

SECOND DIVISION

[A.M. No. P-08-2430 (Formerly OCA IPI No. 07-2643-P), July 14, 2008]

**ATTY. LEOPOLDO C. LACAMBRA, JR., COMPLAINANT, VS.
CHRISTOPHER T. PEREZ, DEPUTY SHERIFF, BRANCH 74,
REGIONAL TRIAL COURT, OLONGAPO CITY, RESPONDENT.**

D E C I S I O N

QUISUMBING, J.:

Before us is an administrative complaint for neglect of duty, delay in the administration of justice, dishonesty, and violation of Republic Act No. 3019^[1] filed by complainant Atty. Leopoldo C. Lacambra, Jr., against respondent Christopher T. Perez, Deputy Sheriff of the Regional Trial Court (RTC), Branch 74, of Olongapo City.

The antecedent facts are as follows:

Complainant Atty. Lacambra is the counsel for the plaintiff in a case for damages, docketed as Civil Case No. 243-0-02, entitled "*Mariz Madrid and Myrna Madrid, assisted by Danilo Madrid v. Ricky Mistica y Susano and Joycilyn D. Gumin*" before the RTC, Branch 74, of Olongapo City.^[2]

On December 8, 2003, the Court rendered a Decision^[3] in favor of the plaintiffs. On March 5, 2004, the Court issued an Order^[4] directing the issuance of a writ of execution as the said decision had already become final and executory. Subsequently, on March 23, 2004, a Writ of Execution^[5] was issued.

On March 24, 2004, Perez received P5,000 from the plaintiffs for the implementation of the writ. No official receipt was issued but merely an acknowledgment receipt.^[6] However, despite the receipt of the said amount, Perez failed to implement the writ. Thus, on August 19, 2006 or more than two years from the issuance of the writ, Atty. Lacambra made a final demand on Perez.^[7]

As of March 20, 2007, or almost three years from the issuance of the writ, Perez has yet to implement the subject writ, thus prompting Atty. Lacambra to file the instant administrative complaint against him.^[8]

In his Comment^[9] dated June 28, 2007, Perez denied Atty. Lacambra's allegations. He narrated that on March 24, 2004, Atty. Lacambra informed him about his clients' financial status and said that they have no money to pay for the expenses of the implementation of the writ. Atty. Lacambra, however, gave him P5,000. Perez told Atty. Lacambra that the amount was in fact insufficient to cover all the expenses for the implementation of the writ considering the distance from Olongapo City to Quezon City, where defendants Mistica and Gumin reside. Perez, however, received

said amount, having been convinced by the explanation given by Atty. Lacambra. Perez also told Atty. Lacambra that in order to save expenses, the implementation of the writ will depend on his scheduled trips to Manila.

Perez's first attempt to implement the writ was on April 16, 2004. He proceeded to No. 15, Legarda St., Tierra Verde Homes, Tandang Sora, Quezon City where the defendants reside. However, Perez found out that neither the defendants nor any of their household members were around.

On June 2, 2004, Perez, together with Atty. Lacambra, again tried to implement the writ but failed allegedly due to time constraints. He claimed that Atty. Lacambra attended to numerous errands before service of the writ that it became too late to coordinate with the Office of the Clerk of Court, RTC, Quezon City to implement service of the writ.

Two years after, or on September 22, 2006, Perez again attempted to implement the subject writ. Upon arrival at the defendants' residence, he saw a woman about to leave the house who, upon inquiry, turned out to be defendant Gumin. Thus, he gave her a copy of the writ and explained the contents thereof. Gumin informed him that she has been staying in Angeles City and she just dropped by in her place to get some things. She said nobody lives at the Quezon City house and since she had an urgent business appointment, she just left Perez her cellphone number and promised that she will call him soon. They agreed that they will instead meet at Clark, Pampanga because it is nearer to Olongapo City. However, Perez averred that a week after his conversation with Gumin, he lost his cellular phone and hence, had no means of contacting her. Perez asserted that he did not neglect his duty because he exerted efforts to implement the subject writ.

Unconvinced, the Office of the Court Administrator (OCA) recommended that Perez be held liable for simple neglect of duty and be suspended for two months.^[10]

Considering the circumstances in this complaint, we are in agreement to adopt the recommendation of the OCA.

It is mandatory for a sheriff to execute a judgment and make a return on the writ of execution within the period provided by the Rules of Court. Section 14, Rule 39 of the Rules on Civil Procedure provides that the writ of execution shall be returnable to the court immediately after the judgment had been satisfied in part or in full. If the judgment cannot be satisfied in full within 30 days after his receipt of the writ, the officer shall report to the court and state the reason therefor. He is likewise required to make a report to the court every 30 days until judgment is satisfied in full or its effectivity expires.^[11] Such periodic reporting on the status of the writs must be done by the sheriff regularly and consistently every 30 days until the writs are returned fully satisfied.

Here, the non-implementation of the writ of execution is undisputed. Records show that from the time the writ of execution was issued on March 23, 2004, the same remained unimplemented for more than three years. We note that Perez's last attempt to execute the writ was on September 22, 2006 or more than two years from his previous attempt on June 2, 2004. Certainly, the long delay in the execution of the writ negates his claim that he exerted his best effort to implement

the same.

Likewise, as shown by the records, Perez failed to submit periodic reports to update the court of the proceedings undertaken to implement the writ. His last submission of the Sheriff's Partial Report^[12] was on June 14, 2004. Since then, he has not submitted any report to the court.

The delay of more than three years and the failure to submit periodic reports clearly show that Perez neglected his duty. Perez cannot seek refuge from inconveniences caused by distance or the complainant's clients' financial constraints to justify his failure to implement the subject writ.

Sheriffs play an important role in the administration of justice. They are tasked to execute final judgments of the courts. If not enforced, such decisions become empty victories of the prevailing parties. As agents of the law, sheriffs are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice.^[13]

The duty of sheriffs to promptly execute a writ is mandatory and ministerial. Sheriffs have no discretion on whether or not to implement a writ. There is no need for the litigants to "follow-up" its implementation.^[14] 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. Perez was obviously wanting in the amount of diligence required of him in the performance of his solemn duties.

Similarly, undisputed is the fact that Perez received P5,000 directly from Atty. Lacambra. Whether Atty. Lacambra gave the money voluntarily is of no moment. Neither should the Court consider whether the money, in whole or in part, had indeed been spent in the implementation of the writ. The sheriff may receive only the court-approved sheriff's fees and the acceptance of any other amount is improper, even if applied for lawful purposes.^[15]

It must be stressed that there are well-defined steps provided in the Rules of Court, particularly in the former provisions of Section 9, now Section 10, of Rule 141, regarding the payment of expenses that might be incurred in the execution of writs and other processes as follows: (1) the sheriff must make an estimate of the expenses to be incurred by him; (2) he must obtain court approval for such estimated expenses; (3) the approved estimated expenses shall be deposited by the interested party with the clerk of court and *ex-officio* sheriff; (4) the clerk of court shall disburse the amount to the executing sheriff; and (5) the executing sheriff shall liquidate his expenses within the same period for rendering a return on the writ.^[16]

Undoubtedly, Perez sidestepped the abovementioned procedures. The money was not deposited with the clerk of court and there was no showing that the amount was subjected to the court's prior approval. Perez should have waited for the money to be officially disbursed to him if indeed due or required for expenses. Likewise, he