

## EN BANC

**[ A.M. NO. P-06-2266 (FORMERLY OCA-IPI NO. 03-1812-P), November 30, 2006 ]**

**ENCARNACION FLORES, COMPLAINANT, VS. ROMEO S. GATCHECO, JR. SHERIFF III, MTCC-BRANCH 1, SANTIAGO CITY, RESPONDENT.**

### RESOLUTION

#### TINGA, J.:

Sheriff Romeo S. Gatcheco, Jr. is charged with abuse of authority and tardiness in the implementation of a Writ of Execution in a sworn complaint<sup>[1]</sup> dated 23 October 2003 filed by Encarnacion L. Flores.

Complainant claims that she is the plaintiff in Civil Case No. I-578, a complaint for a sum of money entitled *Encarnacion L. Flores v. Martina "Chake" Catabona*, which was ruled in her favor on 20 December 2000.<sup>[2]</sup> On 28 May 2002, she filed a Motion for Writ of Execution, which was granted on 28 June 2002. Subsequently, on 13 August 2002, respondent filed a partial return of the Writ of Execution,<sup>[3]</sup> explaining that while he has previously served a copy of the Writ on the defendant, the latter could no longer be found thereafter.<sup>[4]</sup>

According to complainant, she had already furnished respondent with vital documents regarding the defendant's ownership of a parcel of land to justify the seizure and levy of the said property, but respondent still failed to fully implement the Writ. In addition, while respondent had levied the tricycle of the defendant, there was no effort to auction the same.<sup>[5]</sup> Moreover, despite repeated attempts on the part of complainant, she was unable to meet with respondent.

Later on, complainant found out that respondent was tardy for the most part from January to September 2003.<sup>[6]</sup>

Respondent was twice required by the OCA to submit his comment on the complaint. However, while there was proof that he received them, respondent failed to file his Comment. In a resolution dated 27 March 2006,<sup>[7]</sup> this Court deemed respondent to have waived his right to file the comment.

In its Memorandum,<sup>[8]</sup> the Office of the Court Administrator (OCA) found that save—for the partial return of the Writ dated August 2002—respondent had not filed any other return as mandated by the Rules of Court. Further, the OCA opined that respondent showed incompetence and ineptitude in his partial return, as he did not exert any effort to ascertain the whereabouts of defendant, despite knowledge that the latter is a meat vendor in the public market and was attending hearings in the same court where respondent works. The OCA recommended that respondent

should be held administratively liable for inefficiency and incompetence in the performance of official duties, which has the corresponding penalty of suspension for six (6) months and one (1) day.<sup>[9]</sup>

The OCA found that respondent incurred tardiness at least ten (10) times a month for four (4) consecutive months during the first semester of 2003 without any justifiable reasons, for which he must be reprimanded.<sup>[10]</sup>

In addition, the OCA noted that aside from the complaints of inefficiency and tardiness, respondent has the habit of disregarding Court directives. This attitude constitutes willful violation of the lawful orders of the Court, which may be considered gross insubordination. Considering that respondent had also previously failed to submit his comment and refused to meet the charges against him in another administrative case already decided by the Court, the OCA opined that respondent's dismissal from service is proper.<sup>[11]</sup>

However, records reveal that respondent had already been dismissed from service for dishonesty and grave misconduct on 09 September 2005,<sup>[12]</sup> thus the proper penalty would be the imposition of a fine in lieu of dismissal.<sup>[13]</sup> The OCA recommended in its Memorandum that respondent be held administratively liable for: (1) inefficiency and incompetence in the performance of official duties; (2) habitual tardiness; and (3) gross insubordination and be fined P21,000.00 in lieu of the penalty of dismissal from the service, which had already been previously imposed upon him.<sup>[14]</sup>

The recommendations of the OCA are well-taken.

The sheriff has the primary responsibility of ensuring the speedy and efficient service of court processes and orders. Time and again this Court has ruled that a decision or process that is left unexecuted or unserved because of the inefficiency, negligence, misconduct, or ignorance of the law of those charged with their execution inevitably delays the administration of justice and rightly deserves the condemnation of the parties who are prejudiced thereby.<sup>[15]</sup>

Rule 39, Section 14 of the Rules of Court requires the sheriff to make a report to the court every 30 days on the proceeding taken on the writ of execution until the judgment is satisfied in full, or its effectivity expires. Obviously, respondent failed to fulfill this duty since he only filed one partial return from the time the writ was issued in 2002 until the filing of the instant administrative complaint. For such inefficiency and incompetence in the performance of official duties, respondent would have been meted the penalty of suspension for six (6) months and one (1) day<sup>[16]</sup> had he not been dismissed from the service earlier.

On the issue of insubordination, this Court has repeatedly ruled that refusal to comply with the orders of this Court constitutes gross insubordination which warrants disciplinary sanction.<sup>[17]</sup> The OCA twice required the respondent to submit his comment on the complaint — in a 1st Indorsement dated 21 November 2003, and in a Tracer Letter dated 17 March 2004. While the registry return receipts indicate that the respondent received the said directives, respondent still failed to submit his comment. The Court notes that respondent manifested the same attitude