

FIRST DIVISION

[A.M. NO. P-02-1582 (Formerly OCA I.P.I. No. 99-647-P), January 28, 2003]

**AGUSTIN OLIVEROS, COMPLAINANT, VS. MURIEL S. SAN JOSE,
SHERIFF III, MUNICIPAL TRIAL COURT IN CITIES, BRANCH I,
NAGA CITY, RESPONDENT.**

D E C I S I O N

VITUG, J.:

A complaint was filed by Agustin Oliveros against Muriel S. San Jose, Sheriff III of the Municipal Trial Court in Cities, Branch 1, Naga City, for dereliction of duty. The complaint stemmed from an incident in Civil Case No. 10566, entitled "Agustin P. Oliveros vs. Joy U. Oco and Rudy Tonga," where the trial court had rendered judgment in favor of herein complainant Agustin Oliveros. The dispositive portion of the decision, dated 06 April 1998, was to the following effect; *viz*:

"WHEREFORE, on the basis of the uncontroverted facts alleged in the complaint, judgment is hereby rendered against the defendants, ordering them to pay the plaintiff, jointly and severally, the following sums:

"1. P2,400.00 representing the unpaid balance of the loan plus the agreed interest as stipulated in the Promissory Note until the entire amount is fully paid;

"2. P1,000.00 as attorney's fees. The appearance fee of P500.00 is disallowed as there was no actual hearing conducted;

"3. P500.00 as incidental expenses.

"4. The cost of this suit."

On 25 May 1998, a writ of execution was issued. Complainant claimed to have paid respondent sheriff the necessary fees for the implementation of the writ but the latter had continued to fail in enforcing it despite repeated demands therefor.

In his comment, respondent sheriff explained that he was able to locate the whereabouts of defendant Joy U. Oco, living with her spouse in the house of a parent, but she evidently had no visible personal or real property that could be levied on. Respondent made a return stating the foregoing and informing complainant accordingly. He requested complainant to immediately let him know once she would have learned of any property of Joy Oco that could be levied on. Complainant, respondent averred, had failed to give him any such kind of information.

In its memorandum of 09 January 2002, the Office of the Court Administrator, to