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improvements is predicated upon reasons of fairness and justice to enable the defeated party to look for another place wherein he can transfer his improvements and personal effects. *The law does not specify the period within which the order of demolition should be carried out.* The reason is obvious. There may be factors and circumstances which would justify deferment of the implementation of the order of demolition." (Emphasis supplied).

Moreover, in the instant case, the order of demolition was the subject in G. R. No. L-46452 for *certiorari* and prohibition. The petition was dismissed by the Second Division of this Court for lack of merit.

WHEREFORE, the explanation of Acting Judge Vivencio A. Bantugan on why he issued the order of demolition is found satisfactory and no administrative action lies against him.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera JJ.*, concur.

FIRST DIVISION

[A.M. No. P-1769. February 28, 1979]

CRESENCIO GARCIA, *complainant, vs.* **ALBERTO ASILO, Deputy Sheriff, Court of First Instance, Malolos, Bulacan**, *respondent.*

SYLLABUS

1. ADMINISTRATIVE LAW; ADMINISTRATIVE COMPLAINTS; FORMAL INVESTIGATION UNNECESSARY WHERE FACTS OF RECORDS ARE SUFFICIENT. — Where the facts of record are sufficient to provide a basis for determining whether or not

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the respondent is to be held administratively liable, a formal investigation is no longer necessary.

2. ID.; PUBLIC OFFICERS AND EMPLOYEES; MISCONDUCT; COMMITTED IN CASE OF ILLEGAL EXACTION. — The respondent did not deny the allegation that he demanded and was given by the complainant the sum of ₱18.10 for which no receipt was issued. There is absolutely no justification for this act of the respondent considering that there are only two defendants to be served with summons. The respondent is guilty of an illegal exaction. The amount of ₱11.90 for which the respondent had issued two official receipts was more than enough to pay for the sheriff's fees.

3. ID.; ID.; ID.; PENALTY. — For having demanded the amount of P18.10 for which he did not issue a receipt, the respondent should be suspended fro three (3) months without pay. A more severe penalty would have been imposed were it not for the fact that his personal record shows that for (22) years during the period that he occupied the position, he was never administratively held to account for any official misconduct.

RESOLUTION

FERNANDEZ, *J.*:

In a letter-complaint subscribed and sworn to on October 21, 1977 addressed to the Secretary of Justice, Cresencio Garcia charged Alberto Asilo, Deputy Sheriff of the Court of First Instance at Malolos, Bulacan, with negligence in the service of summons upon the defendants in two civil cases[1] instituted in the Court of First Instance at Manila.

. The complainant, Cresencio Garcia, alleged that on August 18, 1977 he filed with the Office of the Provincial Sheriff of Malolos, Bulacan the summonses and corresponding copies of the complaints to be served upon the defendants Aurelio Sanchez and Ceferino Perez whose respective given addresses were

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[1] Civil Cases Nos. 110217 and 110218, entitled "*Remedios Garcia, et al. vs. Aurelio Sanchez and Ceferino Perez.*"

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Borol 1st, Balagtas, Bulacan and Bonga Mayor, Bustos, Bulacan; that he paid the respondent for the service of the summons the total amount of Thirty Pesos (₱30.00) but the respondent issued two official receipts[2] covering only the amount of Eleven Pesos and Ninety Centavos (₱11.90); and that the respondent had failed to serve the summonses "up to October 18, 1977" despite complainant's "follow-ups" in respondent's office.

In his comment on the complaint, the respondent explained that he had earnestly tried to serve the summonses upon the defendants Perez and Sanchez as early as August 23 and 26, 1977 respectively, but both could not be found at their given addresses; that eventually, on November 21, 1977 the summons for Perez was left by respondent with said defendant's wife, in spite of her refusal to receive it, at their residence at Bonga, Bustos, Bulacan which respondent noted to be a place different from that stated in the summons; that the next day, November 22, 1977, respondent personally served the summons on Sanchez when he chanced upon the latter while riding a tricycle in Balagtas, Bulacan; and that the respondent made his returns of the summonses to the court of origin by way of letter, reports dated November 29, 1977.[3]

There is no need to conduct a formal investigation of this charge, the facts of record being sufficient to provide a basis for determining whether or not the respondent is to be held administratively liable.[4] The fact is that it took respondent some three months to finally serve the summonses upon the defendants. The respondent's excuse for his delay cannot warrant a complete exoneration.

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[2] The complaint mentioned Official Receipts Nos. 6154005 and 6154006 copies of which were alleged to have been attached to his letter-complaint. but these are missing.

[3] Copies of the returns were attached to respondent's Comment as Annexes "A" and "B", pp. 9. and 10 of *Rollo*.

[4] In consonance with the precedent in *Aquino vs. Aficial*. Adm. Matter No. P-1065. Jan. 31. 1978. 81 SCRA 222. 226.

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The respondent did not deny the allegation that he demanded and was given by the complainant the sum of ₱18.10 for which no receipt was issued. There is absolutely no justification for this act of the respondent considering that there are only two defendants to be served with summons. The respondent is guilty of an illegal exaction. The amount of ₱11.90 for which the respondent had issued two official receipts was more than enough to pay for the sheriff's fees. For having demanded the amount of ₱18.10 for which he did not issue a receipt, the respondent should be suspended for three (3) months without pay. A more severe penalty would have been imposed were it not for the fact that his personal record[5] shows that the respondent has been a deputy sheriff since November 15, 1956. During the twenty-two (22) years that he occupied the position, he was never administratively held to account for any official misconduct.

WHEREFORE, the respondent deputy sheriff is hereby suspended for a period of three (3) months without pay effective from his receipt of this resolution, and he is ordered to refund to the complainant the ₱18.10 and is warned that a repetition of the same offense will be dealt with more severely.

The respondent is also admonished to be prompt in attending to his duties in the future, and is warned that repetition of this negligence will be dealt with more drastically.

Let this resolution be made of record in the respondent's personal record in this Court.

SO ORDERED.

Teehankee (Chairman), Makasiar, Guerrero, De Castro, and *Melencio-Herrera, JJ.*, concur.

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[5] The 201 file of respondent.