

THIRD DIVISION

[A.M. No. P-01-1483, September 20, 2001]

**EDNA FE F. AQUINO, COMPLAINANT, VS. ISABELO LAVADIA,
SHERIFF IV, REGIONAL TRIAL COURT, CABAGAN, ISABELA,
RESPONDENT.**

DECISION

PANGANIBAN, J.:

Sheriffs have a ministerial duty to implement writs of execution promptly. Their unreasonable failure or neglect to perform such function constitutes inefficiency and gross neglect of duty.

The Case

Before us is an Administrative Complaint charging Isabelo Lavadia, Sheriff IV of the Regional Trial Court (RTC) of Cabagan, Isabela, with inefficiency and gross neglect of duty arising from his alleged refusal to execute the Writs of Execution in Civil Case Nos. 20-576, 20-613, 20-627 and 19-411.

The Facts

The facts are disclosed by complainant in her letter-complaint^[1] as follows:

"In relation to our business, we have filed numerous cases in court for collection of sum[s] of money. Some of these cases have been decided in our favor but unfortunately the judgment[s] have not been satisfied either because of the stubborn refusal of the sheriff to execute said judgment or maybe just the utter laziness on his part. At least six writs of execution were endorsed to Sheriff Lavadia. Some of these writs were even issued way back 1995 but unfortunately Sheriff Lavadia has not executed any of these writs. We have written Sheriff Lavadia about this but he has yet to act on our request (copies of our letters are hereto attached). In our last letter dated April 3, 1998, our legal counsel specifically told him to provide us a copy of his Sheriff's Report to inform us on the progress of the implementation of the writs, but he has not provided us with the reports as mandated by the Rules of Court. Much worse, he has not even given us the courtesy of any reply. Is it too much for us, as the winning party, to be informed about the progress of the implementation of the writs? After all, until and unless these judgments are fully satisfied, the ends of justice could not be truly served.

"We have been patient and we have bided our time, even making verbal requests and inquiries, in addition to our written requests but still no action has been taken by Sheriff Lavadia. We have come to your office as

a last resort. We believe that we have given sheriff Lavadia more than enough for him to perform [the] duty he has sworn to do."^[2]

In his Comment,^[3] respondent admits the non-execution of the Writs referred to by complainant. The former explains that the delay or failure to do so was caused, not by his obstinate refusal to execute them, but rather by his heavy workload as the only sheriff in Cabagan, Isabela. We quote his version of the facts as follows:

"On the assertion of Ms. EDNA F. AQUINO that I refused to implement the Writ of Execution issued by the HONORABLE COURT in favor of Equity Machineries, Inc., I deny the same. I did not refuse to execute the writs. I ha[ve] always believed that it is my bounde[n] duty to execute every writ endorsed to my office for execution. [T]he non-execution of the writs referred to by MS. AQUINO was not due to my obstinate refusal but rather, (to be more accurate), due to inadvertence considering the volume of my work load as the only sheriff in Branch 22, Cabagan, Isabela. The undersigned is the sheriff assigned [to] RTC Branch 22, Cabagan, Isabela.

"It is worth[y] to note that RTC Branch 22, Cabagan, Isabela is a single sala. Aside from the writs of execution and other writs issued by the RTC-22 Cabagan, Isabela, to be acted upon by the undersigned there are also writs and other processes issued by the different Municipal Trial Courts and Municipal Circuit Trial Courts within the territorial jurisdiction of RTC-22, Cabagan, Isabela to be attended to."^[4]

Recommendation of the OCA

In its Report and Recommendation,^[5] the Office of the Court Administrator (OCA) found respondent administratively liable for his failure to implement the subject Writs. Considering his explanation unacceptable, it ruled on the matter as follows:

EVALUATION: The factual matters in this complaint are not in dispute. Respondent sheriff admits to the fact of failing to implement the writs of execution in question due to inadvertence, citing voluminous workload on his part.

"Respondent sheriff's reason is unacceptable. Under Section 9, Rule 39 of the Rules of Court, a sheriff is under obligation to enforce the execution of a money judgment by demanding from the [judgment] obligor the immediate payment of the full amount stated in the writ of execution and all lawful fees. If the judgment obligor cannot pay all or part of the obligation, the sheriff shall levy upon the properties of the [judgment] obligor. In the exercise of this mandate, the sheriff performs only a ministerial function. When a writ is placed in the hands of a sheriff, it is his ministerial duty to proceed with reasonable celerity and promptness to execute it in accordance with its mandates (Onquit vs. Binamira-Parcia, 297 SCRA 354). A sheriff has no discretion whether to execute it or not.

"In this case, complainant has [waited] for five (5) years for the writs to be implemented by respondent sheriff and has made countless follow ups