DR. JOSEFA T. DIGNUM, COMPLAINANT, VS. PALAO M. DIAMLA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 9, AND ACMAD C. ALIPONTO, SHERIFF IV, REGIONAL TRIAL COURT, OFFICE OF THE CLERK ...

A.M. NO. P-06-2166 (FORMERLY OCA IPI NO. 05-2161-P). April 28, 2006

Ponente: CARPIO MORALES, J.

Read online (full-text search, related cases, audio case brief): https://batas.org/library/debec1ad7530/

CARPIO MORALES, J.:

Dr. Josefa T. Dignum (complainant), by letter-complaint[1] dated February 21, 2005, administratively charged respondents Sheriffs Palao M. Diamla (Diamla) and Acmad C. Aliponto (Aliponto) for violating Sections 5[2] of Canon I, 1,[3] 2,[4] 6[5] and 7[6] of Canon IV of the Code of Conduct for Court Personnel[7] and for gross misconduct and inefficiency in the discharge of their official and/or ministerial duty.

Complainant was the defendant in a complaint[8] filed by Rosa Maria Lamparas for "Collection of Sum of Money, Accounting and Damages," docketed as Civil Case No. 1127-94 before the Regional Trial Court of Marawi City, Branch 9 (the trial court).

On March 31, 1997 the trial court rendered a decision[9] against herein complainant, the decretal portion of which reads:

> WHEREFORE, judgment is hereby rendered in favor of plaintiff ROSA MARIA LAMPARAS against defendant JOSEFA DIGNUM ordering said defendant:
>
> - To pay unto plaintiff Rosa Maria Lamparas the sum of One Million Six Hundred Sixty-Nine Thousand Seven Hundred Twenty (P1,669,720.00) Pesos representing the fruits of the properties from May, 1993 to November 1996;
>
> - To pay 12% interest per annum thereof from 1993 until paid;
>
> - To pay unto plaintiff the sum of Two Hundred Thousand (P200,000.00) Pesos in damages;
>
> - To pay litigation expense of Twenty Thousand (PP20,000.00) Pesos; and
>
> - To pay the costs.[10]

The decision of the trial court having become final and executory, a Writ of Execution[11] was issued.

In implementing the Writ, the following properties of complainant with a total assessed value of P304,350[12] were levied by Diamla:

> a) A parcel of land with an area of Six Thousand Nine Hundred Twenty-Three square meters (6,023 sq.m.) located in Lower Langcangan, Oroquieta City covered by Original Certificate of Title No. (P-6056) P-1248 issued by the Registry of Deeds of Misamis Oriental, and all buildings and improvements introduced thereon covered by Tax Declaration Nos. 194700, 194699 and 177210;

> b) A parcel of "coco" land with an area of Two Thousand One Hundred and Six square meters (2,106 sq.m.) located in Lower Langcangan, Oroquieta City covered by Tax Declaration No. 177213, property index No. 166-06-017-01-024;
>
> c) A parcel of "coco" land with an area of One Thousand Five Hundred Forty-Three square meters (1,543 sq.m.) located at San Vicente Bejo, Oroquieta City covered by Tax Declaration No. 166-04-037-06-065; and
>
> d) A parcel of land classified as "Riceland" with an area of Two Thousand Five Hundred square meters (2,500 sq.m.) located at Pines, Oroquieta City covered by Tax Declaration No. 176419, property index No. 166-04-028-07-026.[13]
>
> The above-named properties were sold at public auction on April 23, 2003 to the highest bidder, Hadja Perla Tur Macarampat, for P1,094,322.[14] The one year period of redemption lapsed without complainant redeeming the properties.[15]

In her complaint, complainant alleges that, inter alia, Aliponto levied all her bank accounts;[16] and every time respondents levied any of her properties, they were accompanied by armed persons, drawing her to, on one occasion or on February 16, 2005, seek the assistance of the Provincial Director of the Armed Forces of the Philippines in Oroquieta City who sent soldiers to Dignum Hospital Foundation, Inc. where she holds office and where the respondents repaired to at the time.[17]

Additionally, complainant charges respondents to have exceeded their authority, in violation of the Code of Conduct for Court Personnel, for despite the fact that the value of her auctioned properties was more than enough to cover the amount of the judgment debt, they still went on to search and levy some more of her properties.

Finally, complainant alleges that Diamla failed or refused to comply with the requirements of making a return of the Writ or making a report on the proceedings as provided for under Section 14, Rule 39[18] of the Rules of Court, without which return and report the court could not determine if he was enforcing the Writ in the manner prescribed by law and whether the judgment debt had been satisfied.[19]

In his Comment,[20] Diamla pointed out that the armed men were actually PNP escorts whose presence in Oroquieta on February 10 and 11, 2005 was blottered and coordinated with the local PNP Command.

Denying having gone to the hospital together with Aliponto on February 16, 2005, he blames complainant for not declaring the actual value of her properties before the City Assessor's Office, the total assessed value of those auctioned being only P304,350 as shown by their respective Tax Declarations.[21]

Likewise denying having failed to submit a return of the Writ, Diamla submitted copies of the Sheriff's Reports, Notices and other processes.[22] The Report dated April 24, 2003 states:

> Therefore, the writ of execution dated April 1, 2003 is hereby reported to the Honorable Court PARTIALLY SATISFIED in the sum of P1,094,322.00 and the balance unsatisfied judgment is P2,884,213.94. Further execution proceeding shall follow after determining some real and personal properties of defendant.[23]

Respecting his failure to submit periodic reports every 30 days, Diamla explained:

> x x x Periodic report was stopped due to the failure of the plaintiff to replenish execution expenses required of them. In fact, Atty. Dibaratun informed the respondent thru a letter that he is asking for the deferment of the continuation of execution because his client Rosa Maria Lamparas ran away from her parents' home and could not be located despite diligent efforts exerted by the relatives. He further informed the undersigned respondent that they will file pleadings/manifestation to continue execution as soon as his client will re-appear or be located alive.[24] (Underscoring supplied)

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

To bolster his explanation, he attached as Annex "O"[25] the Ex-Parte Notice to Defer Execution dated July 21, 2003 filed by complainant's counsel Atty. Macarupung B. Dibaratun.

For his part, Aliponto, in his Comment,[26] disclaimed any participation in the February 10 and 11, 2005 proceedings, alleging that it was only on April 4, 2003 that he and Diamla went to Oroquieta City when he issued Notice of Levy and Notices of Garnishment to selected banks.

OFFICE OF THE COURTADMINISTRATOR'S FINDINGS

The Office of the Court Administrator (OCA) came up with the following evaluation of the case:

> EVALUATION: Complainant failed to adduce proof to accurately show the true value of the properties sold on execution by the respondents. In Florentino A. Caja vs. Atilano G. Nanquil (A.M. No. P-04-1885, 13 September 2004), it was held that it is the duty of the complainant to show their true value as substantiated by competent proof. In the absence of contrary evidence, as in this case, the presumption prevails that the respondents regularly performed their official duties. Consequently, it could be presumed that the executed properties were sold at the public auction at the best price possible.
>
> In any event, it has been held that when there is a right to redeem, inadequacy of price should not be material because the judgment debtor may re-acquire the property or else sell his right to redeem and thus recover any loss he claims to have suffered by reason of the price obtained at the execution sale. Mere inadequacy of the price obtained at the sheriff's sale unless shocking to the conscience will not be sufficient to set aside the sale if there is no showing that, in the event of a regular sale, a better price can be obtained. This [is] based on the theory that the less the price, the easier it will be for the owner to effect the redemption (Development Bank of the Philippines vs. Vda. de Moll, 43 SCRA 82).
>
> In regard to the presence of armed men during the execution, respondent Diamla clarifies that they are elements of the PNP who, upon request, escorted him from Marawi City to Oroquieta City. They also assisted him during the execution. These escorts coordinated with the Oroquieta PNP announcing their presence thereat. It bears emphasis that sheriffs, in the performance of their functions, are not prohibited by the rules from seeking assistance from appropriate police officers. Absent any proof of grave abuse of authority, respondent Diamla cannot be faulted for seeking assistance from the PNP to ensure an orderly and peaceful implementation of the writ.
>
> Respondents did not deny that no periodic report was made to the court after the writ of execution was returned partially satisfied. In defense, respondent Diamla claimed that the plaintiff's lawyer in an ex-parte notice dated 21 July 2003 asked them to defer the execution proceedings. However, respondents alone, without any court order, cannot defer the execution of the court's judgment. The ex parte notice is not an excuse for their failure to submit the periodic report to the court. The rule is clear that a sheriff tasked with the implementation of the writ of execution must proceed with reasonable dispatch to execute it and to make a return immediately. If it is not satisfied, he must make a report to the court stating the reason for the failure of execution within thirty days after his receipt of the writ and make a report every 30 days thereafter until the judgment is satisfied (Casaje vs. Gatbalite, 331 SCRA 508; Viray vs. Court of Appeals, 286 SCRA 468; Jumio vs. Egay-Eviota, 231 SCRA 551).
>
> Respondents' failure to make the periodic report amounts to simple neglect of duty which is defined as the failure to give proper attention to a task expected of an employee resulting from either carelessness or indifference (Villanueva-Fabella vs. Lee, A.M. No. MTJ-04-1518, 14 January 2004). It is a less grave offense under CSC Resolution No. 99-1936 dated 31 August 1999 that carries the penalty of suspension from work for one (1) month and one (1) day to six (6) months, for the first offense and dismissal, for the second offense.
>
> Parenthetically, aside from the instant complaint, there are other administrative complaints against the respondents. Respondent Palao M. Diamla is charged with grave abuse of discretion in OCA IPI No.

> 04-1869-P; while respondent Acmad C. Aliponto is charged with gross misconduct and dereliction of duty in OCA IPI No. 05-2232-P, and with grave misconduct in OCA IPI No. 04-2104-RTJ.[27] (Emphasis and italics in the original)

The OCA accordingly recommended that respondents be suspended from office for a period of One Month and One Day without pay, with a stern warning that a repetition of the same or similar act will be dealt with more severely.[28]

THIS COURT'S FINDINGS

Respondent Diamla's explanation on his being accompanied by elements of the PNP with the coordination of the PNP in Oroquieta City may be credited. In the performance of their functions, sheriffs are not prohibited from seeking assistance from police officers.

As to the alleged levying of properties of complainant on top of those previously levied and auctioned, respondents' explanation that they relied on the values of the auctioned properties reflected in their respective Tax Declarations is well-taken.

Respondents cannot escape administrative liability, however, for their failure to make periodic reports on the status of the Writ. Section 14 of Rule 39 of the Rules of Court explicitly mandates compliance with the manner in which a writ of execution is to be returned to the court, as well as the submission of periodic reports every 30 days until the judgment is fully satisfied,[29] the reason behind which being to update the court on the status of the execution so it could take necessary steps to ensure its speedy satisfaction.[30]

The filing of an Ex-Parte Notice to Defer Execution by complainant's counsel invoked by respondents to justify their failure to submit periodic reports does not lie. Without a court order, they cannot defer the execution of the court's judgment.

> 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.[31]

In fine, respondents are guilty of simple neglect of duty, 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."[32]

WHEREFORE, this Court finds respondents Sheriffs Palao M. Diamla and Acmad C. Aliponto GUILTY of simple neglect of duty and are accordingly SUSPENDED for a period of One (1) Month and One (1) Day without pay, with WARNING that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED.

Quisumbing, (Chairperson), Carpio, and Tinga, JJ., concur.
Velasco, Jr., J., no part due to prior action of OCA.

---

[1] Rollo, pp. 1-9.

[2] SECTION 5. Court personnel shall use the resources, property and funds under their official custody in a judicious manner and solely in accordance with the prescribed statutory and regulatory guidelines or procedures.

[3] SEC.1. Court personnel shall at all times perform official duties properly and with diligence. They shall commit themselves exclusively to the business and responsibilities of their office during working hours.

[4] SEC. 2. Court personnel shall carry out their responsibilities as public servants in as courteous a manner as possible.

[5] SEC. 6. Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

[6] SEC. 7. Court personnel shall not be required to perform any work or duty outside the scope of their assigned job description.

[7] A.M. No. 03-06-13-SC, promulgated on April 13, 2004 to take effect on June 1, 2004.

[8] Rollo, pp. 10-16.

[9] Id. at 23-65.

[10] Id. at 65.

[11] Id. at 79-80.

[12] Annexes "D," "E," "F," "G," "H," "I," id. at 102- 107.

[13] Rollo, p. 3.

[14] Minutes of Public Auction Sale of Real Properties, rollo, p. 110.

[15] Rollo, p. 4.

[16] Id.

[17] Id.

[18] SEC. 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.

[19] Rollo, p. 6.

[20] Id. at 85-95.

[21] Supra note 12.

[22] Annexes "J" to "W," id. at 108-129.

[23] Annex "J-3," id. at 111.

[24] Rollo, p. 93.

[25] Id. at 119. The body of the Ex-Parte Notice reads:

In conn[ec]tion to [sic] your notice to replenish your expenses in the execution of the above-entitled [case], please

Bar review courses, mock exams and a study planner that keeps you on pace - batas.org

be informed that much to my desire, I have to ask for the deferment momentarily the execution proceedings due to the family problems of my clients.

Plaintiff Rosa Maria Lamparas had run away from her parent's home almost two months ago and the relatives failed to locate her despite efforts exerted.

Hence, I am requesting to defer said execution and will file the necessary motion to continue until such time that plaintiff re-appear[s] or [is] located alive.

[26] Id. at 130-131.

[27] Id. at 182-183.

[28] Id. at 183.

[29] Sibulo v. San Jose, A.M. No. P-05-2088, November 11, 2005; Reyes v. Cabusao, A.M. No. P-03-1676, July 15, 2005, 463 SCRA 433, 438; Villarico v. Javier, A.M. No. P-04-1828, February 14, 2005, 451 SCRA 218, 222-223; Arevalo v. Loria, 450 Phil. 48, 58 (2003).

[30] Sps. Biglete v. Deputy Sheriff Maputi, Jr., 427 Phil. 221, 226 (2002).

[31] Garcia v.Yared, 447 Phil. 444, 455-456 (2003).

[32] Reyes v. Cabusao, supra note 28.

Study hands-free: podcast-style lessons with read-along highlighting - batas.org

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.