



Republic of the Philippines  
Office of the President  
Housing and Urban Development Coordinating Council  
**HOUSING AND LAND USE REGULATORY BOARD**

Memorandum Circular No. 09  
Series of 2016 (09-April)

TO : ALL CONCERNED  
FROM : THE COMMISSIONER AND CHIEF EXECUTIVE OFFICER  
SUBJECT : Supreme Court En Bank Notices:

1. A.M. No. 15-07-12-SC dated February 2, 2016 re: Enforcement by Court Sheriffs of the Writs of Execution Issued by Quasi-Judicial Bodies.
2. A.M. No. 14-7-224-RTC dated August 26, 2014 re: Letters of CoC Marion Gay C. Mirabueno, RTC-OCC, Gen. Santos City on the Designation of a Sheriff to Implement the Writ of Possession Issued by the National Commission on Indigenous Peoples (NCIP).

Attached herewith are the En Bank Notices issued by the Supreme Court transmitted by Ms. Felipa B. Anama, Clerk of Court.

The Supreme Court in Item 1. above, had resolved to clarify that **court sheriffs cannot enforce writs of execution issued by quasi-judicial bodies** pursuant to the Resolution dated August 26, 2014 in A.M. No. 14-7-224-RTC (Item 2). The Supreme Court in A.M. No. 14-7-224-RTC denied the request of Atty Marion Gay C. Mirabueno, Clerk of Court of the Regional Trial Court, General Santos City, that a sheriff be designated to implement the writ of possession issued by the National Commission on Indigenous Peoples (NCIP) for lack of merit; stating that **“Thus, the NCIP is an agency under the executive, rather than the judicial, branch of government. Its orders are not judicial orders, which are within the authority of sheriffs, as judicial officers, to execute.”**

For your information and guidance.

**ANTONIO M. BERNARDO**  
Code No. 01A



Republic of the Philippines  
Supreme Court  
Manila

EN BANC

NOTICE

Sirs/Mesdames:

Please take notice that the Court en banc issued a Resolution dated AUGUST 26, 2014, which reads as follows:

**“A.M. No. 14-7-224-RTC (Letters of CoC Marion Gay C. Mirabueno, RTC-OCC, Gen. Santos City on the Designation of a Sheriff to Implement the Writ of Possession Issued by the National Commission on Indigenous Peoples [NCIP]).** — In a letter dated April 19, 2013<sup>1</sup> and addressed to Court Administrator Jose Midas P. Marquez, Atty. Marion Gay C. Mirabueno, Clerk of Court of the Regional Trial Court, General Santos City, sought “permission to DESIGNATE a Sheriff within this jurisdiction to IMPLEMENT the Writ of Possession issued by the National Commission on Indigenous Peoples (NCIP).”<sup>2</sup>

From this letter, a subsequent letter dated July 1, 2013,<sup>3</sup> and the attachments to the July 1, 2013 letter, it appears that NCIP Chairperson Zenaida Brigida H. Pawid issued an order dated March 14, 2013<sup>4</sup> directing NCIP Regional Director Timuey Woy Lim Wong to implement a second writ of possession issued by the NCIP in relation to NCIP Case No. RXI-0029-10. Pursuant to this order, Director Wong addressed a letter dated April 2, 2013<sup>5</sup> to NCIP Provincial Officer Engr. Protacio A. Pasahe, Jr., directing Pasahe to form a team to implement the order. Thereafter, Mirabueno’s office received Pasahe’s request for assistance.<sup>6</sup>

Noting that this was the first time that the NCIP has made a request for assistance, Mirabueno wrote to Court Administrator Marquez, requesting authority to designate a sheriff.<sup>7</sup>

<sup>1</sup> Rollo, p. 8.  
<sup>2</sup> Id.  
<sup>3</sup> Id. at 10.  
<sup>4</sup> Id. at 14–17.  
<sup>5</sup> Id. at 13.  
<sup>6</sup> Id. at 12.  
<sup>7</sup> Id. at 8.

Atty. Marina B. Ching, Chief of Office of the Office of the Court Administrator, thereafter referred the request to Atty. Caridad A. Pabello, Chief of Office of the Office of Administrative Services.<sup>8</sup>

In reply, Atty. Pabello confirmed that her office acts on requests for detail of reassignment of lower court personnel and detail of locally funded employees but noted that there are no rules allowing or guiding them with respect to the designation of sheriffs to implement writs (of possession) issued by other government agencies (i.e., non-judiciary).<sup>9</sup>

In the memorandum dated May 29, 2014,<sup>10</sup> the Office of the Court Administrator recommended that the Court note the letter of Atty. Mirabueno and deny her request.

The Office of the Court Administrator cites several reasons for denying Atty. Mirabueno's request:

1. As noted by Atty. Caridad A. Pabello, Chief of Office of the Office of Administrative Services, while it is true that her office acts on requests for detail and reassignment of lower court personnel, as well as detail of locally funded employees, there are no rules allowing or guiding them with respect to the designation of sheriffs to implement writs (of possession) issued by other government agencies.<sup>11</sup>
2. Per Section 68<sup>12</sup> of Republic Act No. 8371, otherwise known as "The Indigenous Peoples' Rights Act of 1997" (IPRA), and Rule IX, Section 4<sup>13</sup> of its implementing rules and regulations, it is not necessary that the NCIP's decisions, awards, and orders be executed by a sheriff. They allow a "proper officer" to make such execution. In this case, NCIP Regional Director Wong was the officer so directed in the March 14, 2013 order, thereby dispensing with the need to designate a sheriff.<sup>14</sup>
3. Court sheriffs are trained to implement writs and processes in accordance with the Rules of Court. However, what is sought to

<sup>8</sup> Id. at 6.

<sup>9</sup> Id. at 4.

<sup>10</sup> Id. at 1-3.

<sup>11</sup> Id. at 2.

<sup>12</sup> Sec. 68. Execution of Decisions, Awards, Orders. — Upon expiration of the period herein provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

<sup>13</sup> Sec. 4. Execution of Decisions, Awards, and Orders. — Upon expiration of the period herein provided and no appeal is perfected by any of the contending parties, the Hearing Officer of the NCIP, on its own initiative or upon motion by the prevailing party, shall issue a writ of execution requiring the sheriff or the proper officer to execute final decisions, orders or awards of the Regional Hearing Officer of the NCIP.

<sup>14</sup> *Rollo*, p. 2.

August 26, 2014

be implemented is a writ of possession issued pursuant to and governed by the NCIP's own rules of procedure.<sup>15</sup>



4. The March 14, 2013 order was directed to Director Wong himself and did not authorize him to seek any assistance from Atty. Mirabueno's office. It merely authorized Director Wong to coordinate with the pertinent units of the Philippine National Police.<sup>16</sup>

We deny Atty. Mirabueno's request.

This Court has long recognized that sheriffs are judicial officers.<sup>17</sup> Thus, they are part of the judiciary and adjuncts of courts of law. The National Commission on Indigenous Peoples, through Chapter IX of Republic Act No. 8371, otherwise known as "The Indigenous Peoples' Rights Act of 1997" (IPRA), exercises quasi-judicial powers. However, Section 3(k) of the IPRA specifies that the NCIP "shall be under the Office of the President." Thus, the NCIP is an agency under the executive, rather than the judicial, branch of government. Its orders are not judicial orders, which are within the authority of sheriffs, as judicial officers, to execute.

**WHEREFORE**, the request of Atty. Marion Gay C. Mirabueno, Clerk of Court of the Regional Trial Court, General Santos City, that a sheriff be designated to implement the writ of possession issued by the National Commission on Indigenous Peoples (NCIP) is **DENIED** for lack of merit." Brion, J., on leave. Villarama, Jr. and Perlas-Bernabe, JJ., on official leave. Jardeleza, J., on leave. (adv13)

Very truly yours,

  
ENRIQUETA E. VIDAL  
Clerk of Court 

<sup>15</sup> Id. at 2-3.

<sup>16</sup> Id. at 3.

<sup>17</sup> See for example *Pacis v. Averia*, 124 Phil. 1541 (1966) [Per J. J.P. Bengzon, En Banc] and *Acuña v. Yatco*, 127 Phil. 251 (1967) [Per J. Angeles, En Banc].

ATTY. MARION GAY C. MIRABUENO (reg)  
Clerk of Court  
Regional Trial Court, Office of the Clerk of Court  
General Santos City

THE EXECUTIVE JUDGE (reg)  
Regional Trial Court, Office of the Clerk of Court  
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A.M. No. 14-7-224-RTC  
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Court Administrator  
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Deputy Court Administrators  
HON. RAUL B. VILLANUEVA (x)  
HON. JENNY LIND R. ALDECOA-DELORINO (x)  
HON. THELMA C. BAHIA (x)  
Supreme Court

ATTY. CARIDAD A. PABELLO (x)  
Chief, Office of Administrative Services  
ATTY. LILIAN BARRIBAL-CO (x)  
Chief, Financial Management Office  
ATTY. MARINA B. CHING (x)  
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