

## FIRST DIVISION

**[ Adm. Matter No. P-06-2214 (Formerly OCA I.P.I. No. 05-2338-P), April 16, 2008 ]**

**GEMMA LETICIA F. TABLATE, Complainant, vs. JORGE C. RAÑESES, Sheriff IV, Regional Trial Court, Branch 79, Quezon City, Respondent.**

### D E C I S I O N

**AZCUNA, J.:**

This is an administrative case filed by complainant Gemma Leticia F. Tablate against respondent Jorge C. Rañeses in his capacity as Sheriff IV of Regional Trial Court (RTC), Branch 79, Quezon City, for gross neglect of duty and incompetence relative to his alleged failure to serve the writ of execution for more than two years resulting in the accused's evasion of civil indemnity (in favor of complainant) amounting to P300,000 in Criminal Case No. Q-98-78569.

In her verified Complaint dated November 22, 2005 before the Office of the Court Administrator (OCA),<sup>[1]</sup> complainant Tablate averred that: on September 7, 1998, an Information for *estafa* was filed against accused Libertad De Guzman, which was docketed as Criminal Case No. Q-98-78569 and raffled to Quezon City RTC Branch 79; after trial, the case was decided acquitting the accused of the crime charged but ordering her to pay complainant the amount of P300,000 plus legal interest; when the decision became final and executory, complainant moved for the execution of the judgment, which was granted by the court on February 24, 2003; pursuant to the Order, a writ of execution was issued by the branch clerk on March 6, 2003; since the issuance of the writ and up to the filing of this complaint, the writ had not been implemented by respondent; and that complainant had been continuously kept in the dark by respondent by not updating her on how he would proceed with the execution despite the fact that the latter had demanded and was given a sum of money to defray the expenses for the implementation of the writ and in spite of the follow-ups made by complainant by phone and in person or through representative, the latest being on November 9, 2005.

Respondent Rañeses denied the allegations of complainant. He countered in his Comment<sup>[2]</sup> that:

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3. After the issuance of the writ of execution on March 6, 2003, the complainant, through Atty. Kintanar, the private prosecutor in the subject case, first coordinated with the respondent regarding the writ's execution sometime in [October 2003]. Immediately thereafter, the respondent proceeded to the Office of the City Assessor of Quezon City to verify under whose name the subject

property, on which the accused purportedly resides, per court records, was registered. Upon learning from the said office that the said real property was NOT REGISTERED in the name of the accused but instead the same was registered in the name of a certain Perfecto T. Ebangin x x x, the respondent proceeded to the Office of the [Register] of Deeds of Quezon City. In the [Register] of Deeds' office[,] the respondent learned that the title to the house and lot in which the accused supposedly resides (TCT No. PR-35698) at that time was registered under the name of a certain Reynaldo P. Villacorta, and that the same title [had] already been CANCELLED. The same verification also revealed that the subject real property [had] already been sold to a certain Arsenio Cuasa x x x;

4. All the foregoing developments/information [were] promptly relayed to the private prosecutor by the respondent. Upon being apprised of the result of the respondent's research[,] the private prosecutor told the sheriff that he [would] inform the private complainant, herein complainant, of the situation and the respondent was instructed to await further instructions from the complainant herself;
5. After thus reporting to the private prosecutor, neither he nor the complainant made further follow-ups until [August 2004] when complainant Atty. Tablate called the office of the respondent. However, at the time of said call, the respondent was not available to take the same, so the complainant left a message [to] the respondent for the latter to return her call. Immediately after learning of the phone call[,] the respondent called up the [complainant] in her office and made arrangements to meet with her at the soonest possible time to discuss the implementation of the writ. However, before such meeting could take place, a certain Alejandro Cruz, also a deputy sheriff [of] Quezon City, approached the respondent and made representations that he was following up the writ's implementation in behalf of the complainant. Sheriff Cruz volunteered to assist the respondent in the implementation of the writ of execution in case such implementation would proceed. So, on August 12, 2004, the respondent, together with Alejandro Cruz and a police officer, proceeded to the address on record of accused De Guzman, for verification purposes, and if feasible[,] to effect the implementation of the writ. Upon arriving at the site, the respondent saw the house thereat but the doors and windows thereof were all shut. They were further informed by neighbors that the accused was no longer residing in the said house. Consequently, the respondent and his companions left the site. (Sheriff's Report, September 17, 2004, x x x). Thereafter, the respondent promptly informed the complainant of the proceedings taken on the writ of execution personally at the latter's office. At said meeting[,] the complainant sought and the respondent gave some advice as to how to proceed with the implementation of the writ. The respondent told the complainant that he could conduct periodic "stake outs" of the premises, coordinate with the local

[barangay] officials concerned with respect to the possibility of securing a certification as to whether or not the accused resides in the area, among other things. Thereafter, the complainant directed the respondent to do what he can to effect the implementation of the writ. In compliance with such instructions, the respondent made several follow-up visits to the premises for the purpose of locating the whereabouts of the accused as well as identifying personal property which could be the subject of levy on execution. However, despite earnest efforts on the part of the respondent, he could not locate any motor vehicle owned by the accused;

6. Another visit to the premises on record at Blk. 2, Lot 26, St. Andrews St., Phase 3, Sacred Heart Village, Quezon City, by the respondent pursuant to the writ was on March 18, 2005. On that occasion[,] he was again accompanied by Sheriff Alejandro Cruz. In the course of their investigation, they learned from a tricycle driver that accused De Guzman was renting a small space near the gate of the subdivision for use in her "*carindaria*" business. Acting on such information[,] the respondent proceeded to the said establishment but the accused was not around. While there, the respondent noted that there was no leviable personal property of value thereat since all he saw were plastic chairs and tables, a dilapidated refrigerator, and an old gas stove. The respondent and his companion left the premises. Such proceedings taken by the respondent were reduced into writing. (Sheriff's Report, April 28, 2005, x x x). [In May 2005,] the respondent went to the complainant's office and apprised her of his latest efforts to effect the implementation of the writ. During such meeting, the respondent advised the complainant that they may as well go to the [barangay] unit concerned to secure the appropriate certification as [to] whether the accused was indeed a resident in the area. For her part[,] the complainant again instructed the respondent to do all that he could so as to effect the execution of the money judgment. The complainant further told the respondent that in the event that no property of the accused could be attached or levied[,] as the case may be, she would just make public her complaints against the accused through print media with the help of Mr. Tulfo;
7. After the meeting, the respondent proceeded to the Barangay Hall in Quezon City which is supposed to have territorial jurisdiction over the premises per the records, for purposes of securing the certificate of residency of the accused. However, he was informed by a certain [barangay] BSDO (*sic*) that their area of responsibility extends only up to Phase 2 of Sacred Heart Village. The same [barangay] official informed the respondent that Phase 3 of Sacred Heart Village, in which the address on the accused on records is situated, [falls] within the territorial jurisdiction of Barangay Pasong Putik in Caloocan City. However, when the respondent went to Barangay Pasong Putik, the local authorities there told him that the premises was also beyond their jurisdiction and that it was in fact still within Quezon City. Given such situation, the respondent was unable to secure the subject certification;

8. On November 9, 2005, the complainant went to the respondent's office. The complainant at the time [was] accompanied by a certain Atty. Gerardo Calvo. During said visit[,], Atty. Tablate complained to the respondent as to why he was unable to implement the writ of execution. Furthermore, the complainant questioned the necessity of securing a [barangay] certification for purposes of determining the whereabouts of the accused. In response, the respondent informed the complainant that he [would] return to the premises with Sheriff Arnulfo Lim of Branch 227 to again attempt to locate property that may be attached or levied;
9. On November 11, 2005[,], the respondent, with Sheriff Arnulfo Lim[,], proceeded to the premises in issue where they found out from a nearby resident that the accused was still residing at the same address on record. They were further informed that it was difficult to chance upon Libertad de Guzman since she leaves very early in the morning and returns very late in the evening. Thereafter, the respondent knocked on the gate of the subject house. [Thereupon,] a man appeared before them and identified himself as one Bernardino de Guzman, who claimed to be the husband of Libertad. This Bernardo de Guzman went outside to meet the respondent and Sheriff Lim, locked the gate, and accompanied the sheriffs to the alleged "*carinderia*" of the accused. Upon arriving there[,], they were made to wait for a while as Mr. De Guzman went away to fetch his wife. When he returned, he was accompanied by accused Libertad. Upon meeting with the accused, the respondent served upon her the subject writ of execution and demanded of the latter that she immediately pay the money judgment. Upon receiving the writ and after having been asked to make payment, the accused told the respondent sheriff that she [would] refer the matter first to her counsel and further manifested that she would soon coordinate with the respondent and the court after meeting with her lawyer. The proceedings undertaken as above-mentioned have been reduced [into] writing as the "Sheriff's Partial Report" dated November 23, 2005 x x x;
10. On November 22, 2005, the respondent, this time with Deputy Sheriff Pedro Borja of the Clerk of Court's Office, Regional Trial Court of Quezon City, together with a police officer, again proceeded to the premises for the purpose of implementing the subject writ of execution. However, upon arriving at the site, it was discovered that the gate of the premises was closed, the doors were locked, and all the windows were likewise shut. Consequently, the respondent and his companions left the premises. x x x. The respondent personally furnished the complainant a copy of the said Sheriff's Partial Report on November 23, 2005 and it was during said encounter that the respondent learned from the complainant that she already filed an administrative complaint against the former;
11. The respondent specifically denies having demanded and received from the complainant any such sum of money purportedly to defray

the expenses of the writ's implementation. Sad to state, in truth and in fact, on numerous occasions, respondent in trying to enforce the money judgment, even used his own limited financial resources just so that he could perform his duties as required by law but his efforts proved futile; and

12. It can be well stated by herein respondent that attempts to implement the writ of execution were hampered by lack of sufficient information and knowledge as to what and where the leviable property belonging to the judgment obligor (the accused) could be located.<sup>[3]</sup>

In response, complainant filed her Reply.<sup>[4]</sup>

On April 24, 2006, the OCA recommended that respondent be fined in the amount of P5,000, with a stern warning that commission of the same or similar acts would be dealt with more severely. In its Report,<sup>[5]</sup> the OCA found that the writ of execution issued on March 6, 2003 remained unsatisfied until the complaint was filed and that respondent had not shown any diligence in its enforcement. Further, respondent failed to make the required periodic report: From March 2003 until November 2005, he only submitted three Sheriff's Return, and only one of these was furnished complainant. Also, the first return was dated September 17, 2004, or almost one year and a half after the issuance of the writ. The OCA, however, found that complainant failed to present convincing proof that respondent demanded and received cash from her for the implementation of the writ.

Conformably with the Court's Resolution on July 12, 2006,<sup>[6]</sup> complainant filed her manifestation stating her willingness to have the case submitted for decision based on the pleadings filed.<sup>[7]</sup>

On the other hand, respondent filed his Supplemental Comment,<sup>[8]</sup> stressing that complainant had always been apprised of the status of the execution and that attempts to enforce the writ proved futile due to the absence of leviable property of the accused. Respondent noted that he was surprised when complainant filed this case since the latter, who herself works for the judiciary, never threatened to sue him, expressed dissatisfaction or resentment on account of the delay in the satisfaction of the judgment, or pushed for the expeditious implementation of the writ.

The Court agrees with the OCA report but not with the recommended penalty.

Time and again, this Court stressed upon those tasked to implement court orders and processes to see to it that the final stage of the litigation process - the execution of judgment - be carried out promptly. Sheriffs, in particular, should exert every effort and consider it their bounden duty because a decision left unexecuted or delayed indefinitely is nothing but an empty victory on the part of the prevailing party.<sup>[9]</sup>

In this case, it is clear from respondent Rañeses' own narration that: despite the issuance of the writ of execution on March 6, 2003, he only acted in October 2003 after complainant's counsel "first coordinated" with him; upon verification from the