

## FIRST DIVISION

[ A.M. No. P-04-1790, March 23, 2004 ]

**ROLANDO DIA, COMPLAINANT, VS. TEOFILO PAAÑO, SHERIFF  
III, RESPONDENT.**

### D E C I S I O N

This is a complaint for dishonesty filed by Rolando Dia against Teofilo Paaño, Sheriff III, Regional Trial Court (RTC) of Libmanan, Camarines Sur, Branch 29.

As attorney-in-fact of Conrado H. Dia, complainant filed a complaint on March 26, 1999 for Recovery of Real Property against Rosalino Bukid, with the RTC of Libmanan, Camarines Sur. It was docketed as Civil Case No. L-878. Upon filing the said complaint, he paid a total amount of P2,863.85 as legal fees.<sup>[1]</sup> Complainant Dia also paid P300 purportedly as Sheriff's Transportation Fee, but no receipt was issued to him for the same. Despite having paid all the necessary fees, complainant Dia alleged that respondent sheriff still failed to deliver the summons. Hence, on July 19, 1999, complainant Dia's counsel, Atty. Mario F. Estayan, wrote a letter to the clerk of court inquiring whether summons had already been served upon the respondent in Civil Case No. L-878. Atty. Jean A. Noble, Clerk of Court of the RTC of Libmanan, Camarines Sur, replied that she already ordered respondent sheriff to explain why no administrative action should be taken against him for this neglect. In a letter dated August 26, 1999, complainant's counsel informed respondent sheriff of the abovementioned reply to their query by the clerk of court. Complainant's counsel likewise stated in his letter that respondent's inaction may be construed as his favoring one party to the prejudice of the other, a violation of law that, consequently, may subject him to an administrative complaint.

On October 10, 1999, Atty. Noble required complainant Dia to pay an additional P600 through money order for kilometrage fee for the service of summons.

Complainant Dia now contends that respondent sheriff's failure to serve the summons within the prescribed period constitutes a dereliction of duty and that the act of misappropriating the amount intended for respondent's transportation expenses to serve the summons constitutes *estafa* and conduct unbecoming a government employee.

On February 10, 2000, the Office of the Court Administrator (OCA) ordered respondent sheriff to comment on the complaint within ten (10) days from receipt of said order. Respondent sheriff did not comply. The OCA again ordered respondent sheriff to submit his comment on April 16, 2001, but again, no response was given by the latter. On November 6, 2003, the OCA reiterated its previous orders, but to no avail.

Hence, in its report dated July 8, 2003, the OCA noted that respondent sheriff should be construed to have submitted the matter to this Court without his comment. It likewise stated that respondent's failure to file his comment on the