

SECOND DIVISION

[A.M. No. P-07-2388 (Formerly OCA-IPI No. 07-2558-P), June 30, 2008]

**SANNIE V. JUARIO, COMPLAINANT, VS. NORBERTO LABIS,
SHERIFF IV, RTC, BRANCH 44, INITAO, MISAMIS ORIENTAL,
RESPONDENT.**

R E S O L U T I O N

TINGA, J,:

This is an administrative complaint against respondent Norberto Labis, sheriff of the Regional Trial Court of Initao, Misamis Oriental, Branch 44, for grave misconduct and neglect of duty relative to the execution of the judgment in Criminal Case No. 2522, entitled "*People of the Philippines v. Leo Galono and Laura Galono*" for slight physical injuries, which was filed before the 8th Municipal Circuit Trial Court of Initao, Misamis Oriental.

In an Affidavit-complaint^[1] dated 14 September 2006, complainant Sannie V. Juario alleged that he was the private complainant in the criminal case and that on 30 June 2005, the trial court found Laura Galono (Laura) guilty of the crime charged. In addition to the penalty of imprisonment, Laura was ordered to pay complainant P3,000.00 as moral damages and P5,000.00 as reimbursement of attorney's fees. Laura did not appeal the judgment and instead applied for probation. Thus, on 15 August 2005, complainant filed a motion for execution of the civil aspect of the case which the trial court granted.^[2]

Thereafter, respondent, who had been tasked to implement the writ of execution, allegedly demanded from complainant certain sums of money to facilitate the execution of the judgment. Complainant, in response, gave respondent through his brother, Orlando Juario, the amount of P3,200.00.^[3]

Several weeks after, respondent informed complainant that he could not attach any of Laura's properties as the same were not hers but had been merely mortgaged to her. Respondent, however, could not present any document bearing proof of the mortgage. Subsequently, complainant related to respondent that Laura co-owned a parcel of land covered by Certificate of Land Ownership Award (CLOA) No, 00201250. Respondent suggested that complainant conduct a survey and have a portion of the land segregated. Complainant readily complied but respondent failed to do his part. Later on, respondent informed him that it would be contrary to law to have the property attached.^[4]

In his Comment^[5] dated 27 October 2006, respondent denied the charges against him and averred that the instant administrative complaint should be dismissed on the ground of forum shopping in view of the pendency of a case involving the same

facts previously filed against him by complainant's father.^[6]

Respondent also asserted that he implemented the writ of execution on 8 December 2005 with the assistance of police personnel. He recalled that in Laura's absence, her sister presented to him a document showing that the former did not own the tools and equipment sought to be attached. He also explained that he did not notice other property within the premises that could be attached except a welding machine and other tools which are exempt from attachment for being essential implements to Laura's occupation.^[7]

As regards the parcel of land that Laura co-owned, respondent maintained that the title does not evince such co-ownership and that since it is covered by a CLOA, a writ of execution may not be implemented against it.^[8]

Finally, while he admitted having received money from complainant in the amount of P2,500.00 and not P3,000.00 to defray the expenses in the implementation of the writ, respondent asserted that the money had been properly accounted for as evidenced by the photocopies of the report of estimated execution expenses and of the sheriff's report of the actual expenses.^[9]

In a Report^[10] dated 8 August 2007, the Office of the Court Administrator (OCA) found respondent guilty of simple neglect of duty for failing to exercise diligence in the implementation of the writ of execution, but found that the charge of grave misconduct relative to respondent's demand for money to facilitate the implementation of the writ was unsubstantiated. Accordingly, the OCA recommended that respondent be fined in the amount of P5,000.00.

In a Resolution^[11] dated 10 October 2007, the Court noted the report of the OCA and directed the parties to manifest whether they are willing to submit the case for resolution on the basis of the pleadings filed. In an undated letter, complainant manifested his willingness to submit the case to the Court for disposition.^[12] Respondent expressed the same willingness in his Manifestation dated 26 November 2007.^[13]

The Court finds the OCA's recommendations in order.

A sheriff's duty in the execution of the writ issued by a court is purely ministerial. When a writ is placed in his hands, it is his duty, in the absence of instructions, to proceed with reasonable celerity and promptness to execute it according to its mandate. He has no discretion whether to execute it or not. Good faith on his part, or lack of it, in proceeding to properly execute his mandate would be of no moment, for he is chargeable with the knowledge that being an officer of the court tasked therefor, it behooves him to make due compliance.^[14]

In the case at bar, the Court finds that respondent sheriff was lackadaisical in the enforcement of the writ of execution in Criminal Case No. 2522. While he did serve the writ on Laura, it appears that he failed to exercise due diligence in determining whether Laura had any other property out of which the decreed obligation could be satisfied. It must be stressed that a judgment, if not executed, would be an empty victory on the part of the prevailing party.^[15] Clearly, by his actuations, respondent