



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Baguio City

SECOND DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Second Division, issued a Resolution dated **20 April 2015** which reads as follows:

"A.M. No. P-15-3320 [Formerly known as OCA IPI No. 13-4018-P]: MIGUELINO L. CATURAN v. ARNULFO D. LUMANOG, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 39, SOGOD, SOUTHERN LEYTE

This is an administrative Complaint¹ charging Arnulfo D. Lumanog (Sheriff Lumanog), Sheriff IV, Regional Trial Court, Branch 39, Sogod, Southern Leyte, with neglect of duty, abuse of authority, and conduct unbecoming of a court employee. Sheriff Lumanog allegedly failed to implement the Writs of Execution issued by the Municipal Circuit Trial Court, Sogod-Libagon-Bontoc, Southern Leyte in two (2) small claims cases for sum of money where complainant Miguelino L. Caturan (Caturan) was the plaintiff.

In *Miguelino L. Caturan v. Bernadette Gilbert*,² the Municipal Circuit Trial Court issued a Writ of Execution ordering Sheriff Lumanog to implement the trial court's Decision. Sheriff Lumanog received a copy of the Writ of Execution on December 6, 2010 and served a copy of the Writ on Bernadette Gilbert on December 22, 2010. He filed his Sheriff's Report dated August 11, 2011, stating:

[t]hat the undersigned served [a] copy of the Writ to [sic] the [respondent] and thereupon demanded from her the amount mentioned therein and she told the undersigned that she can pay only if her residential house and lot would be sold and later showed [a] copy of a Special Power of Attorney's [sic] executed by her former live-in partner, Ignacio A. Tomon, authorizing her to dispose said property and deposit the proceeds in the name of their son, Theodore Ignacio A. Tomon and nothing was mentioned for the satisfaction of the Writ of Execution [sic].

That the undersigned also observed that no valuable property of the defendant can be found inside her house to answer for the amount demanded.

That the undersigned is planning to file a Notice of Garnishment to some local banks in the place for [sic] some amounts which might have been deposited by the defendant in her name.

¹ *Rollo*, pp. 2-3.

² This case was docketed as SCC No. R-10-05. See Sheriff's Report dated August 11, 2011, *rollo*, p. 5.

Sogod, Southern Leyte, August 11, 2011.

(sgd.)
ARNULFO D. LUMANOG
Court Sheriff IV³

On the other hand, the Writ of Execution in *Miguelino L. Caturan v. Rosalina C. Corpin*⁴ was received by Sheriff Lumanog on August 8, 2012. He served a copy of the Writ on Rosalina C. Corpin on August 21, 2012. He stated in his Sheriff's Report dated September 24, 2012:

Copy of the Writ of Execution was served to [sic] defendant in her residence at Brgy. Zone V, Sogod, Southern Leyte and was instructed to prepare the amount demanded upon return of the undersigned to her residence [sic]. During service of the copy of the Writ, the undersigned observed that there was no valuable property of the defendant that can be found inside her house to answer for the amount demanded and she was further instructed that in the event she fails to prepare the amount, the undersigned will be constrained to use force of the law and to apply provisions of Rule 39 of the Rules of Court, to levy some of her properties, either real or personal.

Sogod, Southern Leyte, **September 24, 2012.**

(sgd.)
ARNULFO D. LUMANOG
Court Sheriff IV⁵

Caturan alleges in his Complaint-Affidavit⁶ that Sheriff Lumanog neglected his duty to implement the Writs of Execution. In *Caturan v. Gilbert*, Sheriff Lumanog "only went as far as sending a notice of garnishment to some local banks in the area where defendant Gilbert allegedly maintains a deposit."⁷ In *Caturan v. Corpin*, Sheriff Lumanog offered various excuses whenever Caturan followed him up on the implementation of the Writ of Execution. When Caturan allegedly threatened him with a complaint before the Ombudsman, he allegedly replied through a text message, "Ok. *Salamat mo abot sa ombudsman ning imong mga text!*"⁸

³ *Rollo*, p. 5.

⁴ The case was docketed as SCC Case No. R-12-19. See Sheriff's Report on Writ of Execution dated September 24, 2012, *rollo*, p. 26.

⁵ *Rollo*, p. 26.

⁶ *Id.* at pp. 2-3.

⁷ *Id.* at 34.

⁸ *Id.* at 3. The English translation is: "Okay, thanks. Your texts will reach the Ombudsman!"

In the Letter⁹ dated December 10, 2012, Caturan reiterated his charges against Sheriff Lumanog.

The Office of the Court Administrator directed Sheriff Lumanog to comment on Caturan's Complaint-Affidavit.¹⁰

In his Comments¹¹ both dated February 14, 2013, Sheriff Lumanog denies Caturan's allegations, declaring that he "performed [his] duty . . . with great [zeal] and passion."¹² The Writ of Execution in *Caturan v. Gilbert* was allegedly satisfied because of the bank deposits garnished by him.

As regards the judgment amount in *Caturan v. Corpin*, Sheriff Lumanog admits that he was still locating properties belonging to Rosalina C. Corpin to levy. Nevertheless, he argues that Caturan's Complaint-Affidavit "is still premature and precipitate,"¹³ claiming that he has five (5) years to implement the Writ of Execution as provided in Rule 39, Section 6 of the Rules of Court.¹⁴ Sheriff Lumanog prays that Caturan's Complaint-Affidavit be dismissed.

Caturan filed the Letter¹⁵ dated March 4, 2013 in reply to Sheriff Lumanog's Comments.

In its Report¹⁶ dated November 24, 2014, the Office of the Court Administrator recommended that Caturan's Complaint-Affidavit be docketed as a regular administrative matter. It likewise recommended that Sheriff Lumanog be found guilty of simple neglect of duty, suspended for a period of one (1) month and one (1) day without pay, and sternly warned that a repetition of the same or similar act shall be dealt with more severely. The Office of the Court Administrator found that Sheriff Lumanog failed to comply with Rule 39, Section 14 of the Rules of Court, which requires sheriffs to file periodic reports every 30 days in case of failure to fully implement final and executory judgments.

⁹ Id. at 28.

¹⁰ Id. at 20.

¹¹ Id. at 21-25.

¹² Id. at 22.

¹³ Id. at 24.

¹⁴ RULES OF COURT, Rule 39, sec. 6 provides:

SEC. 6. Execution by motion or by independent action. - A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

¹⁵ *Rollo*, pp. 28-30.

¹⁶ Id. at 34-38.

The issue for our resolution is whether Sheriff Lumanog is guilty of simple neglect of duty.

We agree with the Office of the Court Administrator. Sheriff Lumanog is guilty of simple neglect of duty.

Simple neglect of duty is “the failure of an employee to give one’s attention to a task expected of him, and signifies a disregard of a duty resulting from carelessness or indifference.”¹⁷

Under Rule 39, Section 14 of the Rules of Court, officers implementing writs of execution must make a return of the writ immediately after satisfaction of the judgment, whether in part or in full. In case the judgment cannot be fully satisfied within 30 days from receipt of the writ, the officer shall report to the issuing court and state the reasons for its non-satisfaction. The officer shall continue reporting to the court every 30 days until full satisfaction of the judgment or until the writ of execution expires. Rule 39, Section 14 provides:

SEC. 14. *Return of 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 reasons 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.

In *Caturan v. Gilbert*, Sheriff Lumanog received a copy of the Writ of Execution on December 6, 2010. Thus, he had 30 days from December 6, 2010, or until January 5, 2011, to fully implement the Writ. However, his Sheriff’s Report dated August 11, 2011 shows that he failed to fully implement the Writ by January 5, 2011. He also failed to make the required periodic reports every 30 days.

Similarly, Sheriff Lumanog failed to file the required periodic reports in *Caturan v. Corpin*. Sheriff Lumanog received a copy of the Writ of Execution on August 8, 2012. Thus, he had until September 7, 2012 to fully implement the Writ. However, his Sheriff’s Report dated September 24, 2012 shows that he failed to fully implement the Writ by September 7, 2012. Again, he failed to make the required periodic reports every 30 days.

¹⁷ *Tablate v. Rañeses*, 574 Phil. 536, 548 (2008) [Per J. Azcuna, First Division].

This court explained in *Patawaran v. Nepomuceno*¹⁸ the importance of making periodic reports in case of failure to fully implement a final and executory judgment:

[T]he submission of the return and periodic reports is not an empty requirement. It serves to update the court as to the status of the execution and to give it an idea as to why the judgment was not satisfied. It also provides insights for the court as to how efficient court processes are after judgment has been promulgated. The overall purpose of the requirement is to ensure the speedy execution of decisions.¹⁹

Sheriff Lumanog nevertheless argues that he implemented the Writ of Execution in *Caturan v. Gilbert* within the five-year period under Rule 39, Section 6 of the Rules of Court. He claims that he promptly implemented the Decision, and, therefore, has no administrative liability.

Rule 39, Section 6 of the Rules of Court refers to the period when a final and executory decision may be executed either by motion or by independent action. Rule 39, Section 6 provides:

SEC. 6. *Execution by motion or by independent action.* – A final and executory judgment or order may be executed on motion within five (5) years from the date of its entry. After the lapse of such time, and before it is barred by the statute of limitations, a judgment may be enforced by action. The revived judgment may also be enforced by motion within five (5) years from the date of its entry and thereafter by action before it is barred by the statute of limitations.

Sheriff Lumanog cannot use Rule 39, Section 6 as basis to escape administrative liability. Rule 39, Section 6 refers to prescriptive periods for executing final judgments. The provision is directed to parties, not to the officers implementing writs of execution. For officers implementing final and executory judgments, they must comply with the 30-day period provided in Rule 39, Section 14 of the Rules of Court. This is consistent with the policy of “speedy execution of decisions.”²⁰

For failure to make the periodic reports required under Rule 39, Section 14 of the Rules of Court, Sheriff Lumanog is guilty of simple neglect of duty.

¹⁸ 543 Phil. 249 (2007) [Per J. Austria-Martinez, Third Division].

¹⁹ *Id.* at 260.

²⁰ *Development Bank of the Philippines v. Famero*, A.M. No. P-10-2789, July 31, 2013, 702 SCRA 555, 564 [Per J. Brion, Second Division].

Under the Revised Administrative Rules on Administrative Cases in the Civil Service, simple neglect of duty is a less grave offense punishable by suspension of one (1) month and one (1) day to six (6) months on the first offense, and dismissal from the service on the second offense.²¹ For Sheriff Lumanog's offense, we find the penalty of suspension from office for one (1) month and one (1) day sufficient.

WHEREFORE, we find Arnulfo D. Lumanog, Sheriff IV, Regional Trial Court, Branch 39, Sogod, Southern Leyte, **GUILTY** of simple neglect of duty. He is **SUSPENDED FROM OFFICE** without pay for a period of **ONE (1) MONTH AND ONE (1) DAY**. His suspension is effective upon service on him of a copy of this Resolution. He is **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

SO ORDERED.²¹

Very truly yours,


MA. LOURDES C. PERFECTO
Division Clerk of Court *jde*
5/29

By:

TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

HON. COURT ADMINISTRATOR

Jose Midas P. Marquez (x)

HON. DEPUTY COURT ADMINISTRATOR

Raul B. Villanueva (x)

Jenny Lind Aldecoa-Delorino (x)

Thelma C. Bahia (x)

Legal Office (x)

Court Management Office (x)

Financial Management Office (x)

Docket & Clearance Division (x)

Office of Administrative Services (x)

Office of the Court Administrator

Supreme Court, Manila

MIGUELINO L. CATURAN (reg)

Complainant

Barangay Zone 1

6606 Sogod, Southern Leyte

*CASH DISBURSEMENT & COLLECTION DIVISION (x)

THE AUDITOR (x)

Cash Division-Office of the Court Administrator

Supreme Court, Manila

ARNULFO D. LUMANOG (reg)

Sheriff IV

Regional Trial Court, Branch 39

Sogod, Southern Leyte

OFFICE OF THE CHIEF ATTORNEY (x)

OFFICE OF THE REPORTER (x)

Supreme Court, Manila

PUBLIC INFORMATION OFFICE (x)

LIBRARY SERVICES (x)

Supreme Court, Manila

[for uploading pursuant to A.M. No. 12-7-1-SC]

*For this resolution only

Please notify the Court of any change in your address.

A.M. No. P-15-3320. 04/20/15 (272)URES

²¹ Rev. Rules on Adm. Cases in the Civil Service, rule 10, sec. 46 (D)(1).