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SECOND DIVISION

[A.M. No. P-03-1676 (Formerly OCA IPI No. 02-1266-P), July 15, 2005]

RAMON REYES, COMPLAINANT, VS. BENJAMIN L. CABUSAO, SHERIFF III, METROPOLITAN TRIAL COURT, PASIG CITY, BRANCH 68, RESPONDENT.

D E C I S I O N

CALLEJO, SR., J.:

The instant administrative complaint refers to the charge of dereliction of duty against Benjamin L. Cabusao, Sheriff III, Metropolitan Trial Court, Pasig City, Branch 68, relative to the implementation of a writ of execution in Civil Case No. 67026. The charges against the respondent are contained in the verified Complaint filed by Ramon Reyes dated December 3, 2001, to wit:

> 3. Last January 21, 1999, Branch 159, Regional Trial Court of the City of Pasig, rendered a decision (Civil Case No. 67026), affirming the ruling of Branch 68, Metropolitan Trial Court of Pasig City, in Civil Case No. 4464, awarding both moral and exemplary damages to the plaintiff;
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> 4. After the decision became final and executory, a Writ of Execution was issued on March 10, 2000;
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> 5. From that time up to the present, Plaintiff made several oral requests to the sheriff, respondent Benjamin Cabusao, and the court staff to have the writ enforced;
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> 6. The only reason given by the court staff for failure to execute the writ was the Sheriff's inability to accommodate the writ due to the number of decisions sought to be executed by the Sheriff;
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> 7. Last August 28, 2001, Plaintiff filed an Ex Parte Motion for the Issuance of an Order to Compel the Sheriff to Enforce the Writ of Execution;
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> 8. Plaintiff has not received any written Reply as regards his Motion.
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> 9. Last November 26, 2001, counsel of Plaintiff was finally able to talk with the Sheriff and was informed that the Writ was unsuccessfully served thrice since the defendant has already abandoned his known address;
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> 10. Upon query with the Court staff, counsel of Plaintiff, found out that no report explaining the failure to serve the writ was filed by the

Sheriff with the Court in violation of Supreme Court Administrative Circular No. 12;

...

12. Furthermore, the Sheriff, despite the constant follow-up of the Plaintiff has not made any contact with the latter nor with his counsel in order to update them of the status of the case.

13. Had the Sheriff served the Writ earlier and within the period prescribed by law, or at least, had informed the plaintiff or counsel of plaintiff at the earliest possible time, as regards the failure to serve the writ, then Plaintiff would not have suffered the agony of useless waiting, and could have immediately acted on the matter so as to prevent the apparent escape from liability of the respondent. [1]

The respondent denied the charges against him in his Comment[2] dated March 13, 2002. He pointed out that the wife of therein defendant voluntarily executed an affidavit[3] to disprove the charges against him. He further asserted, thus:

1. On August 27, 2001, the undersigned went to the given address of Cesar Patindol but he could not be located and his whereabouts unknown. To obviate any possibility of cover-up, the undersigned did not introduce himself as a Sheriff when he was able to talk to Patindol's wife, but even the wife did not know of Patindol's whereabouts;

2. The following day, August 28, 2001, [complainant] Ramon Reyes filed an Urgent Motion before the Court praying that the undersigned be directed to implement the writ of execution. Mr. Reyes did not even bother to first check or verify the facts before filing the said Motion, which is most unfair, as the Motion tended to create the impression that the undersigned was remiss in his duty, a far cry, however, from the truth;

3. On August 31, 2001, the undersigned again proceeded to the residence of Cesar Patindol but he was informed by the neighbors that Cesar Patindol is no longer seen in the vicinity, a fact which was subsequently confirmed by Patindol's wife, who informed the undersigned that her husband abandoned them almost a year ago;

   Nevertheless, the undersigned gave Patindol's wife a copy of the writ of execution and advised her to settle her husband's obligation;

4. On September 12, 2001, the undersigned returned to Patindol's residence and again inquired about Cesar Patindol. Patindol's wife acknowledged the obligation and said that she and her family are willing to pay the obligation of her husband;

5. That on September 24, 2001, the undersigned accompanied Mr. Reyes' counsel Atty. Robert Jay Quitain, to Patindol's residence in