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a "Manifestation" stating that in view of the issuance of Executive Order No. 28 on July 16, 1986 which provides for the condonation of the 3% penalty imposed on delinquent employers, the SSS is no longer pursuing its claim against petitioner. Respondent likewise submitted and attached xerox copies of Statement of Premiums Receivable and Statement of Penalties Receivable marked as Annexes "A" and "B" in connection with SSC Case No. 7001, showing zero balance.

WHEREFORE, premises considered, this Court hereby DISMISSES this petition.

SO ORDERED.

Feria (Chairman), Fernan, Alampay. and *Gutierrez, Jr., JJ.*, concur.

FIRST DIVISION

[Adm. Matter No. R-565-P. November 27, 1986]

CONSORCIA BALAIS, *complainant, vs.* **Deputy Provincial Sheriff FRANCISCO ABUDA,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; COURT PERSONNEL; SHERIFFS; SHOULD ALWAYS SERVE AND ENFORCE WRIT OF EXECUTION WITH PRUDENCE AND CAUTION.— Respondent, and all Sheriffs for that matter, should be reminded that Writs of Execution should always be served and enforced with prudence and caution, taking into consideration all relevant circumstances. They should bear in mind the injunction in *Peñalosa vs. Viscaya* (84 SCRA 298 [1978]) that: "Public Officers, as recipients of a public trust, are under obligation to perform the duties of their offices honestly, faithfully and to the best of their ability. As trustees for the public, they should demonstrate courtesy and civility

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in their official actuations with the public. Every public officer is bound to use reasonable skill and diligence in the performance of his official duties, particularly where rights of individuals may be jeopardized by his neglect. In sum, he is bound *virtute offici*, to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their own affairs."

RESOLUTION

MELENCIO-HERRERA, *J.*:

In a sworn Complaint filed on October 25, 1985 by complainant, Consorcia M. Balais, with Executive Judge Auxencio C. Dacuycuy of the Regional Trial Court of Palo, Leyte, through the Citizens' Legal Assistance Office, Regional Office No. VIII, she charged Deputy Provincial Sheriff Francisco Abuda with "Abuse of Authority" in enforcing a Writ of Execution in Civil Case No. 6131 of the Regional Trial Court of Leyte, entitled *Francisca Kagawan, et al. vs. Maria Senabre, et al.*, for "Quieting of Title with Damages.

Complainant alleged that she is a tenant of Lot No. 2244 owned by Unimasters, Inc., as well as of Lot No. 2218 owned by Francisca Kagawan, the latter lot being the subject of litigation in Civil Case No. 6131; that on April 4, 1985, Respondent, together with two sons of one Atty. Jose Maderazo, presumably the lawyer of plaintiff in the civil case, went to Complainant's house erected on Lot 2218 and took ten (10) sacks of palay although they had been told that only two (2) sacks had been harvested from Lot 2218; and that contrary to respondent's assurance that the palay would be deposited in his office, all of it was even to Atty. Maderazo who gave a receipt for only nine (9) cavans.

Required by the Executive Judge to submit a Comment, respondent, in his Manifestation filed on October 31, 1985, asserted that when he went to Lot 2218, he was enforcing a Writ of Execution against the defendants Maria Senabre, et als., in Civil Case No. 6131, and explained:

"that on April 4, 1985, the undersigned with Atty. Jose Maderazo went to the field (Lot No. 2218) to confer with Maria Senabre for a peaceful turn

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over of the parcel of land adjudged in favor of the plaintiff Francisca Kagawan and inquire from her of any person occupying the land as tenant, we were accordingly informed that a certain Consorcia Balais is working. The undersigned and Atty. Jose Maderazo immediately contacted Consorcia Balais and informed her of the decision of the Honorable Court, she was further advised that henceforth, she must recognize the legitimate owner and turn over to said owner thru her authorized representative the produce of the land on the basis of the previous arrangement or sharing with Maria Senabre. At that time, there was an ongoing harvest of the land. After the harvest of portion cultivated by her which was undoubtedly embraced by Lot No. 2218, the undersigned and two representatives of Atty. Jose Maderazo went to the field and received 9 cavans of palay which was properly receipted and duly signed by Atty. Jose duly." (p. 10, *Rollo*)

Without informing this Court of the Complaint, and acting *motu proprio*, Judge Dacuycuy conducted an investigation and submitted his report and recommendation, the pertinent portion of which reads:

"Upon the facts there are reasonable grounds to believe that out of 10 sacks of palay taken from the complainant Consorcia M. Balais by Sheriff Francisco Abuda eight (8) were actually harvested from Lot 2244 belonging to Leo Rama now owned by Unimasters, Inc. also tenanted by the complainant and not from Lot 2218 litigated in Civil Case No. 6131 (*Francisca Esperas Kagawan vs. Maria Senabre Dillera* — for quieting of title). The landowner's share in the produce is two cavans. Mr. Abuda should therefore return to the complainant six (6) cavans or its money equivalent in the amount of Seven Hundred Eighty Pesos (P780) on or before February 28, 1985. There is no question that the complainant Consorcia M. Balais is the tenant of Lot 2244 now owned by Unimasters, Inc. x x x

"WHEREFORE, it is recommended that respondent Deputy Sheriff Francisco Abuda of the RTC of Leyte, Branch VI, Tacloban City, be ordered to return to complainant Consorcia M. Balais at once six (6) cavans of palay or its money equivalent in the sum of P780.00 and two (2) cavans to Unimasters, Inc., represented by Engineer Willard Chan of Tacloban City.

"Given at the Leyte Government Center, Palo, Leyte, Philippines, on this 31st day of January, 1986." (pp. 72-73, *Rollo*)

In his letter, received on July 8, 1986, Judge Dacuycuy has informed this Court that respondent has already paid to the

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Complainant the full amount of P780.00 representing the cost of six (6) cavans of palay.

Notwithstanding such satisfaction, we find that respondent has failed to fully justify his act of taking ten (10) sacks of palay from the Complainant even after having been apprised that the palay was not all harvested from Lot 2218 but from another parcel of land also tenanted by Complainant. He allowed himself to be influenced by a lawyer, who seemed bent at seizing the palay, irrespective of the source of harvest. The better part of discretion would have been to have deposited the palay at a warehouse until the controversy as to the source of palay could have been settled by the Court.

Respondent, and all Sheriffs for that matter, should be reminded that Writs of Execution should always be served and enforced with prudence and caution, taking into consideration all relevant circumstances. They should bear in mind the injunction in *Peñalosa vs. Viscaya* (84 SCRA 298 [1978]) that:

"Public Officers, as recipients of a public trust, are under obligation to perform the duties of their offices honestly, faithfully and to the best of their ability. As trustees for the public, they should demonstrate courtesy and civility in their official actuations with the public. Every public officer is bound to use reasonable skill and diligence in the performance of his official duties, particularly where rights of individuals may be jeopardized by his neglect. In sum, he is bound *virtute offici*, to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their own affairs."

We find that respondent has been wanting in this regard.

ACCORDINGLY, as recommended by the Court Administrator, a fine equivalent to one (1) month's salary is hereby imposed on respondent Deputy Provincial Sheriff Francisco Abuda, with a stern warning that the commission of the same or similar acts in the future will merit a stiffer penalty. A copy of this Resolution shall be attached to his personal file.

While Judge Dacuycuy is to be commended for his investigative action, in the interest of orderly procedure and as a matter of policy, it is best that all administrative complaints against Court personnel

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be addressed and/or forwarded to this Court for appropriate action and disposition, which shall then order an investigation, if warranted.

SO ORDERED.

Yap (Chairman), Narvasa, Cruz, and *Feliciano, JJ.*, concur.

FIRST DIVISION

[Adm. Matter No. R-586-P. November 27, 1986]

CONSTANCIA FABRIGARAS, *complainant, vs.* **NORA B. NEMEÑO,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; COURT PERSONNEL; COURT INTERPRETER; WILLFUL FAILURE TO PAY JUST DEBT CONSTITUTES MISCONDUCT. — Upon the facts, we find that respondent is guilty of misconduct (Section 36 [b] [4], Article IX, Presidential Decree No. 807), a "conduct unbecoming of a public official" for her willful failure to pay her just debt to the complainant. In fact, willful failure to pay just debts is a separate and specific ground for disciplinary action under the Civil Service Decree (Section 36 [b] [22], Article IX, *ibid.*), aside from misconduct.

RESOLUTION

MELENCIO-HERRERA, *J.*:

This is an administrative case against respondent Nora B. Nemeño, Court Interpreter in the Regional Trial Court, National Capital Region (NCR), Branch XVII, Manila, instituted by Ms. Constancia Fabrigaras, a retired school teacher, for "conduct unbecoming of a government employee."