



Supreme Court of the Philippines Philippine Judicial Academy



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Judges: Failure to comply with Supreme Court Circular No. 1-90 and Rules on Notarial Practice

MTC and MCTC judges may act as notaries public *ex officio* in the notarization of documents connected only with the exercise of their official functions and duties. They may not, as notaries public *ex officio*, undertake the preparation and acknowledgement of private documents, contracts and other acts of conveyance which bear no direct relation to the performance of their function as judges.

However, the Supreme Court, taking judicial notice of the fact that there are still municipalities which have neither lawyers nor notaries public, ruled that MTC and MCTC judges assigned to municipalities or circuits with no lawyers or notaries public may, in their capacity as notaries public *ex officio*, perform any act within the competency of a regular notary public, provided that:

1. All notarial fees charged shall be for the account of the Government and turned over to the municipal treasurer and,
2. Certification be made in the notarized documents attesting to the lack of any lawyer or notary public in such municipality or circuit.

Respondent judge failed to certify in the document he notarized the lack of any lawyer or notary public in the municipality or circuit where he presides. He also failed to indicate in his answer as to whether or not any notarial fee was charged and if so, whether the same was turned over to the municipal treasurer. In short, he failed to comply with the provisions of Supreme Court Circular No. 1-90.

Respondent was **fin**ed Twelve Thousand Pesos (P12,000) for failure to comply with Supreme Court Circular No. 1-90 and the Rules on Notarial Practice. **(A.M. No. MTJ-99-1204, July 28, 2008)**

Judges: Undue delay in transmittal of records of a case

Rule 3.08 of the Code of Judicial Conduct mandates judges to diligently discharge administrative responsibilities, maintain professional competence in court management, and facilitate the performance of the administrative functions of court personnel, and Rule 3.09 mandates judges to organize and supervise the court personnel to ensure the prompt and efficient dispatch of business.

Respondent, being the one charged with the proper and efficient management of his court is ultimately responsible for the failure of his clerk of court to transmit within 15 days the records of the case appealed to the RTC. He should have made sure that his order for the prompt transmittal of the records of the case was properly carried out by his clerk of court. He should have devised ways and means of ensuring a prompt and efficient dispatch of business in his court.

For failure to supervise his clerk of court, respondent judge was found guilty of undue delay in transmitting the record of a case. He was **fin**ed Eleven Thousand Pesos (P11,000) and sternly warned that a repetition of the same or similar offense shall be dealt with more severely. **(A.M. No. MTJ-06-1646, July 16, 2008)**

Clerk of Court: Violation of Administrative Circular No. 5

Administrative Circular No. 5, dated October 4, 1988, prohibits court officials and employees from engaging in private business even after office hours including Saturdays, Sundays and holidays, to ensure that the entire time of the officials and employees of the Judiciary be devoted to their official work to ensure the efficient and speedy administration of justice.

Respondent clerk of court was found guilty by the Supreme Court of violation of Administrative Circular No. 5 for engaging directly in the lending business with complainant. She was **SUSPENDED** from office without pay for a period of one month with a stern warning that a repetition of the same or similar acts will be dealt with more severely. **(A.M. No. P-05-1969, June 12, 2008)**

Sheriff: Neglect of duty

It is mandatory for a sheriff to execute a judgment and make a return on the writ of execution within the period provided by the Rules of Court. Section 14, Rule 39 of the Rules of Civil Procedure provides that the writ of execution shall be returnable to the court immediately after the judgment had been satisfied in part or in full. If the judgment cannot be satisfied in full within 30 days after his receipt of the writ, the sheriff shall report to the court and state the reason therefor. He is likewise required to make a report to the court every 30 days until judgment is satisfied in full or its effectively expires. Such periodic reporting on the status of the writs must be done by the sheriff regularly and consistently every 30 days until the writs are returned fully satisfied.

Respondent sheriff failed to implement the writ assigned to him for more than three years in violation of the Rules. He also failed to submit periodic reports to update the court of the proceedings undertaken to implement the writ.

For neglect of duty, respondent sheriff was **suspended** for 2 months without pay and warned that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. P-08-2430, July 14, 2008)**

Sheriff: Gross misconduct

Section 9, Rule 141 of the Rules of Court requires the sheriff to secure the court's prior approval of the estimated expenses and fees needed to implement the writ, and Section 22 of Rule 39 of the Rules of Court shows that a sheriff has no blanket authority to adjourn the sale.

Respondent sheriff violated the Rule when he did not submit his estimate of expenses for approval of the court before he demanded ten thousand pesos (P10, 000) from complainant. Besides, he did not render an accounting and liquidation of the said amount.

As to the adjournment of the sale, respondent sheriff on his own adjourned the sale without the written consent of the judgment obligor and obligee or their duly authorized representatives.

For violation of Section 9, Rule 141 and Section 22 of Rule 39 of the Rules of Court, respondent sheriff was found guilty of gross misconduct and **dismissed** from the service with forfeiture of all benefits and privileges, except accrued leave credits with prejudice to reemployment in any branch or instrumentality of the government including GOCC. **(A.M. No. P-04-1898, July 28, 2008)**

Sheriff: Grave abuse of Authority; Oppression

Section 10 (c), Rule 39 of the Rules of Court provides that the sheriff executing the judgment shall demand of the person against whom the judgment for the delivery or restitution of real property is rendered and all persons claiming rights under him to peacefully vacate the property within three (3) working days and restore possession thereof to the judgment obligee; otherwise the sheriff shall oust all persons therefrom with the assistance, if necessary, of appropriate police officers, and employing such means as may be reasonably necessary to retake possession, and place the judgment obligee in possession of such property xxx, and Section 10 (d) of said Rule provides that when the property subject of execution contains improvements constructed or planted by the judgment obligor, xxx the sheriff shall not destroy, demolish or remove said improvements except upon special order of the court, issued upon motion of the judgment obligee after due hearing and after the former had failed to remove the same within a reasonable time fixed by the court.

The actuations of respondent sheriff in the implementation of the writ as found by the Office of the Court Administrator call for disciplinary action. The warrantless arrest he made against complainant and his family members and their subsequent detention are illegal. Complainant's refusal to vacate the property in question is not a legal ground to justify his actions.

Respondent should have executed the writ in a lawful, prudent and orderly manner observing the high degree of diligence and professionalism expected of him as an agent of the law. In the

exercise of his official actuations, it is his obligation to act with courtesy, self restraint and civility when dealing with the public even when he is confronted with insolence and stubbornness.

For his illegal acts, respondent sheriff was found **guilty** of grave abuse of authority (oppression) and **fined** in an amount equivalent to his six months salary and sternly warned that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. P-07-2330, June 12, 2008).**

Sheriff: Simple misconduct

Section 9, Rule 141 of the Revised Rules of Court provides xxx In addition to the fees herein above fixed, the party requesting the process of any court, preliminary, incidental, or final, shall pay the sheriff's expense in serving or executing the process or safeguarding the property levied upon, attached or seized xxxxx in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court *ex officio* sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. Any unspent amount shall be refunded to the party making the deposit. xxxxx.

Respondent sheriff demanded and received the sum of Five Thousand Pesos (P5,000) from complainant without first making an estimate of his expenses for the approval of the court. Also, respondent, not the clerk of court, took custody of the fund, in violation of the procedure laid down in the above-quoted rule.

For violation of Section 9, Rule 141 of the Revised Rules of Court, respondent sheriff was **suspended** from the service for two (2) months without pay and sternly warned that a repetition of the same or similar acts shall be dealt with more severely. **(A.M. No. P-05-1971, June 26, 2008)**

Clerk III: Habitual tardiness

Civil Service Memorandum Circular No. 23, series of 1998 describes habitual tardiness as follows:

Any employee shall be considered habitually tardy if he incurs tardiness, regardless of the number of minutes ten (10) times a month for at least two (2) months in a semester or at least two consecutive months during the year.

As reported by the Chief Judicial Staff Officer of the Office of the Administrative Services of the Office of the Court Administrator, respondent incurred tardiness as follows:

April 2007	-	10 times
May 2007	-	12 times
July 2007	-	18 times
August 2007	-	11 times
September 2007	-	13 times
October 2007	-	14 times

No doubt respondent is guilty of habitual tardiness for which she was reprimanded and sternly warned that a repetition of the same or similar offense shall be dealt with more severely. **(A.M. No. P-08-2482, July 14, 2008)**

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