

## **FIRST DIVISION**

**[ A.M. No. P-02-1605 [Formerly A.M. OCA IPI No. 01-1119 P], February 04, 2008 ]**

**NOEL VITUG, Complainant, vs. PERLITO G. DIMAGIBA, Sheriff IV, Regional Trial Court, Branch 16, Malolos, Bulacan, Respondent.**

### **D E C I S I O N**

**SANDOVAL-GUTIERREZ, J.:**

In an affidavit-complaint dated March 23, 2001, Noel Vitug, complainant, charges herein respondent Perlito G. Dimagiba, Sheriff IV of the Regional Trial Court (RTC), Branch 16, Malolos, Bulacan, with dereliction of duty and abuse of authority relative to Civil Case No. 173-M-97.

The complaint alleges, among others, that respondent failed to enforce and implement the writ of execution issued by the trial court in Civil Case No. 173-M-97 in favor of complainant, and to submit a report on the action taken thereon, in violation of the provisions of Sections 9 and 14, Rule 39 of the 1997 Rules of Civil Procedure, as amended.

Upon recommendation of the Office of the Court Administrator (OCA), the Court referred the complaint to the Executive Judge, RTC, Malolos, Bulacan for investigation, report and recommendation.

In his Report dated November 15, 2002, then Executive Judge Oscar C. Herrera, Jr. recommended that respondent be reprimanded for dereliction of duty, with a warning that a repetition thereof shall merit a more severe penalty.

In a Memorandum dated April 29, 2004, then Court Administrator Presbitero J. Velasco, Jr. (now a Member of this Court) sustained the findings of then Executive Judge Herrera and recommended that the penalty imposed upon respondent be modified, thus:

After going over with the records of this case, the undersigned finds no reason to disturb the findings of the Executive Judge who conducted the required investigation in the instant case. It appears that the respondent sheriff indeed failed to submit to the court that issued the subject writ of execution, the written report on the service of the notices of garnishment to the banks, and the periodic report every thirty (30) days, required under Sections 9[c] and 14 of Rule 39 of the Revised Rules of Court. His failure to do so constitutes simple neglect of duty. However, the undersigned believes that the penalty recommended by the Investigating Judge is too light for the offense committed by the respondent. Under the Civil Service Rules and Regulations, simple neglect of duty is punishable by suspension ranging from one (1) month and one (1) day to six (6)