



**Republic of the Philippines  
Supreme Court  
Manila**

**FIRST DIVISION**

**ASTORGA AND REPOL LAW  
OFFICES, represented by ATTY.  
ARNOLD B. LUGARES,**  
Complainant,

**A.M. No. P-12-3029**  
(Formerly OCA I.P.I. No. 08-2850-P)

Present:

CARPIO,\*  
LEONARDO-DE CASTRO,\*\*  
Acting Chairperson,  
BERSAMIN,  
DEL CASTILLO, and  
VILLARAMA, JR., JJ.

- versus -

**LEODEL N. ROXAS, SHERIFF  
IV, REGIONAL TRIAL COURT,  
BRANCH 66, MAKATI CITY,**  
Respondent.

Promulgated:

**15 AUG 2012**

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**DECISION**

**LEONARDO-DE CASTRO, J.:**

This is an administrative complaint filed by complainant Astorga and Repol Law Offices, represented by Atty. Arnold B. Lugares (Atty. Lugares), against respondent Leodel N. Roxas, Sheriff IV of the Regional Trial Court (RTC), Branch 66, Makati City, for willful neglect of duty, relative to Civil

\* Per Special Order No. 1284 dated August 6, 2012.

\*\* Per Special Order No. 1226 dated May 30, 2012.

Case No. 01-1002, entitled *FGU Insurance Corporation v. NEC Cargo Services, Inc. and Albert T. Tamayo, Third Party Defendant*.

Civil Case No. 01-1002 is a case for damages instituted by FGU Insurance Corporation (FGU) against NEC Cargo Services, Inc. (NEC) before the RTC. FGU was represented by complainant.

After several years of litigation, the RTC rendered a Decision in favor of FGU, the dispositive portion of which reads:

WHEREFORE, judgment is hereby rendered in favor of the plaintiff [FGU] and against the defendant NEC Cargo Services, Inc., ordering the latter to pay the plaintiff the following:

1. the amount of ₱1,942,285.91 with legal interest thereon from June 21, 2001 until the whole amount is fully paid;
2. attorney's fees amounting to ₱70,000.00; and
3. costs of suit.

With regard to the third party complaint of defendant NEC Cargo Services Inc., the third party defendant Alberto Tamayo, doing business under the name and style of Patriot Cargo Movers, is hereby ordered to reimburse defendant/third party plaintiff for all the sums the latter would pay plaintiff.<sup>1</sup>

The aforementioned Decision became final and executory on September 24, 2004.<sup>2</sup>

FGU filed a Motion for Execution which was granted by the RTC and the Writ of Execution was accordingly issued on July 10, 2006.<sup>3</sup>

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<sup>1</sup> *Rollo*, pp. 1-2.

<sup>2</sup> *Id.* at 8. Per the Certification of Branch Clerk of Court John Ivan B. Tablizo dated May 21, 2008.

<sup>3</sup> *Id.*

On July 11, 2006, respondent served a copy of the Writ of Execution upon NEC at Block 15, Lot 9, Tulip Street, Camella Homes I, Putatan, Muntinlupa City, which was received by Mr. Narciso E. Catalon (Catalon). On even date, respondent levied upon the personal properties, consisting of office equipment, found inside the NEC office.

An auction sale was set on July 19, 2006 at 10:30 a.m. at the Main Entrance of the Hall of Justice of Makati City. Copies of the Notice of Sale were sent to all concerned parties and posted on the bulletin boards at the City Hall, Hall of Justice, and Post Office of Makati City.

However, Catalon filed on July 17, 2006 an Affidavit of Third Party Claim, asserting ownership over the levied properties.

Respondent personally furnished complainant, through Atty. Lugares, on July 18, 2006 a copy of the Notice of Third Party Claim, together with a copy of Catalon's Affidavit of Third Party Claim.

Since FGU failed to post an indemnity bond in favor of third party claimant Catalon, respondent did not proceed with the scheduled auction sale on July 19, 2006.

The Sheriff's Report dated August 7, 2006, prepared by respondent, declared the levy upon the personal properties in the NEC office lifted, cancelled, and without effect; and stated that the same personal properties were released to Catalon and the original copy of the Writ of Execution and all pertinent papers were temporarily returned to the RTC unsatisfied.

Since then, there appears to have been no further development in the execution of the RTC Decision dated January 16, 2006 in Civil Case No. 01-1002.

Thus, complainant filed the instant Complaint-Affidavit<sup>4</sup> dated April 29, 2008 against respondent, alleging, among other things, that:

7. Sometime in October of 2007, [complainant] furnished [respondent] with the Articles of Incorporation of the [NEC] from the Securities and Exchange Commission to inform him that the [NEC] has leviable assets/credits in the form of unpaid subscriptions and asked him to make the corresponding levy/garnishment. He however refused to execute the Decision and make the corresponding levy/garnishment without any valid reason as if to protect the [NEC] and its officers/subscribers.
8. Repeated follow-ups were again made by the [complainant] but to no avail, still no action from [respondent] and no periodic reports. With this, [complainant] was constrained to ask the assistance of the Branch Clerk of said Court to remind the sheriff of his duty to execute the Decision in the above-mentioned case. Despite this, there is still no action from [respondent] and no periodic reports. The levy/garnishment requested by the [complainant] had fallen on deaf ears. Simply stated, no further action was taken.
9. [Respondent] actually thwarted the Decision by refusing to execute it. He was able to set at naught all the hardships and labor of [FGU], Presiding Judge, Justices, lawyers and other court officers and employees in litigating the case. [Respondent] acts as if [FGU] and [complainant] is at his mercy of whether to execute the Decision or not. This should not be the case because as sheriff, he is duty bound to immediately execute the Decision and not refuse to do his job. His actuation in sleeping on [FGU's] repeated requests certainly undermines the people's faith in the judicial process. People will be discouraged from invoking the jurisdiction of the Courts to settle their dispute if in the end, their victory would only remain a paper victory if the sheriff tasked to execute the Decision would renege on its obligation as what [respondent] is doing.
10. At present, the Decision in [FGU's] favor still remains to be executed, while [respondent] does nothing to execute the same. This should not be the case because [FGU] as the prevailing party

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<sup>4</sup>

Id. at 5-7.

is entitled to the fruits of the Decision. Something must be done in order to have the Decision executed.

11. It is respectfully submitted that [respondent] should be penalized and removed from service for willfully refusing to comply with his sworn duty to execute the Decision, which is his job, and obey the order/writ of the court.<sup>5</sup>

In his Comment<sup>6</sup> dated July 3, 2008, respondent categorically and vehemently denied what he called as “baseless and malicious accusation” imputed against him by complainant. Respondent countered that:

3. The truth of which is that by virtue of the Writ of Execution dated 10 July 2006, on 11 July 2006, [respondent] levied [the] personal properties of defendant Corporation (NEC Cargo Services, Inc.) but was lifted in view of the Affidavit of Third-Party Claim filed.
4. Contrary to the unfounded allegation of non-filing of periodic reports, [respondent], in compliance with the Rules of Court, prepared and submitted the corresponding Sheriff’s Report/Return dated 07 August 2006, (Annex “A”) setting forth therein the whole proceedings undertaken and filed with the Court. And a copy thereof was furnished to Atty. Arnold Lugares, received on 28 August 2006 (proof of receipt is attached to the case record).
5. That on October 2007, [respondent] was furnished by Atty. Arnold Lugares of an undated handwritten letter appended thereto with mere photocopies of a list of names of alleged incorporators and asking [respondent] to send notices of garnishment regarding [NEC’s] leviable assets/credits in the form of unpaid subscriptions. (attached herewith is a photocopy of Atty. Arnold Lugares undated letter and its attachments). (Annex “B”). Further, contrary to the baseless allegation in paragraph no. 7 of the Complaint-Affidavit, [respondent] was never furnished of the Articles of Incorporation of [NEC] from the Securities and Exchange Commission by Atty. Arnold Lugares.
6. Contrary to the allegation of “repeated follow-ups”, [respondent] suggested to Atty. Arnold Lugares to notify the Court relative to his allegation of [NEC’s] leviable assets in the form of unpaid subscription. Respondent Sheriff opines that the unpaid subscription of the incorporators are not leviable assets and there is a need to determine and show proof that the subscriptions are declared delinquent through the filing of an appropriate Motion addressed to the Court. It is a fundamental legal axiom that a Writ

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<sup>5</sup> Id. at 6-7.

<sup>6</sup> Id. at 14-15.

of Execution must conform strictly to the dispositive portion of the decision sought to be executed. (*Banquerigo vs. C.A.*, 498 SCRA 169). As to the directive in the Writ of Execution in light of the dispositive portion being executed, the Respondent Sheriff acted with prudence and caution especially where the alleged unpaid subscriptions are sought by Atty. Arnold Lugares, counsel of the prevailing party, is not specified in the judgment.

7. Lastly, respondent Sheriff is not remiss in the performance of his duties and does not have the slightest intention to neglect his duty as executing sheriff in the implementation of the Writ relative to the said Civil Case No. 01-1002.<sup>7</sup>

Consequently, respondent prayed that he be absolved from any administrative liability.

On November 9, 2011, the Office of the Court Administrator (OCA) submitted its report<sup>8</sup> with the following recommendations:

RECOMMENDATION: In view of the foregoing, we respectfully submit for the consideration of the Honorable Court the following recommendations:

1. The administrative complaint against Leodel N. Roxas, Sheriff IV, Regional Trial Court, Branch 66, Makati City be RE-DOCKETED as a regular administrative matter; and
2. Sheriff Roxas be found GUILTY of simple neglect of duty, and
3. Sheriff Roxas be SUSPENDED FOR ONE (1) MONTH and ONE (1) DAY WITHOUT PAY and STERNLY WARNED that the commission of the same or similar acts in the future shall be dealt with more severely.<sup>9</sup>

In a Resolution<sup>10</sup> dated January 18, 2012, the Court re-docketed the administrative complaint against respondent as a regular administrative

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<sup>7</sup> Id.

<sup>8</sup> Id. at 20-23.

<sup>9</sup> Id. at 23.

<sup>10</sup> Id. at 25.

matter and required the parties to manifest within 10 days from notice if they were willing to submit the matter for resolution based on the pleadings filed.

Complainant<sup>11</sup> and respondent<sup>12</sup> submitted their Manifestations dated March 12, 2012 and April 27, 2012, respectively, stating that they were submitting the case for resolution based on the pleadings filed.

Hence, we now resolve the present administrative matter, completely agreeing with the findings and recommendations of the OCA.

Rule 39, Section 14 of the Rules of Court provides:

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 (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 ours.)

The aforequoted provision clearly mandates the sheriff or other proper officer to file a return and when necessary, periodic reports, with the court which issued the writ of execution. The writ of execution shall be returned to the court immediately after the judgment had been partially or fully satisfied. In case the writ is still unsatisfied or only partially satisfied 30 days after the officer's receipt of the same, said officer shall file a report with the court stating the reasons therefor. Subsequently, the officer shall periodically file with the court a report on the proceedings taken to enforce

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<sup>11</sup> Id. at 27-28.

<sup>12</sup> Id. at 32.

the writ every 30 days until said writ is fully satisfied or its effectivity expires. The officer is further required to furnish the parties with copies of the return and periodic reports.

Herein respondent had undeniably failed to file periodic reports on the Writ of Execution dated July 10, 2006. Respondent received a copy of said Writ also on July 10, 2006 and he filed a Sheriff's Report on August 7, 2006. According to his Report, respondent had to lift and cancel the levy on the office equipment found inside the NEC office given Catalon's third party claim over said properties and the failure of FGU to post an indemnity bond in Catalon's favor, thus, the Writ of Execution dated July 10, 2006 was returned to the RTC unsatisfied. The Sheriff's Report dated August 7, 2006 was the first and last filed by respondent in connection with the Writ of Execution dated July 10, 2006, until the instant administrative complaint dated April 29, 2008 was filed against him. For almost two years, respondent was completely remiss in filing the mandated periodic reports on the Writ of Execution dated July 10, 2006. Consequently, for the same period of time, FGU, the prevailing party in Civil Case No. 01-1002, was left unaware of any steps taken by respondent to satisfy the Decision dated January 16, 2006. Ultimately, it is apparent that respondent did not file any periodic report because he had nothing to state therein as he failed to take any further action to satisfy the Decision dated January 16, 2006 and implement the Writ of Execution dated July 10, 2006.

In his defense, respondent claimed that there is no other NEC property which he could levy or garnish to satisfy the Decision dated January 16, 2006. Respondent averred that he could not garnish the unpaid subscriptions of NEC incorporators, as complainant wished, because the unpaid subscriptions were not specified in the dispositive portion of the judgment to



be implemented. Respondent's reasoning is unacceptable. Difficulties or obstacles in the satisfaction of a final judgment and execution of a writ do not excuse respondent's total inaction. Neither the Rules nor jurisprudence recognizes any exception from the periodic filing of reports by sheriffs. If only respondent submitted such periodic reports, he could have brought his predicament to the attention of the RTC and FGU and he could have given the RTC and FGU the opportunity to act and/or move to address the same.

It is almost trite to say that execution is the fruit and end of the suit and is the life of law. A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party.<sup>13</sup>

Therefore, 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.<sup>14</sup>

In *Añonuevo v. Rubio*,<sup>15</sup> we stressed the reminder to all court personnel to perform their assigned tasks promptly and with great care and diligence considering the important role they play in the administration of justice. With respect to sheriffs, they are to implement writs of execution and similar processes mindful that litigations do not end merely with the promulgation of judgments. Being the final stage in the litigation process,

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<sup>13</sup> *Garcia v. Yared*, 447 Phil. 444, 453 (2003).

<sup>14</sup> *Pesongco v. Estoya*, 519 Phil. 226, 241 (2006).

<sup>15</sup> 479 Phil. 336, 340 (2004).

execution of judgments ought to be carried out speedily and efficiently since judgments left unexecuted or indefinitely delayed are rendered inutile and the parties prejudiced thereby, condemnatory of the entire judicial system. This admonition is now enshrined as Canon IV, Section 1 of the Code of Conduct for Court Personnel that reads, “[c]ourt personnel shall at all times perform official duties properly and with diligence. x x x”

Evidently, respondent displayed conduct short of the stringent standards required of court employees. Respondent’s long delay in the execution of the final judgment in favor of FGU and failure to submit the required periodic reports constitute 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. Civil Service Commission 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. This being respondent’s first offense, the penalty recommended by the OCA of one (1) month and one (1) day is appropriate.

**WHEREFORE**, respondent Leodel N. Roxas, Sheriff IV of the Regional Trial Court, Branch 66, Makati City, is found **GUILTY** of simple neglect of duty and is **SUSPENDED** for one (1) month and one (1) day counted from his receipt of this Decision. He is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Court Administrator, which is instructed to circulate the Decision to the clerk of court of all trial courts for dissemination to all concerned court personnel.

**SO ORDERED.**

*Teresita Leonardo de Castro*  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice  
Acting Chairperson, First Division

WE CONCUR:

*Antonio T. Carpio*  
**ANTONIO T. CARPIO**  
Senior Associate Justice

*Lucas P. Bersamin*  
**LUCAS P. BERSAMIN**  
Associate Justice

*Mariano C. Del Castillo*  
**MARIANO C. DEL CASTILLO**  
Associate Justice

*Martin S. Villarama, Jr.*  
**MARTIN S. VILLARAMA, JR.**  
Associate Justice