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The Court, therefore, adopts the recommendation of the OCA with the modification that the suggested amount of ₱10,000.00 fine be reduced, given the circumstances of this case, to ₱5,000.00.

WHEREFORE, respondent Judge Redentor B. Valera is found to have remiss in seasonably disposing of Civil Case No. 661 and Civil Case No. 961 before his court and a *FINE* of ₱5,000.00 is imposed on him. He is directed to decide said cases with utmost dispatch and to submit to the Office of the Court Administrator a copy of his decision within ten (10) days from promulgation thereof.

SO ORDERED.

Melo (Chairman), Panganiban, Purisima, and *Gonzaga-Reyes, JJ.*, concur.

SECOND DIVISION

[A.M. No. P-00-1362. February 15, 2000]

ORLANDO LAPEÑA, *complainant, vs.* **JOVITO PAMARANG, Sheriff IV, Regional Trial Court — Office of the Clerk of Court, Urdaneta, Pangasinan,** *respondent.*

SYNOPSIS

This is an administrative complaint filed against respondent, the sheriff of Regional Trial Court (RTC) of Urdaneta, Pangasinan charging him with ignorance of the law, gross misconduct and neglect of duty for filing the return of the writ of execution four days late than what was required under Rule 39, Section 11 of the Rules of Court. Upon the recommendation of the Office of the Court Administrator, the case was referred to the Executive Judge of the RTC for investigation, report and recommendation. On the scheduled hearing on December 7, 1999, complainant manifested that he was no longer interested in pursuing the case and wanted

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that the case be dismissed. In view of this manifestation, the Executive Judge submitted his report on January 14, 2000 recommending the dismissal of the complaint.

The Supreme Court ruled that the withdrawal of a complaint for lack of interest of a complainant did not necessarily warrant the dismissal of an administrative complaint and the Court cannot be bound by the unilateral decision of a complainant to desist from prosecuting a case involving the discipline of parties subject to its administrative supervision. In this case, although there was a manifestation that the complainant was withdrawing the administrative case, the Court ruled that for failing to make a return of the writ of execution within the required period, respondent was guilty of nonfeasance and for this, the fine of ₱2,000.00 would be proper. Accordingly, the Court found the respondent guilty of dereliction of duty and imposed on him a fine of ₱2,000.00.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; EJECTMENT; EXECUTION OF JUDGMENT; MERE FILING OF A NOTICE OF APPEAL DOES NOT STAY EXECUTION IN AN EJECTMENT CASE.—** It is well settled that to stay the immediate execution of a judgment in an ejectment case while appeal is pending, the defendant must: (a) perfect his appeal; (b) file a supersedeas bond; and (c) periodically deposit the rentals which become due during the pendency of the appeal. It does not appear from respondent's return that these requisites were present so as to justify his desistance from implementing the writ of execution. Mere filing of a notice of appeal does not stay execution in an ejectment case.

2. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT EMPLOYEES; WITHDRAWAL OF A COMPLAINT FOR LACK OF INTEREST OF COMPLAINANT DOES NOT NECESSARILY WARRANT THE DISMISSAL OF AN ADMINISTRATIVE COMPLAINT.—** The withdrawal of a complaint for lack of interest of a complainant does not necessarily warrant the dismissal of an administrative complaint. The Court cannot be bound by the unilateral decision of a complainant to desist from prosecuting a case involving the discipline of parties subject to its administrative supervision. The need to maintain the

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faith and confidence of our people in the government and its agencies and instrumentalities demands that proceedings in administrative cases against public officers and employees should not be made to depend on the whims and caprices of complainants who are, in a real sense, only witnesses.

3. **ID.; ID.; ID.; SHERIFFS; FOR FAILING TO MAKE A RETURN OF THE WRIT OF EXECUTION WITHIN THE REQUIRED PERIOD, RESPONDENT IS GUILTY OF DERELICTION OF DUTY.—** For failing to make a return of the writ of execution within the required period, respondent is guilty of nonfeasance. In *Barola v. Abogatal,* a sheriff who received the writ of execution on January 15, 1978 but made a return thereof only on May 22, 1978 was fined in an amount equivalent to his one month's salary. In this case, as respondent's return was only four days late, a fine of ₱2,000.00 would be proper.

DECISION

MENDOZA, *J.*:

This is a complaint,[1] filed against respondent Jovito Pamarang, Sheriff IV of the Regional Trial Court at Urdaneta, Pangasinan, charging him with ignorance of the law, gross misconduct, and willful neglect of duty.

Complainant Orlando Lapeña, as attorney-in-fact of one Fidencio Mara, filed an action for unlawful detainer in the Municipal Trial Court, Urdaneta, Pangasinan, where it was docketed as Civil Case No. 4099. On June 13, 1995, judgment was rendered in favor of complainant ordering the defendant therein to vacate the subject premises and surrender possession of the same to complainant and pay the latter ₱5,000.00 in attorney's fees. A writ of execution was issued by the court and the same was delivered to respondent sheriff for execution on August 2, 1995, but it was only on October 5, 1995 when respondent made his return stating that "the Writ of Execution is hereby returned DULY SERVED but not satisfied." Under Rule 39, §11, a writ of execution must be returned to the court issuing the writ not more than 60

[1] *Rollo*, pp. 5-10.

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days after its receipt by the sheriff.[2] Since the writ of execution in this case was received by respondent on August 2, 1995, he had only until October 1, 1995 within which to make his return. His return, made on October 5, 1995, was thus filed four days late.

Upon the recommendation of the Office of the Court Administrator, the complaint in this case was referred to the Executive Judge[3] of the Regional Trial Court at Urdaneta, Pangasinan, for investigation, report, and recommendation.

It appears that the case was set for hearing thrice: first on November 8, 1999, then on November 15, 1999, and later on December 7, 1999. On November 8, 1999, prior to the hearing, the complainant informed Executive Judge Joven B. Costales that he was no longer interested in pursuing his complaint,[4] and when the case was called at 1:00 p.m., complainant and his counsel were absent. Judge Costales reset the case to November 15, 1999. Despite due notice, however, complainant and his counsel were again absent on said date. Respondent then moved for the dismissal of the case against him in view of the successive failures of complainant and his counsel to appear. Judge Costales, however, reset the hearing to December 7, 1999, with warning that if complainant and his counsel again failed to appear, he (Judge Costales) would consider

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[2] Rule 39, §11 provides:

Return of writ of execution. — The writ of execution may be made returnable, to the clerk or judge of the court issuing it, at any time not less than ten (10) nor more than sixty (60) days after its receipt by the officer who must set forth in writing on its back the whole of his proceedings by virtue thereof, and file it with the clerk or judge to be preserved with the other papers in the case. A certified copy of the record, in the execution book kept by the clerk, of an execution by virtue of which real property has been sold, or of the officer's return thereon, shall be evidence of the contents of the originals whenever they, or any part thereof, have been lost or destroyed.

[3] Judge Alicia Gonzales-Decano was originally assigned to conduct the investigation in this case until Judge Joven Costales took over as Executive Judge of the Regional Trial Court at Urdaneta, Pangasinan.

[4] Order, dated Nov. 8, 1999; *Rollo*, p. 66.

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the case submitted for decision and then make his report and recommendation to the Court.[5]

At the hearing on December 7, 1999, respondent and complainant appeared, although the latter's counsel, Atty. Loreto A. Bañaga, was absent. Complainant manifested that it was actually Atty. Bañaga who persuaded him to file this complaint against respondent, claiming that this was the express wish of complainant's principal, Fidencio Mara; that he later learned through an overseas call that Mara had not authorized the filing of this case; that he no longer had an interest in the case; and that he wanted the complaint dismissed.

In his report, dated January 14, 2000, Judge Costales recommends that the complaint be dismissed on the following grounds:

1. The complainant, on several occasions, to wit: November 11, 1998, before the Honorable Supreme Court; June 22, 1999, before Judge Decano; on November 8, 1999 and on December 7, 1999, before the undersigned, requested for the dismissal of the herein complaint as he is no longer interested in the further prosecution of the herein case filed against the respondent Pamarang;

2. That the respondent's evidence further shows that he received a copy of the writ of execution on August 2, 1995 as per Annex "A" and this has not been rebutted by the complainant, there being no proof to this but only the assertion of Atty. Bañaga [complainant's lawyer] in the complaint that he furnished a copy of the Decision only to the respondent.

3. That it is true that the respondent has violated Section 11, Rule 39 of the Rules of Court that he must have to submit his return within sixty (60) days, yet the return was only submitted four (4) days after the 60 day period given to him. Nevertheless, respondent Pamarang might have been under mental torture for more than four (4) years because of the pending administrative case filed against him for his dismissal from the service. This is believed to be enough as his appropriate punishment for not complying with the rule regarding the return of a service of a writ within a period of sixty (60) days.

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[5] Order, dated Nov. 15, 1999; *id.*, p. 68.

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The withdrawal of a complaint for lack of interest of a complainant does not necessarily warrant the dismissal of an administrative complaint.[6] The Court cannot be bound by the unilateral decision of a complainant to desist from prosecuting a case involving the discipline of parties subject to its administrative supervision.[7] The need to maintain the faith and confidence of our people in the government and its agencies and instrumentalities demands that proceedings in administrative cases against public officers and employees should not be made to depend on the whims and caprices of complainants who are, in a real sense, only witnesses.[8]

In his return made on October 5, 1995, respondent stated:[9]

I HEREBY CERTIFY that on August 3, 1995, I served a copy of the decision and the Writ of Execution issued by the Hon. Orlando Ana F. Siapno, Judge of the Municipal Trial Court, Urdaneta, Pangasinan, on June 15, 1995, in the above-entitled case, on the defendant personally as evidenced by his signature appearing at the back of said writ; that at the same time explained to him the contents of said writ, that is, to vacate the premises and surrender the property thereof to the plaintiff including the building; and to pay attorney's fees in the amount of ₱5,000.00; and after explaining to him the said writ, at the same time demanded from said Lorenzo Mara, the payment of the full amount of said execution, to which demand the defendant replied that he ha[s] no funds then with which to pay the execution.

That he asked the undersigned one or two weeks to consult his counsel for appropriate remedy since he just ha[d] receive[d] the decision and the Writ of Execution issued by the Hon. Orlando Ana F. Siapno. It is his right to appeal or not to appeal the said Decision.

That after one week the undersigned again went to the place of Lorenzo Mara to remind him of the Decision of the Court and of the Writ of Execution served to him and [was] informed that he [had] appeal[ed] the decision of the Honorable Court;

WHEREFORE, in view of the foregoing circumstances the Writ of Execution is hereby returned DULY SERVED but not satisfied.

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[6] *Dagsa-an v. Conag*, 290 SCRA 12 (1998).

[7] *Zamora v. Jumamoy*, 238 SCRA 587 (1994).

[8] *Sy v. Academia*, 198 SCRA 705 (1991).

[9] Respondent's Manifestation, Annex B; *Rollo*, p. 82.

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Anonas, Urdaneta, Pangasinan, this 5th day of October, 1995.

Considering that the defendant had only 15 days from his receipt of the decision on August 3, 1995, or until August 18, 1995, to avert execution of the same, there was no reason why respondent should have to wait until October 5, 1995 before making his return.

It is well settled that to stay the immediate execution of a judgment in an ejectment case while appeal is pending, the defendant must: (a) perfect his appeal; (b) file a supersedeas bond; and (c) periodically deposit the rentals which become due during the pendency of the appeal.[10] It does not appear from respondent's return that these requisites were present so as to justify his desistance from implementing the writ of execution. Mere filing of a notice of appeal does not stay execution in an ejectment case.

Assuming that the writ was not enforced because the defendant in the ejectment case had posted a supersedeas bond in order to stay execution of the judgment against him, respondent nonetheless had a duty to make a timely return to the court. This is the demand of a judicial system that is not only independent and impartial but effective and efficient as well. With due acknowledgment of the vital role that they play in the administration of justice, sheriffs should realize that they are frontline officials of whom much is expected by the public. Charged with the execution of decisions in cases involving the interest of litigants, they have the duty to uphold the majesty of the law as embodied in those decisions.

For failing to make a return of the writ of execution within the required period, respondent is guilty of nonfeasance.[11] In *Barola v. Abogatal,*[12] a sheriff who received the writ of execution on January 15, 1978 but made a return thereof only on May 22, 1978 was fined in an amount equivalent to his one month's salary. In this case, as respondent's return was only four days late, a fine of ₱2,000.00 would be proper.

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[10] See, *e.g., Chua v. Court of Appeals*, 286 SCRA 437 (1998).

[11] *Sibulo v. Ramirez*, 154 SCRA 101 (1987); *Smith Bell & Company v. Saur,* 96 SCRA 667 (1980).

[12] 114 SCRA 582 (1982).

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WHEREFORE, the Court finds respondent Sheriff IV Jovito Pamarang *GUILTY* of dereliction of duty and imposes on him a *FINE* of Two Thousand Pesos (₱2,000.00) with warning that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

Bellosillo, Quisumbing, Buena, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. RTJ-00-1534. February 15, 2000]

SPOUSES GERONIMO and HELARIA GROSPE, *complainants, vs.* **JUDGE LAURO G. SANDOVAL and OIC CLERK OF COURT ALEXANDER GEORGE P. PACHECO, Regional Trial Court, Branch 37, Baloc, Sto. Domingo, Nueva Ecija,** *respondents.*

SYNOPSIS

Complainant Spouses were the accused in an estafa case pending before respondent judge against whom a bench warrant was issued against them for failure to appear on the hearing on December 2, 1997. The warrant was cancelled by the Executive Judge upon motion of complainants who manifested that they were present on February 3, 1998. However, minutes of the session on that date showed only the signature of complainant's counsel. Thus, complainants were ordered to explain in writing why they should not be cited for contempt for their misrepresention to the Executive Judge. Complainants filed their explanation maintaining their presence on the subject hearing date and denied having lied to the Executive Judge. Complainants were found guilty of indirect contempt and were ordered committed in jail for 15 days or in the alternative to the payment of ₱15,000.00 fine. Complainants did not appeal but moved for the reduction of the fine which respondent judge granted. They did not allege any grave abuse of discretion