

**LETICIA T. MALSI, COMPLAINANT, VS. SILVINO R. MALANA, JR.,
SHERIFF IV, REGIONAL TRIAL COURT, TUGUEGARAO CITY,
RESPONDENT.**

A.M. No. P-07-2290. May 25, 2007

Ponente: AZCUNA, J.

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AZCUNA, J.:

This is an administrative complaint filed by complainant Leticia T. Malsi against Sheriff Silvino R. Malana, Jr. of the Regional Trial Court (RTC) of Tuguegarao City in connection with the implementation of the Writ of Execution in Civil Case No. 771 entitled "Leticia Taguinod-Malsi v. Reymundo Valino."

Complainant Malsi obtained a favorable decision as the plaintiff in Civil Case No. 771 which was an action for a sum of money. The dispositive portion of the decision dated January 18, 2005 rendered by then Judge Jimmy R. Butacan of the Municipal Trial Court of Solana-Enrile, Cagayan reads as follows:

WHEREFORE, in view of the foregoing, judgment is hereby rendered in favor of the plaintiff and against the defendant ORDERING:

- The defendant to pay the plaintiff the sum of SIXTY-ONE THOUSAND (P61,000.00) PESOS representing his indebtedness plus legal rate of interest of Twelve Percent (12%) per annum commencing from the date of filing of the instant case which was on June 7, 2002 up to the time of actual payment;
- The defendant to pay the plaintiff the sum of FIFTEEN THOUSAND PESOS (P15,000.00) as Attorney's Fees;
- The defendant to pay the plaintiff the sum of FIVE THOUSAND PESOS (P5,000.00) by way of exemplary damages; and
- The defendant to pay the plaintiff the cost of suit of FIVE HUNDRED (P500.00) PESOS.

SO DECIDED.[1]

The Writ of Execution was forwarded to the Office of the Clerk of Court of RTC, Tuguegarao City for implementation and was officially received by respondent Sheriff Malana, Jr. on July 15, 2005.

According to the letter-complaint dated June 8, 2006 filed by complainant with the Office of the Court Administrator, a copy of the writ was served upon the defendant Reymundo Valino who then promised to pay his obligation after the rice harvest. The defendant thereafter asked complainant to call him once the crop was harvested. When subsequently informed of the same, the defendant purportedly never came.

Complainant further alleged that when she learned the defendant had leased his land, she again went to the office of respondent to ask him to collect from the defendant. Respondent, however, asked her to wait until defendant pays in his office. Complainant likewise maintained that the defendant has other properties such as a motorcycle, refrigerator, radio cassette and a store which could be used to satisfy his obligation to her. She purportedly even

showed to respondent a copy of the document proving defendant's ownership of the motorcycle but respondent did not levy the same because he still had to verify the authenticity of the document with the Land Transportation Office. Despite diligently following up the matter with respondent, the judgment debt in favor of complainant remained unsatisfied.

In reply to the charges against him, a letter^[2] dated July 21, 2006 was submitted by respondent to the Office of the Court Administrator stating that: (1) no personal properties were levied because these were exempt from execution under Section 13, Rule 39 of the Rules of Court; and (2) he followed up on the Writ of Execution on November 15, 2005 and April 19, 2006 but the defendant was always working in the field. Attached to his letter were: (1) a copy of his Initial Report dated September 7, 2005 stating that the defendant requested that the payment be made on installments after each harvesting season because he is a mere farm helper with a small store worth Two Thousand Pesos (P2,000.00); and (2) a copy of the Certificate of Property Holdings dated July 9, 2005 issued by the Office of the Municipal Assessor, Solano, Cagayan showing that the defendant has no real property there.

After evaluating the evidence of both parties, Court Administrator Christopher O. Lock found that while complainant's allegations on respondent's failure to levy the defendant's personal properties were unsubstantiated, respondent was still liable for failure to perform his duty in effecting the full implementation of the writ of execution and for failure to submit periodic reports to the court and to complainant. Court Administrator Lock stated that respondent should be held administratively liable for dereliction of duty, and recommended that the latter be fined in the amount of One Thousand Pesos (P1,000).

The Court agrees that respondent is administratively liable but holds that a stiffer penalty than a fine is warranted under the circumstances. It bears emphasis that execution is the fruit and end of the suit.^[3] Without execution, a judgment would be a pyrrhic victory for the prevailing party. As the sheriff, respondent is the officer of the court charged with the delicate task of executing the judgment in a case. By so doing, he plays an integral role in the administration of justice. The sheriff, in carrying out his task, must necessarily be circumspect and proper in his behavior. He is expected to execute the directives of the court strictly in accordance with the letter thereof and without any deviation therefrom.^[4]

The Court has explained the reason for the imposition of a high standard on sheriffs in *Canlas v. Balasabas*,^[5] thus:

At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants; hence, their conduct should be geared towards maintaining the prestige and integrity of the court; for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.

By respondent's own admission, he filed a partial return on the writ only once by virtue of his Initial Report dated September 7, 2005. He likewise admits that he only tried to collect the judgment debt from the defendant on two occasions, specifically on November 15, 2005 and April 19, 2006, several months past the date when he received a copy of the writ. The proffered excuse, that the defendant was always in the field, is not sufficient to absolve respondent from liability and even highlights his lack of vigilance in the performance of his mandated tasks.

That respondent was undoubtedly remiss in his duties is proven by the fact that he departed from the directive of the court and failed to make periodic reports on the implementation of the writ and to fully implement the said

writ. The sheriff's duty to make a return is clearly set forth under Section 14, Rule 39 of the Rules of Court, thus:

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. (Emphasis supplied)

In other words, sheriffs are obliged to make a return of the writ of execution to the clerk or judge issuing it. If the judgment cannot be satisfied in full within thirty (30) days after their receipt of the writ, the officers shall report to the court and state the reason or reasons therefor. The officers are likewise tasked to make a report to the court every thirty (30) days on the proceedings taken thereon until judgment is satisfied in full or its effectivity expires.

All sheriffs and their deputies 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 alacrity 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. Hence, they must comply with their mandated ministerial duty as speedily as possible.[6]

Otherwise, a sheriff and his deputies may be properly dismissed, fined or suspended from office by this Court, in the exercise of administrative supervision over the judicial branch of the government, for actions committed in violation of the Rules of Court which impede and detract from a fair and just administration of justice.[7]

In the present case, respondent's failure to make a return of the writ of execution constitutes simple neglect of duty, which has been 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. The Civil Service Commission (CSC) Memorandum Circular No. 19 classifies simple neglect of duty as a less grave offense, punishable by suspension without pay for one (1) month and one (1) day to six (6) months, for the first offense.[8] Accordingly, this being his first offense, the Court deems it fit that respondent be meted the penalty of suspension for the minimum period prescribed under CSC Memorandum Circular No. 19.

WHEREFORE, respondent Silvino R. Malana, Jr. is hereby **SUSPENDED** without pay for one (1) month and one (1) day. He is **STERNLY WARNED** that a repetition of the same or similar offense shall be dealt with even more severely.

SO ORDERED.

Puno, C.J., (Chairperson), Sandoval-Gutierrez, and Corona, JJ., concur.
Garcia, J., on leave.

[1] Rollo, pp. 14-15.

[2] Id. at 6-9.

[3] *Eduarte v. Ramos*, A.M. No. P-94-1069, November 9, 1994, 238 SCRA 41, citing *Tan v. Herras*, A.M. No. P-90-904, March 11, 1991, 195 SCRA 1.

[4] *Villareal v. Rarama*, A.M. No. P-94-1108, August 23, 1995, 247 SCRA 43.

[5] A.M. No. P-99-1317, August 1, 2000, 337 SCRA 41, 46, citing *Vda. de Abellera v. Dalisay*, 335 Phil. 527 (1997).

[6] *Pesongco v. Estoya*, A.M. No. P-06-2131, March 10, 2006, 484 SCRA 239.

[7] *Re: Danilo Cunanan*, A.M. No. 91-8-374-OMB, November 28, 1994, 238 SCRA 421, citing *Hipolito v. Mergas*, A.M. No. P-90-412, 11 March 1991, 195 SCRA 6.

[8] *Bansil v. de Leon*, A.M. No. P-05-2035, July 31, 2006, 497 SCRA 147.

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