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REFERRED to the Department of Justice for investigation and filing, if warranted, of the appropriate criminal case against respondent.

SO ORDERED.

Davide, Jr., C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Gonzaga-Reyes, Ynares-Santiago, and *De Leon, Jr., JJ.*, concur.

SECOND DIVISION

[A.M. No. P-98-1270. November 27, 2000]
(Formerly OCA IPI No. 96-210-P)

ANTONIO ABANIL, *complainant, vs.* **ABEL FRANCISCO B. RAMOS, JR.,** *respondent.*

SYNOPSIS

On August 3, 1995, complainant Antonio Abanil, while in the house of Domingo Hosana, executed a promissory note in favor of Luis Oliva as part of an amicable settlement agreed upon by him and Oliva. Respondent Abel Francisco B. Ramos, Jr., Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Iriga City signed as witness in the execution of the said promissory note.

On November 14, 1996, complainant filed a complaint against respondent for grave misconduct, conduct prejudicial to the best interest of the service and giving unwarranted benefits, advantage or preference in the discharge of official functions. Complainant alleged that respondent participated in the drinking spree with Oliva, Domingo Hosana and two others in Hosana's house during office hours and conspired to compel the complainant to sign the aforecited promissory note with threat and intimidation.

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Complainant further averred that respondent, showing his partiality and personal interest, and as if acting as special sheriff, personally served upon complainant's counsel copies of Oliva's pleadings in Barangay Case No. 1-96 and Civil Case No. IR-2827. In his Comment, respondent denied the allegations of the complainant.

The Office of the Court Administrator, in its Report, held that the complainant failed to establish his allegations. However, the OCA commented that nonetheless, respondent compromised himself and the court when he signed as a witness. Respondent should have inhibited himself since he was a party in the execution of the settlement agreement, aside from being a barriomate of Oliva. Hence, the OCA found respondent sheriff guilty of conduct grossly prejudicial to the best interest of the service and recommended his suspension for one (1) month and one (1) day.

The Court found the findings and conclusions of the OCA supported by evidence. However, the Court did not agree with the penalty to be imposed on the respondent. Under the Personnel Manual of the Supreme Court, conduct grossly prejudicial to the best interest of the service constitutes violation of the Civil Service Rules. Being a grave offense, a public employee found guilty of such offense shall be meted the penalty of, in case of first infraction, suspension for six (6) months and one (1) day to one (1) year. Commission of the same act for the second time is punishable by dismissal from the service. Thus, the Court had no recourse but to impose the proper penalty as provided by law, which is suspension from the service for six (6) months and one (1) day without pay.

SYLLABUS

1. **ADMINISTRATIVE LAW; COURT PERSONNEL; CONDUCT GROSSLY PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE CONSTITUTES VIOLATION OF CIVIL SERVICE RULES; PENALTY.** — Under the Personnel Manual of the Supreme Court, conduct grossly prejudicial to the best interest of the service constitutes violation of the Civil Service Rules. Being a grave offense, a public employee found guilty of such offense shall be meted the penalty of, in case of first infraction, suspension for six (6) months and one (1) day to one (1) year. Commission of the same act for the second time is punishable by dismissal from the service.

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2. **ID.; ID.; CONDUCT MUST BE BEYOND REPROACH AND FREE FROM SUSPICION.** — It must be borne in mind that the conduct required of court personnel must be beyond reproach and must always be free from suspicion that may taint the judiciary. Respondent, by doing what he did, failed to live up to this standard. He conducted himself in a manner grossly prejudicial to the best interest of the service.

APPEARANCES OF COUNSEL

Julito M. Sernal for complainant.

D E C I S I O N

QUISUMBING, *J.*:

Before us is an administrative complaint for grave misconduct, conduct prejudicial to the best interest of the service and giving unwarranted benefits, advantage or preference in the discharge of official functions filed by Antonio Abanil against Abel Francisco B. Ramos, Jr., Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Iriga City.

The antecedent facts of this case are as follows:

On August 3, 1995, complainant, while in the house of Domingo Hosana, Barangay Chairman of Santiago Young, Nabua, Camarines Sur, executed a promissory note to pay Luis Oliva on November 30, 1995, the amount of seventy-nine thousand pesos (₱79,000.00) as part of the amicable settlement purportedly agreed upon by the complainant and Oliva. Respondent signed as a witness in the said execution of the promissory note.[1]

Early in 1996, Oliva filed before the Municipal Circuit Trial Court (MCTC) of Nabua-Bato, Camarines Sur, an action, docketed as Barangay Case No. 1-96, against complainant for the execution of the amicable settlement. On July 5, 1996, the MCTC issued a writ of execution. Thereafter, respondent,

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[1] *Rollo*, p. 3.

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pursuant to the said writ, levied on the jeepney of the complainant and scheduled the same for auction sale on August 5, 1996.

On August 5, 1996, complainant, in his effort to stop the scheduled auction sale, filed a petition for injunction with prayer for preliminary injunction docketed as Civil Case No. IR-2827 with the Regional Trial Court of Iriga City. Executive Judge Reno Gonzales issued a temporary restraining order enjoining respondent from implementing the auction sale of said jeepney.

On the same date, complainant filed with the MCTC a motion to set aside the writ of execution already issued. The MCTC ordered respondent to cease and desist from proceeding with the auction sale.

On August 6, 1996, Oliva, filed an opposition to the motion filed by complainant in Barangay Case No. 1-96 and to the petition for injunction docketed in Civil Case No. IR-2827. The copies of the opposition was received by Atty. Julito Sernal, counsel of the complainant on August 7, 1996.

On November 14, 1996, the Office of the Court Administrator (OCA) received the instant complaint against respondent alleging that respondent was with Oliva, Domingo Hosana and two others in Hosana's house during working hours on August 3, 1995 in a drinking spree. There, using threats and intimidation, respondent made complainant sign the aforecited promissory note. Complainant further avers that on August 7, 1996, respondent showing his partiality and personal interest, and as if acting as special sheriff, personally served upon Atty. Julito M. Sernal, complainant's counsel in Barangay Case No. 1-96 and Civil Case No. IR-2827, copies of Oliva's pleadings.[2]

In his Comment, respondent denied the allegations of the complainant contending that although it was true that he was at the residence of Barangay Chairman Hosana during the confrontation between the complainant and Oliva, who is his "barriomate," it was nevertheless already past 5:00 o'clock P.M.. He further explained that he went there only upon the

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[2] *Rollo*, p. 1.

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request of Oliva and that he did not know that Oliva was about to confront the complainant in the said house. Respondent went on to narrate that when he found out that the meeting was a conciliation proceeding in the *barangay* level, he distanced himself from the parties and signed as witness in the alleged amicable settlement only because he was requested by Hosana.

Respondent also denied showing any partiality and personal interest in Barangay Case No. 1-96. According to him, even if it were true that he did in fact serve the copies of the pleadings filed by Oliva's counsel to the complainant's counsel, such valid service was because as the sheriff, he was enjoined from further proceeding with the auction sale of the personal property.

Complainant in his Reply insists that respondent was at Hosana's place even before 5:00 P.M.. He attached the affidavit of one Jose Rull who allegedly saw and heard the incident at Hosana's residence.

In its Report dated December 12, 1997, OCA found that the evidence submitted by complainant failed to establish the participation of respondent in the drinking spree during office hours and in conspiring to compel the complainant to sign the aforecited promissory note with threat and intimidation. It also did not give credence to the charges of giving a party unwarranted benefits, advantage or preference in the discharge of official functions. However, the OCA commented that nonetheless, respondent compromised himself and the court when he signed as a witness. Respondent should have inhibited himself since he was a party in the execution of the settlement agreement, aside from being a barriomate of respondent.

The OCA found respondent sheriff guilty of conduct grossly prejudicial to the best interest of the service and recommended suspension for one (1) month and one (1) day pursuant to Section 22 of Rule XIV of the Omnibus Rules Implementing Book V of Executive Order No. 292.

We find the above findings and conclusions of the OCA supported by evidence. However, we are unable to agree with the recommendation that respondent be suspended from the

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service for just one month and one day as the same is not in accord with applicable administrative rules. Under the Personnel Manual of the Supreme Court, conduct grossly prejudicial to the best interest of the service constitutes violation of the Civil Service Rules. Being a grave offense, a public employee found guilty of such offense shall be meted the penalty of, in case of first infraction, suspension for six (6) months and one (1) day to one (1) year. Commission of the same act for the second time is punishable by dismissal from the service.[3] Thus, we have no recourse but to impose the proper penalty as provided by law.

It must be borne in mind that the conduct required of court personnel must be beyond reproach and must always be free from suspicion that may taint the judiciary. Respondent, by doing what he did, failed to live up to this standard. He conducted himself in a manner grossly prejudicial to the best interest of the service.[4]

WHEREFORE, respondent is hereby declared *GUILTY* of conduct grossly prejudicial to the best interest of the service and *SUSPENDED* from the service for six (6) months and one (1) day without pay, with a warning that the commission of similar or graver offenses in the future shall be dealt with more severely.

This decision shall take effect immediately upon receipt by respondent of a copy thereof.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Buena, and *De Leon, Jr., JJ.*, concur.

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[3] Supreme Court Personnel Manual, Chapter Six, Subdivision III, D(1), p. 94.

[4] *Dionisio vs. Gilera,* A.M. P99-1330, August 12, 1999.