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REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

SECOND DIVISION

[A.M. No. P-94-1106. March 10, 1999]

ADALIA B. FRANCISCO, *complainant, vs.* **ROLANDO G. LEYVA, Deputy Sheriff, Regional Trial Court, Branch 74, Antipolo, Rizal,** *respondent.*

SYNOPSIS

A. Francisco Realty and Development Corporation was the highest bidder in a public auction sale conducted by respondent sheriff. Complainant, president of the said realty, filed an administrative complaint against respondent, alleging that respondent refused to issue the corresponding Certificate of Sale unless a sheriff's fee equivalent to 2% of the amount of the bid is paid; that respondent proposed the payment to him of ₱100,000.00 without receipt; and that when she offered respondent ₱20,000.00 as "gratitude money" respondent still refused to issue the certificate of sale. Respondent denied having tried to extort money from complainant but admitted that he issued the certificate of sale to a representative of the Realty after being apprised by the Clerk of Court that no payment of sheriff's fee is required. He submitted in evidence a photocopy of the certificate of sale received by a representative of A. Francisco Realty. At the hearings, complainant, despite due notice, failed to appear. The Office of the Court Administrator recommended the dismissal of the complaint the same having been unsubstantiated.

The Supreme Court cannot but agree with the recommendation of the OCA that complainant failed to substantiate her allegations.

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The Court will not shirk from its responsibility of imposing discipline upon employees of the Judiciary. At the same time, however, neither will we hesitate to shield the same employees from unfounded suits that only disrupt rather than promote the orderly administration of justice.

SYLLABUS

1. **CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; SHERIFF; ADMINISTRATIVE COMPLAINT DISMISSED FOR FAILURE TO SUBSTANTIATE ALLEGATIONS; CASE AT BAR.**— We cannot but agree with the recommendation of the OCA. Complainant failed to substantiate her allegations. She, in fact, failed to appear in any of the hearings conducted by the investigating judge. On the other hand, respondent's claim that he issued the Certificate of Sale the day after the auction sale is supported by documentary evidence on record.

2. **ID.; ID.; WILL NOT SHIRK FROM RESPONSIBILITY OF IMPOSING DISCIPLINE UPON EMPLOYEES OF JUDICIARY NOR HESITATE TO SHIELD THEM FROM UNFOUNDED SUITS.**— This Court will not shirk from its responsibility of imposing discipline upon employees of the Judiciary. At the same time, however, neither will we hesitate to shield the same employees from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.

APPEARANCES OF COUNSEL

Enrique Agana & Associates for complainant.

R E S O L U T I O N

QUISUMBING, *J.*:

Before us is an administrative case filed against Rolando G. Leyva, deputy sheriff of the Regional Trial Court, Branch 74, Antipolo, Rizal for attempted extortion, serious misconduct,

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premeditated delay of the administration of justice, and dishonesty.

The facts of the case on record,[1] are as follows:

A. Francisco Realty and Development Corp. (hereinafter A. Francisco Realty) caused the judicial foreclosure of a real estate mortgage in Sp. Civil Case No. 93-2800, lodged before Branch 74 of the Regional Trial Court of Antipolo, Rizal. Respondent Deputy Sheriff Rolando C. Leyva was tasked to conduct the auction sale of the property.

The auction sale was conducted on September 28, 1994.[2] A. Francisco Realty was the only and, thus, the highest bidder. According to complainant Adalia B. Francisco, president of A. Francisco Realty, she asked for the corresponding Certificate of Sale from respondent a week after the sale. The latter allegedly refused to issue the document unless complainant paid him the sheriff's fee equivalent to two percent of the amount of the bid. When the latter protested that the amount was too high, respondent allegedly proposed that complainant pay him ₱100,000.00 instead, but he will not issue a receipt therefor. Because she needed the Certificate of Sale immediately, complainant offered respondent ₱20,000.00 as "gratitude" money. However, respondent still refused to issue the certificate.[3]

Aggrieved, complainant filed her complaint with the Supreme Court on October 25, 1994. On January 18, 1995, the Court issued a Resolution requiring respondent to comment thereon.[4]

In his Comment dated February 6, 1995, respondent denied complainant's allegations. He claimed that on September 29, 1994, the day following the auction sale, he immediately issued the required certificate and served a copy thereof to the representative of the complainant. Attached to his Comment

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[1] *Rollo*, pp. 75-78.

[2] *Id.*, p. 8.

[3] *Id.*, pp. 1-2.

[4] *Id.*, p. 5.

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was a photocopy of the Certificate of Sale which was received by a representative of A. Francisco Realty.[5]

The matter was referred to Executive Judge Felix S. Caballes for investigation, report, and recommendation.

In his testimony before Judge Caballes, respondent again made a denial of complainant's assertions. He denied having tried to extort money from complainant.[6]

According to respondent, he refused to issue the Certificate of Sale immediately because he believed that complainant should first pay the sheriff's fees at the office of the Clerk of Court. He was, however, informed by the Clerk of Court that no fee was to be paid as no money was actually given for the property. He issued the Certificate of Sale the following day.[7]

Complainant failed to appear during the hearings conducted despite due notice.[8]

The case was then referred to the OCA which, after evaluation, recommended the dismissal of the complaint.

We cannot but agree with the recommendation of the OCA. Complainant failed to substantiate her allegations. She, in fact, failed to appear in any of the hearings conducted by the investigating judge.

On the other hand, respondent's claim that he issued the Certificate of Sale the day after the auction sale is supported by documentary evidence on record.

This Court will not shirk from its responsibility of imposing discipline upon employees of the Judiciary. At the same time, however, neither will we hesitate to shield the same employees from unfounded suits that only serve to disrupt rather than promote the orderly administration of justice.

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[5] *Id.*, pp. 9-10.

[6] TSN, June 24, 1998, p. 4.

[7] *Ibid.*

[8] *Rollo*, pp. 20, 24, 25, 29.

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As we ruled in the case of *Pag-ibig Village Association v. Aquilino Angon,*[9]

"We have been exacting in our demands that court sheriffs should always faithfully adhere to, hold inviolate and invigorate the principle solemnly enshrined in the Constitution that a public office is a public trust. Pursuant thereto, we have, without hesitation, dismissed or disciplined sheriffs who failed to meet our expectations. However, such as here, we shall likewise be the first to protect them against unfounded administrative complaints which do not appear to be genuine efforts to rid the court of the scalawags in the service, or which are merely designed to frustrate the due administration of justice."

WHEREFORE, the complaint against Rolando C. Leyva, Deputy Sheriff, Regional Trial Court, Branch 74, Antipolo, Rizal is hereby *DISMISSED.*

SO ORDERED.

Bellosillo (Chairman), Puno, Mendoza, and *Buena, JJ.,* concur.

FIRST DIVISION

[A.M. No. RTJ-98-1423. March 10, 1999]

ROMAN CAGATIN, EMMIE HURBODA, FRANCISCO OLAER, LEONCIO BUSTAMANTE, FRANCISCO RANARIO, JOSE OSIN, JORGE PEDIDA, JOSE BATISTING, LUCIO BATISTING, SEGUNDINO BOLOTAOLO, DEMOCRITO RANARIO, HEIRS OF LOPE NAKILA (represented by surviving spouse YOLING DAKILA), BONIFACIO BUSCAGAN, MARIANO CAPA, JUAN MORALES, GODOFREDO

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[9] A.M. No. P-98-1268, August 25, 1998.