

THIRD DIVISION

[A.M. No. P-00-1407, February 15, 2002]

**SPS. FELIPE AND ROSELYN BIGLETE, COMPLAINANTS, VS.
DEPUTY SHERIFF BONIFACIO V. MAPUTI, JR., REGIONAL TRIAL
COURT, BRANCH 37, DUMAGUETE CITY, RESPONDENT.**

D E C I S I O N

SANDOVAL-GUTIERREZ, J.:

The present administrative case stemmed from a sworn letter-complaint filed by spouses Felipe and Roselyn Biglete against Deputy Sheriff Bonifacio V. Maputi, Jr., charging him with serious misconduct in office, gross neglect of duty and oppression.

In their complaint,^[1] spouses Biglete alleged that on March 31, 1998, the Regional Trial Court, Branch 37, Dumaguete City issued a "Subsidiary Writ of Execution"^[2] in Criminal Case No. 12583, "*People of the Philippines v. Joseph Cabrera y Biazon*," for reckless imprudence resulting in homicide.

On April 13, 1998, respondent sheriff garnished complainants' deposit of P5,107.85 with the Chinabank. However, instead of turning over the amount to the Clerk of Court as mandated by the Rules, respondent misappropriated the same for his own benefit. Worse, he failed to make a return of the writ within the required 30-day period as shown by the Certification^[3] dated June 16, 1998 issued by Atty. Ma. Antonia D. Lacsican, Clerk of Court of the same court.

Since the money judgment was not satisfied in full, respondent, on May 27, 1998, sent a notice to the complainants that their parcel of land, registered in their names under TCT No. 6687 of the Registry of Deeds of Dumaguete City, is being levied upon. Complainants pleaded to respondent not to proceed with the levy as the property involved is their family home exempt from execution. However, respondent was obstinate. He then conducted a public auction sale which was stopped only when the Court of Appeals issued a temporary restraining order in CA G.R. SP No. 47921, "*Felipe Biglete, et al. v. Hon. Temistocles B. Diez, et al.*" for certiorari.

In his answer,^[4] respondent sheriff contends that while it is true that he did not turn over the money to the Clerk of Court, however, he did not misappropriate the same. Instead, he gave it to Atty. Saletto Erames, counsel for the private complainant in Criminal Case No. 12583, who received the same. As to his failure to make a return of the writ, respondent explains that he is not required to do so as he would still levy upon complainants' personal and real properties to satisfy in full the money judgment. He believes that a continuous proceeding will expedite the execution process. On the charge that he committed serious misconduct when he levied upon complainants' family home, he asserts that it is not exempt from

execution since its assessed value is over P300,000.00. He maintains that he has observed all the legal requirements in carrying out the levy.

The Court Administrator (Justice Alfredo Benipayo), to whom this case was referred for evaluation, report and recommendation, made the following findings:

"EVALUATION: Respondent is liable for the consequences of his acts. Apparent are violations of the procedure on execution provided for in the Rules of Court. First, respondent failed to turn over the money garnished for deposit with the Clerk of Court who issued the writ. Second, he did not make a return of service of the writ to the Court. These are basic procedures which herein respondent failed to follow in the execution of the judgment. He cannot feign ignorance of the basic procedures to be followed in the matter, the very essence of his duties as sheriff. As such respondent is bound to discharge his duties with prudence, caution and attention."^[5]

The Court Administrator recommended that respondent sheriff be dismissed from the service "for his failure to turn over the money he had garnished for deposit with the Clerk of Court who issued the writ and to render a return of service thereof to the Court."^[6]

In a Resolution dated July 24, 2000, this Court required the parties to manifest, within twenty (20) days from notice, whether they are submitting the case for decision on the basis of the pleadings/records already filed and submitted. Only complainants submitted such manifestation. Eventually, this Court resolved to consider this case deemed submitted for decision.

We agree with the findings of the Court Administrator.

Section 14, Rule 39 of the 1997 Rules of Civil Procedure, as amended, provides:

"Sec. 14. Return of the writ of execution.- The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. **If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefor.** Such writ shall continue in effect during the period within which the judgment may be enforced by motion. **The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires.** The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties." (Emphasis ours)

Thus, the sheriff is mandated, not only to make a return of the writ to the court immediately upon satisfaction of the judgment, but also to report, within thirty (30) days after his receipt of the writ, the reason why the judgment cannot be satisfied in full. The sheriff shall continue making a report every thirty (30) days on the execution proceedings until the judgment is fully satisfied. The *raison d'etre* behind this requirement is to update the court on the status of the execution^[7] and to take necessary steps to ensure the speedy execution of decisions.^[8]