

SALUSTIANO G. SONIDO, COMPLAINANT, VS. JUDGE JOSE S. MAJADUCON, REGIONAL TRIAL COURT, BRANCH 23, GENERAL SANTOS CITY AND SHERIFF CYR M. PERLAS, RTC-OCC, GENERAL SANTOS CITY, RES...

A.M. No. RTJ-00-1541. December 03, 2001

Ponente: SANDOVAL-GUTIERREZ, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/df2d444eb917/>

SANDOVAL-GUTIERREZ, J.:

This is an administrative case^[1] filed by Salustiano Sonido against then Judge Jose Majaducon, of the Municipal Trial Court in Cities (MTCC), Branch 2, General Santos City (now Judge of the Regional Trial Court (RTC), Branch 23, same city), and Cyr M. Perlas, then deputy city sheriff of the same MTCC (now Sheriff IV of the said RTC).

In his complaint, Sonido alleged that on September 13, 1989, the MTCC, Branch 2, General Santos City, then presided by respondent judge, rendered judgment in Civil Case No. 2610-II ordering Julie Salazar (defendant therein) to pay him (complainant), as plaintiff, the following amounts: (a) P1,000.00 which she borrowed from him; (b) P6.00 per day as liquidated damages until full payment of the obligation; and (c) P100.00 as costs.

On November 8, 1989, respondent sheriff received from the MTCC the writ of execution.

On November 21, 1989, respondent improvidently served the writ upon Salazar at the MTCC premises, thus warning her of the forthcoming levy. This incident enabled her to hide her appliances.

On January 8, 1990, respondent sheriff made a return of the writ stating that "he could not see the defendant in her house, hence he could not levy the property of the defendant."

On April 25, 1990, an alias writ of execution was issued. On June 25, 1990, respondent sheriff made another return stating that despite diligent efforts, the alias writ could not be served upon Julie Salazar; that according to his father, she was in Manila during those times; and that she has no personal or real property per certification issued by the City Assessor.^[2]

Complainant now claims that respondent sheriff did not serve the writ of execution despite the lapse of two months after he received the same; that he abandoned the writ when he transferred to the RTC to assume his new position; that his service of the writ upon Salazar on November 21, 1989 at the MTCC premises "was wrong," giving her the opportunity to remove or transfer her appliances; and that respondent sheriff deliberately and maliciously neglected his duty.

On his complaint against respondent judge, complainant alleged that he (respondent) was negligent for he failed to assist in the execution of the writ.

In his comment,^[3] respondent sheriff denied that he was negligent or remiss in his duties as sheriff, explaining that he received a copy of the writ on November 8, 1989. Between this date and January 8, 1990, when he

returned the writ, he tried to serve it upon Salazar. But he could not implement the same because her whereabouts are unknown and that she has no personal or real property. Complainant, in alleging a two-month delay in the implementation of the writ, must have been of the erroneous belief that he served the writ only on January 8, 1990, the date he made the return. He clarified that a sheriff, under the Revised Rules of Court has 60 days within which to serve a writ of execution and make a return thereof. He made a return on January 8, 1990, the 60[th] day from the time he received the writ.

Respondent sheriff further explained that on March 13, 1990, or prior to the issuance of the alias writ of execution, he met Julie Salazar. Upon being informed of the writ, she voluntarily gave P500.00 which he accepted. Immediately, he turned over the money to the complainant.

On June 25, 1990, he made a return[4] of the alias writ of execution issued on April 25, 1990, specifying that the writ could not be fully satisfied since Salazar has no known personal and real property. Finally, he stressed that the returns[5] submitted by the other sheriffs subsequently assigned to serve the same writ also show that it could not be implemented because Salazar's whereabouts are unknown and that she has no known personal or real property.

On June 19, 2000, this Court referred the instant case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

In his Memorandum, then Court Administrator Alfredo L. Benipayo recommended that respondent judge be absolved of the charge, the same being baseless. The Court Administrator, however, found that respondent sheriff committed negligence in serving the writ upon Salazar on November 21, 1989 at the MTCC. The Court Administrator concluded that:

"It may be argued that there was the distinct possibility that all those personal properties belonged to her parents-in-law and, therefore, should never have been levied on at all. Still the fact remains that, were it not for the improvident service upon defendant Julie Salazar of the Writ of Execution in the court premises, Sheriff Perlas would have been able to levy on said properties if he had only taken time to follow the requirements of the Rule." [6]

With respect to the charge against respondent judge, the Court Administrator stated that the implementation of a writ of execution is the responsibility of the sheriff, not the judge.

We agree with the Court Administrator that Judge Majaducon be absolved of the charge. Records clearly show it has no basis. Indeed, the implementation of the writ is solely the concern of the sheriff.

However, we cannot go along with the finding of the Court Administrator that respondent sheriff is guilty of negligence in the implementation of the writ of execution, specifically when he served the writ upon Salazar at the MTCC premises on November 21, 1989. According to the Court Administrator, respondent sheriff violated Section 15, Rule 39 of the Revised Rules of Court providing inter alia that the sheriff "must enforce an execution of a money judgment by levying on all the property, real and personal x x x of the judgment debtor not exempt from execution x x x." Respondent sheriff explained that after he received the original writ on November 8, 1989, he exerted efforts "to see the defendant Julie Salazar in her residence but despite several attempts made, the same proved futile." It seems clear that prior to November 21, 1989, respondent had gone to her place to determine whether she has personal or real property. Hence, it could not be said that his service of the writ upon Salazar on November 21, 1989 at the MTCC is improvident or premature. It must be observed that during the incident, Salazar informed respondent sheriff that she and complainant Sonido have already settled the case. Later, complainant learned that it was not true. Hence, respondent sheriff proceeded again to her residence to serve the writ, but he could not find her. After several unsuccessful attempts, he made a return of the writ with the

explanation why he could not implement the same. These events negate complainant's claim that he was negligent and that eventually he abandoned the writ.

Likewise, no irregularity was committed by respondent sheriff in serving the writ of execution. In fact, he made a return of the original writ within 60 days as required by Section 11, Rule 39 of the Revised Rules of Court.

There was also no delay in the implementation of the writ. Complainant mistook the date of the return (January 8, 1990) to be the date of its actual implementation. It was on January 8, 1990, the 60[th] day of the writ, when he made the return. Clearly, complainant's allegation that there was a delay of two months in the implementation of the writ is unfounded.

It bears emphasis at this point that respondent sheriff was able to obtain P500.00 from Julie Salazar which he immediately handed over to complainant. This was a partial satisfaction of the judgment.

Also, respondent sheriff's assertion that Julie Salazar could not be located and that she has no property to satisfy the judgment was confirmed by the subsequent returns made by Sheriffs Palati and Ganer.

This Court has held that the sheriff is primarily responsible not only for the execution and enforcement of the court's judgments, but also for the speedy and efficient service of all court processes and writs.[7] After considering closely the facts in this case, we hold that respondent sheriff has not deviated from this responsibility.

WHEREFORE, the instant administrative complaint against Judge Jose Majaducon and Sheriff Cyr M. Perlas, being bereft of merit, is hereby DISMISSED.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and Carpio, JJ., concur.

[1] Rollo, p. 1.

[2] Ibid., p. 21.

[3] Ibid., pp. 14-17.

[4] Ibid., p. 20.

[5] Sheriff's Return dated April 2, 1991, executed by Deputy Sheriff Nasil S. Palati, Rollo, p. 24; Sheriff's Return dated August 13, 1991, executed by Ex-officio Sheriff Eligio G. Ganer, Rollo, p. 25.

[6] Memorandum, p.9.

[7] Portes vs. Tepace, A.M. No. P-97-1235, January 30, 1997.

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.