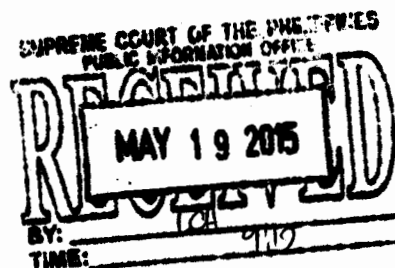




REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila
SECOND DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **23 March 2015** which reads as follows:

A.M. No. P-15-3308 (Formerly OCA I.P.I. No. 12-3782-P) – Emilio Lagomes v. Norberto F. Dapusala, Sheriff IV, Regional Trial Court, Branch 23, Kidapawan City, North Cotabato.

This administrative case stemmed from the Complaint-Affidavit¹ of Emilio Langomes (*complainant*), against respondent Norberto Dapusala (*Sheriff Dapusala*), Sheriff IV of RTC, Branch 23, Kidapawan City (*RTC*), for dereliction of duty, gross inefficiency and gross neglect of duty relative to Civil Case No. 98-08, entitled *Sps. Emilio Langomes and Epefania Bañados v. Sps. Pasinongana Dapan and Apolinar Bayawan*, for Accion Rein vindicacion and/or Cancellation of Affidavit of Self-Adjudication by Sole Heir and TCT No. T-89836 and Damages.

Complainant alleged that in Civil Case No. 98-08, the RTC rendered a decision² in favor of the plaintiffs, among whom was the complainant. Eventually, the Entry of Judgment³ was issued by the Court declaring that the decision had become final and executory on December 28, 2006 and was ordered to be recorded in the Book of Entries of Judgments.

On February 13, 2008, the RTC issued the *Writ of Execution*,⁴ commanding and directing Sheriff Dapusala to implement the said writ. Sheriff Dapusala, however, did not implement the same and did not make a report regarding it. On account of this, complainant sent and served its March 4, 2008 Letter⁵ to Sheriff Dapusala, requesting him to implement the writ by levying a parcel of land in the name of the defendants which was embraced in and covered by TCT No. T-89836 in order to satisfy the judgment.

No action was taken by Sheriff Dapusala. He did not make any report either as to the development and the result of the implementation of the writ of execution.

¹ *Rollo*, pp. 1-5.

² *Id.* at 6-21.

³ *Id.* at 22-23.

⁴ *Id.* at 30-31.

⁵ *Id.* at 32.

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On March 31, 2008, the presiding judge of the RTC issued an *Amended Writ of Execution*⁶ again directing Sheriff Dapusala to implement the writ. Again, no action or report was made by the respondent.

Eventually, on July 5, 2011, complainant and his counsel sent and served upon Sheriff Dapusala a letter,⁷ with the subject, LAST AND FINAL DEMAND TO MAKE A REPORT IN THE IMPLEMENTATION OF THE WRIT OF EXECUTION ISSUED BY THE HONORABLE COURT OR FACE ADMINISTRATIVE COMPLAINT BEFORE THE OFFICE OF THE COURT ADMINISTRATOR." He was given thirty (30) days to act on the said demand.

The demand was received by Sheriff Dapusala on July 26, 2011. Just the same, however, the respondent did not act on the said demand and no report regarding the implementation was filed.

On March 16, 2011, the Court received the Comment⁸ of Sheriff Dapusala on the administrative complaint against him. In order to exculpate himself of the charge of dereliction, he explained:

Immediately or sometime on March 3, 2008, the undersigned caused the annotation of a Notice of Attachment/Levy on Transfer Certificate of Title T-89836 covering lot 34-A Block 1 Psd-12-023691, which was registered in the name of Pasinongan Dapan who is the Defendant in the civil case. As a result of the steps I undertook to have the Decision executed, Transfer Certificate of Title T-89836 has been cancelled and another title, Transfer Certificate of Tile T-120103 was issued in the name of Complainant, Emilio Langomes. A copy of the cancelled TCT 89[8]36 as Annex 2; and TCT 120103 in the name of Emilio Langomes as Annex 3;

Considering that the WRIT OF EXECUTION dated February 13, 2008 contained a directive for Defendant to pa[y] Plaintiff herein Complainant the amount of Fifty Thousand (₱50,000.00) as Attorney's fees, I prepared a Notice of Attachment/Levy to enforce that portion of the Writ and caused the annotation thereof on Transfer Certificate Title T-8983[9] covering Lot 34-D, Block 1 Psd-12023691 sometime on April 21, 2008. I served the said Notice of Attachment/Levy by the Register of Deeds. A copy of the said Notice of Attachment/Levy is hereto attached as Annex 4.

⁶ Id. at 33-34.

⁷ Id. at 35-36.

⁸ Id. at 42-44.

However and for reasons unknown to the undersigned, the Register of Deeds of the Province of Cotabato refused to annotate the Notice of Attachment/Levy on Transfer Certificate Not T-89839 for Lot 34-D. This prompted me to prepare another Notice of Attachment/Levy on TCT 89839 on April 21, 2008. I repeatedly asked for an explanation from the Register of Deeds but to no avail. Despite the said refusal, I again prepared another Notice of Attachment/Levy directing the Register of Deeds to annotate the same on TCT 89839 on July 28, 2011.

Thus, the outcome of the Notice of Attachment/Levy became one beyond my control as the Register of Deeds refused to annotate it on the Memorandum of Encumbrances of TCT 89839.

With all the foregoing facts and circumstances in support of my claim for exoneration, I **VEHEMENTLY DENY** the allegations of Complainant that I committed Dereliction of Duty. xxx If the Writ of Execution was not fully satisfied, it is attributable to the fact that are not attributable to my negligence o[n] obstinacy to perform my duties and is reasonably expected of me as a sheriff.⁹ (Emphases supplied)

In sum, Sheriff Dapusala is of the contention that with the aforesaid steps, he had already discharged his duties, and the fact that the writ was not fully satisfied should not be attributed to him.

The Office of the Court Administrator (*OCA*) found Sheriff Dapusala guilty of simple neglect of duty. It stated that he failed to observe the proper procedure in the implementation of the writ issued in Civil Case No. 98-08. Also, he failed to submit periodic reports as mandated by the Rules of Court. The recommendation of the *OCA* states:

RECOMMENDATION: It is respectfully recommended for the consideration of the Honorable Court that:

- (1) the instant administrative complaint against Norberto F. Dapusala, Sheriff IV, Branch 23, RTC, Kidapawan City, North Cotabato, be **RE-DOCKETED** as a regular administrative matter; and
- (2) respondent Sheriff Dapusala be found **GUILTY** of Simple Neglect of Duty and, accordingly, **FINED** in an amount equivalent to his one (1) month salary payable to the Court within thirty (30) days from notice with a **STERN WARNING** that a repetition of the same or similar offense shall be dealt with more severely.¹⁰

⁹ Id. at 42-43.

¹⁰ Id. at 64.

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The Court's Ruling

The Court agrees with the evaluation of the OCA.

The Court finds Sheriff Dapusala guilty of simple neglect of duty for his failure to submit periodic reports with respect to the status of the writ which he was tasked to implement.

Section 14, Rule 39 of the 1997 Rules of Civil Procedure states:

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 (3) 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. (Emphases supplied)

The 30-day period imposed for the execution of the writ after the judgment has been received by the sheriff, as well as the periodic report every 30 days, is mandatory under the rule. It is mandatory for the sheriff to execute the judgment and made a return on the writ of execution within the period provided by the Rules of Court. Also, the sheriff must make periodic reports on partially satisfied or unsatisfied writs in accordance with the rule in order that the court and the litigants would be apprised of the proceedings undertaken. Such periodic reporting on the status of the writs must be done by the sheriff regularly and consistently every 30 days until they are returned fully satisfied.¹¹

In the case at bench, Sheriff Dapusala did not file any report to the court. In fact, he never mentioned in his comment that he made and submitted any report to the court. He only stated that immediately or sometime on March 3, 2008, he caused the annotation of the Notice of Attachment/Levy on TCT No. T-89836 which resulted in its cancellation and the issuance of a new title in its stead, TCT No. T-120103, in the name of

¹¹ *Valdez v. Macusi*, A.M. No. P-13-3123, June 10, 2014.

complainant Langomes; and that since the writ also directed the defendants in the civil case to pay the attorney's fees to him, Sheriff Dapusala prepared on April 21, 2008 a notice of attachment/levy on another property of the defendants covered by TCT No. T-89839. The Register of Deeds of the Province of Cotabato, however, refused to annotate the Notice of Attachment/Levy on the said TCT.

Sheriff Dapusala further explained that the refusal of the Register of Deeds to annotate the Notice of Attachment/Levy on TCT No. T-89839 was beyond his control and, for said reason, he should not be faulted that the writ had not been fully implemented.

The Court finds Sheriff Dapusala guilty of dereliction of duty.

Difficulties or obstacles in the satisfaction of a final judgment and execution of a writ do not excuse the inaction of Sheriff Dapusala. Neither the rules nor the jurisprudence recognizes any exception from the periodic filing of reports by sheriffs. If he only submitted such periodic reports, he could have brought his predicament to the attention of the court and he could have given the court the opportunity to act and/or move to address the same.¹²

It must be remembered that the submission of the return and the periodic reports by the sheriff is a duty that cannot be taken lightly. The report will update the court, as well as the winning litigant, on the status of the execution and the reasons for the failure to satisfy its judgment. It will provide the court with insights on how efficient the court processes are after a judgment's promulgation. Its overall purpose is to ensure the speedy execution of decisions. A sheriff's failure to make a return and submit the return within the required period constitutes inefficiency and incompetence in the performance of official duties; it is conduct prejudicial to the best interest of the service.¹³

For the respondent's lapses in the procedures in the implementation of the writ of execution, the Court finds him guilty of *simple* neglect of duty, defined as the failure of an employee to give attention to the task expected of him.¹⁴ Under Rule IV, Section 52 (B) (1) of *the Uniform Rules on Administrative Cases in the Civil Service*, the first offense of simple neglect of duty is penalized with suspension for one month and one day to six months.¹⁵ Considering, however, that there has been no previous

¹² *Astorga and Repol Law Offices v. Roxas*, A.M. No. P-12-3029, August 15, 2012, 678 SCRA 374, 383.

¹³ *DBP v. Famero*, A.M. No. P-10-2789, July 31, 2013, 702 SCRA 555, 564.

¹⁴ *Id.*

¹⁵ *Dr. Jorge v. Diaz*, 614 Phil. 375, 382 (2009).

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administrative case against the respondent, and in order not to hamper the duties of his office, instead of suspending him without pay, he should be fined an amount equivalent to his salary for one month.¹⁶

As a final note, the Court stresses that the sheriff's compliance with the Rules of Court is not merely directory but mandatory. He is expected to know the rules of procedure pertaining to his functions as an officer of the court.¹⁷

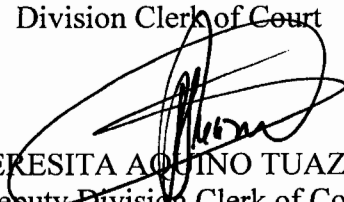
WHEREFORE, respondent Norberto F. Dapusala, Sheriff IV, Branch 23, Regional Trial Court of Kidapawan City, North Cotabato, is found **GUILTY** of **SIMPLE NEGLIGENCE OF DUTY** and is **FINED** an amount equivalent to his salary for one month, with a **STERN WARNING** that a repetition of the same or similar act in the future shall be dealt with more severely. (*Carpio, J., on leave; Brion, J., designated Acting Chairperson, per Special Order No. 1955; Perlas-Bernabe, J., designated Acting Member, per Special Order No. 1956, both dated March 23, 2015*)

SO ORDERED.

Very truly yours,

MA. LOURDES C. PERFECTO
Division Clerk of Court

By:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *file 4/25*

¹⁶ *Estoque v. Girado*, 572 Phil. 483, 493 (2008).

¹⁷ *KATIHAN v. Maceren*, 593 Phil. 1, 7 (2008).

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HON. COURT ADMINISTRATOR

Jose Midas P. Marquez (x)

HON. DEPUTY COURT ADMINISTRATOR

Raul B. Villanueva (x)

Jenny Lind Aldecoa-Delorino (x)

Thelma C. Bahia (x)

Legal Office (x)

Court Management Office (x)

Financial Management Office (x)

Docket & Clearance Division (x)

Office of Administrative Services (x)

Office of the Court Administrator

Supreme Court, Manila

EMILIO LANGOMES (reg)

Complainant

Saguing, Kidapawan City

NORBERTO F. DAPUSALA (reg)

Sheriff IV

Regional Trial Court, Branch 23

Kidapawan City

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Supreme Court, Manila

Please notify the Court of any change in your address.

AM P-15-3308. 03/23/15(87[b])URES