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[A.M. No. P-99-1286. March 4, 1999]

CONCEPCION L. JEREZ, *complainant, vs.* **ARTURO A. PANINSURO, Deputy Sheriff, MTCC, Branch 6, Cebu City,** *respondent.*

SYNOPSIS

The Municipal Trial Court, Branch 6, Cebu City rendered judgment in favor of complainant Concepcion L. Jerez in an ejectment case. The writ of execution was assigned to respondent Deputy Sheriff for service and enforcement. In the course of the execution of the writ, respondent received from the defendants the total amount of P27,530.00, for which he issued receipts. Respondent, however, failed to turn over the money collected to the plaintiff, herein complainant, or to the court that issued the writ. Complainant filed a complaint with the Office of the Deputy Ombudsman for the Visayas which referred the complaint to the Office of the Court Administrator. In his Comment/Answer, respondent contended that he had an agreement with the complainant that the rentals collected be placed under his custody, to be used for future demolition expenses. Complainant, however, vehemently denied any agreement regarding the collected rentals, and alleged that had respondent been sincere in remitting the amount collected, he should have turned over the money the plaintiff in response to her motions filed in court and her complaint filed with the Deputy Ombudsman for the Visayas. However, no payment or remittance to complainant had been made. The Office of the Court Administrator recommended the dismissal of respondent from the service for grave dishonesty and grave misconduct.

The Supreme Court agreed with the recommendation of the Court Administrator. The Court upheld the recommendation of the Office of the Court Administrator. The Court emphasized that it is the duty of the respondent Deputy Sheriff to enforce or implement court processes. Respondent admitted that the amount was in his possession, alleging that complainant had given him until November 3, 1994, within which to turn over the money. However, respondent's assertion proved to be false as he failed to remit the money to complainant after collecting the amount from the defendants. The failure to turn over the money entrusted to

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respondent sheriff in his official capacity is an act of misappropriation of funds amounting to serious misconduct or gross dishonesty warranting the penalty of dismissal from the service.

SYLLABUS

POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; COURT PERSONNEL; SHERIFFS; FAILURE TO TURN OVER MONEY ENTRUSTED TO HIM IN HIS OFFICIAL CAPACITY IS AN ACT OF MISAPPROPRIATION OF FUNDS AMOUNTING TO SERIOUS MISCONDUCT OR GROSS DISHONESTY WARRANTING THE PENALTY OF DISMISSAL FROM SERVICE.— It is the duty of respondent Deputy Sheriff to enforce or implement court processes. In this case, the Municipal Trial Court, Cebu City, issued a writ of execution and respondent Sheriff seized and collected an amount of the judgment debt, evidenced by the Sheriff's Return and two receipts. In fact, respondent Sheriff admitted that the amount was in his possession, alleging that complainant had given him until November 3, 1994, within which to turn over the money. However, this assertion proved to be false as respondent Sheriff failed to remit the money to complainant after collecting the amount from the defendants. The failure to turn over the money entrusted to respondent sheriff in his official capacity is an act of misappropriation of funds amounting to serious misconduct or gross dishonesty, not to mention his criminal liability therefor. The Court has repeatedly emphasized that the conduct and behavior of every person connected with the dispensation of justice, from the presiding judge to the sheriff and to the lowliest clerk should be circumscribed with the heavy burden of responsibility. Persons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts should, at all times, be circumspect to preserve the integrity and dignity of our courts of justice. "They must at all times not only observe propriety and decorum, they must also be above suspicion."

APPEARANCES OF COUNSEL

Limbaga Banaag Banaag & Associates for complainant.

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RESOLUTION

PER CURIAM:

Submitted before the Court is a verified complaint[1] dated December 17, 1992, originally filed with the Deputy Ombudsman for Visayas, by Concepcion L. Jerez against Arturo A. Paninsuro, Deputy Sheriff, Municipal Trial Court in Cities (MTCC), Branch 6, Cebu City, for estafa and misconduct.

On December 27, 1991, the Municipal Trial Court, Branch 6, Cebu City, in Civil Case No. R-307676, entitled "Concepcion Lopez Vda. de Jerez, plaintiff, *vs.* Paterna Canoy, et al., defendants," for ejectment with damages, rendered judgment sentencing the defendants to pay the plaintiff the amount of Twenty-Seven Thousand Five Hundred Thirty Pesos (P27,530.00), and issued the corresponding writ of execution.[2] The writ was assigned to respondent Sheriff Arturo A. Paninsuro for service and enforcement. In the course of the execution of the writ, Deputy Sheriff Paninsuro received from the defendants the total amount of P27,530.00, for which he issued receipts dated August 25, 1992[3] and September 24, 1992.[4] Respondent Sheriff, however, failed to turn over the money collected to the plaintiff, or to the court that issued the writ.

On June 28, 1994, the Deputy Ombudsman for Visayas, Hon. Arturo C. Mojica, referred the complaint to the Office of the Court Administrator, Supreme Court, Manila. Subsequently, Deputy Court Administrator Bernardo P. Abesamis, by First Indorsement,[5] dated July 13, 1994, required respondent Sheriff Arturo A. Paninsuro to file his comment on the complaint.

In his Comment/Answer,[6] dated October 17, 1994, respondent Sheriff contended that he and the plaintiff had agreed that the rentals collected would be placed under his custody, to be used for future demolition expenses. Because the demolition had not yet taken

[1] *Rollo,* p. 21.

[2] Dated July 24, 1992, *Rollo,* p.7.

[3] *Rollo,* p. 34.

[4] *Rollo,* p. 33.

[5] *Rollo,* p. 63.

[6] *Rollo,* p. 67.

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place, plaintiff had agreed to give respondent Sheriff until November 3, 1994, within which to turn over the money. Respondent Sheriff surmised that due to the passage of time, the plaintiff forgot all about the agreement, and, instead, filed a complaint with the Deputy Ombudsman for Visayas. To prove his allegations, respondent Sheriff stated that the complainant "will in fact" affix her signature in conformity with his comment/answer.

In her Reply to Comment/Answer,[7] dated October 24, 1994, complainant vehemently denied any agreement regarding the collected rentals, and alleged that had respondent Sheriff been sincere in remitting the amount collected, he should have turned over the money to the plaintiff in response to her motions filed in court and her complaint filed with the Deputy Ombudsman for Visayas. However, no payment or remittance to complainant has been made.

Deputy Court Administrator Bernardo T. Ponferrada, in his Memorandum[8] dated November 3, 1998, recommended the dismissal of Deputy Sheriff Arturo A. Paninsuro from the service for grave dishonesty and grave misconduct.

We agree.

It is the duty of respondent Deputy Sheriff to enforce or implement court processes. In this case, the Municipal Trial Court, Cebu City, issued a writ of execution and respondent Sheriff has seized and collected an amount of the judgment debt, evidenced by the Sheriff's Return[9] and two receipts.[10] In fact, respondent Sheriff admitted that the amount was in his possession, alleging that complainant had given him until November 3, 1994, within which to turn over the money.[11] However, this assertion proved to be false as respondent Sheriff failed to remit the money to complainant after collecting the amount from the defendants.

The failure to turn over the money entrusted to respondent Sheriff in his official capacity is an act of misappropriation of funds

[7] *Rollo*, p. 70.

[8] *Rollo*, p. 1.

[9] *Rollo*, p. 40.

[10] *Rollo*, pp. 33-34.

[11] Comment/Answer, *Rollo*, p. 65.

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amounting to serious misconduct or gross dishonesty,[12] not to mention his criminal liability therefor.

Respondent Sheriff has displayed a predisposition to dishonesty. On April 16, 1993, Graft Investigator Ricardo A. Rebollido, office of the deputy Ombudsman for Visayas, issued an order,[13] warning respondent Sheriff Paninsuro of his "reprehensible actuation" in filing a motion for postponement allegedly to attend to an important matter in Manila or April 10, 1993, but actually remaining in Cebu City, without filing a leave of absence.

Moreover, the Court Administrator reported that respondent has been previously penalized for similar offenses.[14] In A.M. No. P-87-888, decided on June 11, 1998, respondent was fined equivalent to one (1) month salary for misconduct. In A. M. No. P-88-223, decided on February 27, 1991, respondent was suspended for one (1) month without pay for inefficiency and incompetence. In A.M. No. P-94-1086, decided on July 14, 1995, respondent Sheriff was fined P3, 000.00, for grave abuse of discretion in the performance of his official duties, attempted extortion and dishonesty.

Also worth noting is respondent's allegation that "the complainant will in fact affix her signature in conformity to [his] comment"[15] Complainant, aside from denying respondent's assertion, refused to sign the comment. Respondent's display of arrogance and dishonesty does not speak well of his character as an officer of the court charged with the duty of enforcing court processes.

The Court has repeatedly emphasized that the conduct and behavior of every person connected with the dispensation of justice, from the presiding judge to the sheriff and to the lowliest clerk should be circumscribed with the heavy burden of responsibility.[16] Persons involved in the administration of justice ought to live up to the strictest standard of honesty and integrity in the public service.

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[12] *De Labaco vs. Parale,* 110 SCRA 25; *Abejaron vs. Panes,* 84 SCRA 494; *Valenton vs. Melgar,* 219 SCRA 372.

[13] *Rollo,* p. 44.

[14] Memorandum, *Rollo,* pp. 5-6.

[15] Comment/Answer, *Rollo,* p. 65.

[16] *Flores vs. Caniya,* 256 SCRA 518.

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The conduct of every personnel connected with the courts should, at all times, be circumspect to preserve the integrity and dignity of our courts of justice.[17] "They must at all times not only observe propriety and decorum, they must also be above suspicion."[18]

More particularly, in *Punzalan-Santos vs. Arquiza,*[19] we said:

"At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contact with the litigants; hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice. Respondent's behavior erodes the faith and confidence of our people in the administration of justice. He no longer deserves to stay in the service any longer."

IN VIEW WHEREOF, the Court hereby *DISMISSES* respondent Arturo A. Paninsuro, Deputy Sheriff, Municipal Trial Court in Cities, Branch 6, Cebu City, from the service for grave dishonesty and serious misconduct, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-instatement or re-employment in any branch or instrumentality of the government, including government-owned or controlled corporations. Respondent Deputy Sheriff Paninsuro is further ordered to turn over the amount of Twenty Seven Thousand Five Hundred Thirty Pesos (P27,530.00) to complainant Concepcion L. Jerez, within ten (10) days from notice.

This decision is *immediately executory*

SO ORDERED.

Hilario G. Davide, Jr. (C.J.), Romero, Bellosillo, Melo, Puno, Kapunan, Mendoza, Quisumbing, Purisima, Pardo, Buena, and *Gonzaga-Reyes,* JJ., concur.

Vitug, J., on official leave.

Panganiban, J., on leave.

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[17] *Hernandez vs. Borja,* 242 SCRA 162, citing *Caña vs. Santos,* 234 SCRA 17.

[18] Florendo *vs.* Enrile, 239 SCRA 22, 32; *Tan vs. Herras,* 195 SCRA 1; *Sy vs. Academia,* 198 SCRA 705.

[19] 244 SCRA 527, cited in *Gaucho vs. Fuentes,* Jr., A. M. No. P-98-1268, July 3, 1998.