and time when the writ should be executed. If he believes that there is a need to clarify what to do with the alleged titled property belonging to another, prudence and reasonableness dictate that clarification be sought immediately from the clerk or judge issuing the writ. He cannot escape liability for the misinterpretation he had done in connection with the case because precisely he failed to promptly inform the court about it. Having been in the service for more than 28 years, Gaputan is expected to know the rules of procedure pertaining to his functions as an officer of the court, 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. Any act deviating from the procedure laid down by the Rules is misconduct that warrants disciplinary action.

Being the front-line representative of the justice system, a sheriff must always exert every effort and, indeed, consider it his bounden duty, to perform his duties in order to maintain public trust.[16] He must see to it that the final stage in the litigation process - the execution of the judgment - is carried out with no unnecessary delay, in order to ensure a speedy and efficient administration of justice.[17] A decision left unexecuted or indefinitely delayed due to his neglect of duty renders it inutile; and worse, the parties who are prejudiced thereby tend to condemn the entire judicial system.[18]

Under the Revised Uniform Rules on Administrative Cases in the Civil Service, respondent is guilty of simple neglect of duty which is defined as the failure of an employee to give attention to a task expected of him and signifies a disregard of a duty resulting from carelessness or indifference. It is classified as a less grave offense which carries the penalty of suspension for one (1) month and one (1) day to six (6) months for the first offense and dismissal for the second offense. As it appears that this is Gaputan's first offense and taking into consideration his long years of service in the judiciary of about 28 years, in lieu of suspension, we find that an imposition of a fine in an amount equivalent to his salary for one month is more appropriate.

WHEREFORE, respondent Sheriff Romeo B. Gaputan is found GUILTY of simple neglect of duty and is FINED in an amount equivalent to his salary for one month. In view of Gaputan's retirement from the service, the Finance Division, Financial Management Office of the OCA is DIRECTED to deduct the amount corresponding to his one month's salary from the retirement benefits due him.

Let a copy of this Decision be attached to the personnel records of respondent Gaputan in the Office of the Administrative Services, Office of the Court Administrator.

**SO ORDERED.**

Velasco, Jr., (Chairperson), Villarama, Jr., Perez,[\*] and Jardeleza, JJ., concur.

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October 6, 2015

## NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 14, 2015 a Decision, copy attached hereto, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 6, 2015 at 2:15 p.m.

Very truly yours,

(SGD)

WILFREDO V. LAPITAN

Division Clerk of Court

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[\*] Designated Acting Member in lieu of Associate Justice Bienvenido L. Reyes, per Special Order No. 2112 dated July 16, 2015.

[1] Rollo, pp. 1-5.

[2] Id. at 18.

[3] Id. at 18-19.

[4] Id. at 20-21.

[5] Id. at 35.

[6] Id. at 37-46.

[7] Id. at 23.

[8] Id. at 49-53.

[9] OCA v. Tolosa, 667 Phil. 9, 15-16 (2011).

[10] Id. at 16.

[11] Id.

[12] Id.

[13] Id.

[14] Rollo, pp. 41-42.

[15] Garcia v. Yared, 447 Phil. 444, 456 (2003).

[16] Id.

[17] Id.

[18] Id.

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