

**AIREEN A. MAHUSAY, COMPLAINANT, VS. GEORGE E. GAREZA,
SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, VICTORIAS CITY,
NEGROS OCCIDENTAL, RESPONDENT.**

A.M. No. P-16-3430 (Formerly OCA IPI No. 12-3905-P). March 01, 2016

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PER CURIAM:

The instant administrative case arose from a complaint-affidavit[1] filed by complainant Aireen A. Mahusay (complainant) charging respondent George E. Gareza (respondent), Sheriff III of the Municipal Trial Court in Cities of Victorias City, Negros Occidental (MTCC), of dishonesty, grave misconduct, and gross negligence.

The Facts

In her complaint-affidavit, complainant averred that she is the authorized representative of Lopue's Victorias Corporation (Lopue's), the plaintiff in Small Claims Case No. SCC-8-V against one Joseph Andrei A. Garcia (Garcia), entitled "Lopue's Victorias Corporation v. Joseph Andrei A. Garcia"[2] filed before the MTCC of Victorias City. She alleged that on February 9, 2011, the MTCC of Victorias City rendered a Decision[3] based on the compromise agreement[4] executed between the parties, where Garcia undertook to pay, in installments, the total amount of P54,591.05 to Lopue's. However, because Garcia reneged on his undertaking under the compromise agreement, Lopue's filed a motion for the issuance of a writ of execution,[5] which the MTCC granted[6] on October 11, 2011. Respondent was tasked to implement the writ.[7]

Complainant alleged that respondent, despite having received a partial payment from Garcia through his staff, Janice C. Sta. Ana (Sta. Ana) in the amount of P10,000.00, failed to remit the same to Lopue's for a period of around four (4) months and ten (10) days.[8] Respondent failed to turn over the same despite follow-ups from complainant.[9]

On February 24, 2012, the MTCC Branch Clerk, Cheline T. Sorreno (Sorreno), issued a reminder[10] to respondent requiring him to submit a return on the writ, Thereafter, or on March 7, 2012, more than four (4) months after the writ of execution had been issued, Lopue's was able to receive[11] the P10,000.00 partial payment in satisfaction of Garcia's Obligation. Still, the rest of Garcia's obligation remained unsatisfied notwithstanding the lapse of five (5) months from the issuance of the writ of execution; hence, the administrative complaint against respondent.[12]

In his defense,[13] respondent denied complainant's allegations and claimed that upon receipt of the writ of execution, he inquired from the latter the exact amount that Garcia owed to Lopue's, considering the alleged previous payments he had made. He also averred that Garcia was willing to settle the balance of the judgment obligation, provided that their records would tally complainant's outstanding balance in the amount of P55,000.00, which was much more than Garcia's computation at P17,000.00.[14] Respondent further explained that he deferred the enforcement of the writ of execution in deference to Garcia's status as City Councilor of Victorias City and the latter's willingness to settle his account.[15]

Thereafter, when Garcia, through Sta. Ana, tendered the amount of P10,000.00 as partial payment of the judgment obligation, complainant refused to accept the same and instead, demanded the full settlement of the obligation. Further, respondent admitted that he failed to make a return of service as he did not know "how to establish the fact that defendant Garcia took the money he was supposed to pay through me." [16]

On January 8, 2014, the Court, through the Office of the Court Administrator (OCA), referred [17] the instant administrative complaint to Executive Judge Dyna Doll C. Trocio (Executive Judge Trocio) of the Regional Trial Court of Silay City, Negros Occidental (RTC), for investigation, report, and recommendation. [18]

Pending investigation, or on May 30, 2014, complainant filed an ex-parte motion [19] to direct respondent to enforce the writ of execution, which the MTCC granted in an Order [20] dated June 2, 2014. Thus, on July 24, 2014, respondent filed a Return of Service, [21] stating that, despite demands for payment, the writ could not be served as Garcia was unemployed, had no other source of income, and had no personal properties that can be levied against him.

In her Investigation Report [22] dated March 11, 2015, Executive Judge Trocio found that respondent's Return of Service was submitted only on July 24, 2014, or two (2) years, nine (9) months, and thirteen (13) days [23] after the issuance of the writ of execution, and only after he was directed to do so upon ex-parte motion of complainant. She found that the delay could only be attributed to respondent's irresponsibility and apparent refusal to perform his duty. As such, he failed to live up to his sworn duty to uphold and execute the law. [24] Consequently, she recommended that respondent be dismissed from the service, having found him guilty of dishonesty, gross neglect of duty, and simple neglect of duty. [25]

The OCA's Report and Recommendation

In a Memorandum [26] dated December 1, 2015, the OCA concurred with Executive Judge Trocio's recommendation that respondent should be held guilty of dishonesty, gross neglect of duty, and simple neglect of duty and, accordingly, be dismissed from service, with forfeiture of all benefits and privileges except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations. [27]

Holding that sheriffs are responsible for the speedy and efficient implementation of writs of execution, the OCA found that respondent did not observe the degree of dedication required of him as a sheriff, in that he failed to discharge his duties in the execution of the final judgments of the courts. Moreover, a sheriff's duty is purely ministerial; hence, he must comply with this mandated ministerial duty as speedily as possible, without any need for the litigants to "follow up" the implementation of the writ. [28]

Respondent's failure to turn over the partial payment that he received from Garcia to the judgment creditor, Lopue's, or to the Branch Clerk, was an act of misappropriation of funds amounting to dishonesty. Furthermore, his failure to issue official receipts for the amount received was also a violation of the General Auditing and Accounting Rules. [29]

Moreover, respondent should also be held liable for gross neglect of duty for failing to implement the writ for a period of almost three (3) years [30] after its issuance. [31]

Finally, he should likewise be held guilty of simple neglect of duty for failing to make or submit a report/return on the implementation of the writ of execution within the required period under the Rules of Court. [32]

The Issue Before the Court

The issue for the Court's resolution is whether or not respondent should be held administratively liable for

dishonesty, gross neglect of duty, and simple neglect of duty and, accordingly, be dismissed from service.

The Court's Ruling

The factual findings of the Investigating Judge and the recommendation of the OCA are well-taken and are therefore adopted by the Court.

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.[33]

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. As agents of the law, high standards are expected of sheriffs.[34]

With regard to the sheriffs duty to turn over or remit any payments in satisfaction of money judgments, Section 9 (a), Rule 39 of the Rules of Court provides in part:

Section. 9. Execution of judgments for money, how enforced.

(a) Immediate payment on demand. - The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of the judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ.

If the judgment obligee or his authorized representative is not present to receive payment, the judgment obligor shall deliver the aforesaid payment to the executing sheriff. The latter shall turn over all the amounts coming into his possession within the same day to the clerk of court of the court that issued the writ, or if the same is not practicable, deposit said amount to a fiduciary account in the nearest government depository bank of the Regional Trial Court of the locality.

The clerk of said court shall thereafter arrange for the remittance of the deposit to the account of the court that issued the writ whose clerk of court shall then deliver said payment to the judgment obligee in satisfaction of the judgment. The excess, if any, shall be delivered to the judgment obligor while the lawful fees shall be retained by the clerk of court for disposition as provided by law. In no case shall the executing sheriff demand that any payment by check be made payable to him.

x x x x (Emphases and underscoring supplied)

In this case, it has been established, through substantial evidence, that respondent received the amount of P10,000.00 from Garcia, through the latter's staff, in partial satisfaction of the judgment obligation in favor of Lopue's. It; has also been established that despite the lapse of more or less four (4) months, respondent failed to remit the same to the Branch Clerk of the MTCC of Victorias City. In fact, had it not been for several follow-ups from complainant and a reminder from the Branch Clerk requiring respondent to make a return of service on the writ of execution, the latter would not have remitted the money. Likewise, even after having remitted the partial

payment from Garcia, respondent failed to satisfactorily implement the writ and only made a return of service after a period of almost three (3) years after the issuance thereof.

Under these premises, the Court thus concurs with the OCA that respondent's omissions in this case make him administratively liable for dishonesty, as well as for gross neglect of duty.[35]

Records indubitably show his receipt of the money which he was obliged to remit immediately to the Branch Clerk, it being his ministerial duty to satisfactorily enforce the writ of execution. As the amounts were received by him by virtue of his office, it was his duty, as sheriff, to faithfully account therefor.[36] Sheriffs have the duty to perform faithfully and accurately what is incumbent upon them, and any method of execution falling short of the requirement of the law should not be countenanced.[37] In this respect, respondent miserably failed, and his various defenses all fail to persuade.

Moreover, respondent made a return of service on the writ of execution on July 21, 2014, or almost three (3) years after the issuance thereof on October 11, 2011, and only after an ex-parte motion on the part of the complainant. On this score, Section 14,[38] Rule 39 of the Rules of Court mandates that a sheriff should submit a return of service every thirty (30) days on the proceedings taken on the writ he is to implement. Based on the records, respondent clearly failed to comply with the Rules.

It bears stressing that the submission of the return and of periodic reports by the sheriff is a duty that cannot be taken lightly. It serves to update the court on the status of the execution and the reasons for the failure to satisfy its judgment. The periodic reporting also provides the court insights on how efficient court processes are after a judgment's promulgation. Its overall purpose is to ensure speedy execution of decisions. A sheriff's failure to make a return and to submit a return within the required period constitutes inefficiency and incompetence in the performance of official duties.[39] Consequently, respondent's failure in this respect renders him administratively liable for simple neglect of duty, defined as the failure of an employee to give attention to the task expected of him.[40]

A sheriff is a front-line representative of the justice system in this country. Once he loses the people's trust, he diminishes the people's faith in the judiciary. High standards of conduct are expected of sheriffs who play an important role in the administration of justice. They are tasked with the primary duty to execute final judgments and orders of the courts. When a writ is placed in the hands of a sheriff, it becomes his ministerial duty to proceed with reasonable celerity and promptness to implement it in accordance with its mandate. It must be stressed that a judgment, if not executed, would be an empty victory on the part of the prevailing party.[41]

In light of the foregoing, the Court hereby affirms the conclusions of fact and recommendations of the OCA finding respondent administratively liable for dishonesty, gross neglect of duty, and simple neglect of duty. As dishonesty is a grave offense punishable by dismissal even on the first offense, the penalty therefor shall be meted upon respondent, and the gross neglect of duty and simple neglect of duty shall be considered as aggravating circumstances.[42]

WHEREFORE, respondent George E. Gareza, Sheriff III of the Municipal Trial Court in Cities of Victorias City, Negros Occidental, is hereby found GUILTY of dishonesty, gross neglect of duty, and simple neglect of duty and is ordered DISMISSED from service with forfeiture of all benefits and privileges, except accrued leave credits, if any, with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Leonardo-De Castro, Peralta, Bersamin, Del Castillo, Perez, Mendoza, Reyes, Perlas-Bernabe, Leonen, Jardeleza, and Caguioa, JJ., concur.

Brion, J., on leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on March 1, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled administrative matter, the original of which was received by this Office on April 20, 2016 at 9:45 a.m.

Very truly yours,
(SGD)FELIPA G. BORLONGAN-ANAMA
Clerk of Court

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- [1] Rollo, pp. 3-5.
[2] See *id.* at 19.
[3] *Id.* Penned by Presiding Judge Evelyn D. Arsenio.
[4] *Id.* at 8.
[5] *Id.* at 202-203.
[6] See Writ of Execution signed by Sorreno; *id.* at 20-21.
[7] See *id.* at 3. Respondent received the Writ of Execution on October 12, 2011; see *id.* at 24.
[8] See *id.* at 225.
[9] See *id.* at 3-4.
[10] *Id.* at 24.
[11] See Acknowledgment Receipt dated March 6, 2012; *id.* at 23.
[12] See *id.* at 4.
[13] See Comment dated April 29, 2013; *id.* at 32-40.
[14] See *id.* at 33.
[15] See *id.* at 34.
[16] See *id.* at 35.
[17] *Id.* at 50-52.
[18] *Id.* at 52.
[19] *Id.* at 211-212.

[20] Id. at 215.

[21] Dated July 21, 2014. Id. at 216.

[22] Id. at 224-239.

[23] "Four (4) years, nine (9) months, and ten (10) days" as mentioned in the Investigation Report of Executive Judge Trocio. See id. at 234.

[24] See id. 234-235.

[25] Id. at 239.

[26] Id. at 243-248. Issued by Deputy Court Administrator and Officer-in-Charge Raul Bautista Villanueva.

[27] See id. at 246 and 248.

[28] See id. at 247.

[29] Id.

[30] "Four (4) years" in OCA's Memorandum. See id.

[31] Id.

[32] Id. at 248.

[33] See *Miranda v. Raymundo, Jr.*, A.M. No. P-13-3163. December 1, 2014, citing *Legaspi v Tobillo*, 494 Phil. 229, 238 (2005).

[34] Id., citing *Pesongco v. Estoya*, 519 Phil. 226, 241 (2006).

[35] See *Rural Bank of Francisco F. Balagtas (Bulacan), Inc. v. Pangilinan*, 367 Phil. 235 (1999).

[36] *Romero v. Villarosa, Jr.*, 663 Phil. 196, 204-210 (2011).

[37] *Peña, Jr. v. Regalado II*, 626 Phil. 447, 455-456 (2010).

[38] Section. 14. Return of writ of execution. - The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. 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 therefor. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall 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. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties.

[39] *Development Bank of the Philippines v. Famero*, A.M. No. P-10-2789, July 31, 2013, 702 SCRA 555 564.

[40] See id.

[41] *Romero v. Villarosa, Jr.*, *supra* note 36, at 210.

[42] See Section 55, Rule IV of the Revised Uniform Rules on Administrative Cases in the Civil Service.

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