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WHEREFORE, the decision of the Regional Trial Court of Pasay City, Branch 116, finding the accused-appellant guilty of violation of §16, Art. III of R.A. No. 6425, as amended, and imposing upon him the penalty of *reclusion perpetua* and to pay a fine of ₱500,000.00, is hereby *AFFIRMED.* Costs against the appellant.

The airline ticket, baggage, and other personal effects not yet returned to the accused-appellant are hereby ordered returned to him.

SO ORDERED.

Bellosill (Chairman), Quisumbing, Buena, and *De Leon, Jr., JJ.,* concur.

THIRD DIVISION

[A.M. No. P-99-1323. February 20, 2001]
(Formerly OCA IPI No. 97-339-P)

DAVID DE GUZMAN, *complainant, vs.* **DEPUTY SHERIFF PAULO M. GATLABAYAN, REGIONAL TRIAL COURT, ANTIPOLO CITY, RIZAL,** *respondent.*

SYNOPSIS

Respondent sheriff, in compliance with the writ of execution issued against one Domdom, seized 200 sacks of rice which complainant claims ownership. Pending claim filed by complainant, however, an auction sale was scheduled and on August 4, 1997, respondent took the 200 bags of rice from the premises of the courthouse without permission of the court and levied and executed the same. Thus, this case charging respondent sheriff of grave abuse of authority and grave misconduct.

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Respondent violated the provisions of Sec. 19, Rule 39 of the 1997 Rules on Civil Procedure which explicitly states that all sales of property under execution must be made at public auction to the highest bidder to start at the exact time fixed in the notice. Moreover, respondent levied upon all the 200 sacks of rice and sold the same for ₱130,000.00 when the total amount necessary to satisfy the judgment and costs is only ₱107,000.00. The Court noted discrepancy in the principal amount as stated in the Certificate of Sale, the Notice of Levy and the Minutes of Auction Sale to justify the amount of ₱130,000.00. Thus, the Court finds suspension of respondent from service for six months without pay proper penalty.

SYLLABUS

1. **POLITICAL LAW; LAW ON PUBLIC OFFICERS; COURT PERSONNEL; SHERIFF; IRREGULARITIES; WHEN NO AUCTION SALE ACTUALLY MADE IN THE ENFORCEMENT OF WRIT OF EXECUTION.** — Respondent sheriff Gatlabayan was overzealous and committed irregularities in implementing the writ of execution. While it is the duty of the sheriff, as a ministerial officer, to enforce the writ in the absence of instructions or a restraining order, he should proceed with reasonable celerity and promptness to execute it according to its mandate. Respondent Gatlabayan went beyond the call of his duties when he took the 200 sacks of rice without the knowledge of the RTC-Antipolo and sold the same without a public bidding. While it is true that the Notice of Levy and Sale of Personal Property/ies Upon Writ of Execution signed by respondent Gatlabayan stated that the public auction was scheduled on August 4, 1997 in front of the RTC House, Circumferential Road at 10:00 o'clock in the morning, no auction sale was actually made in the place and time fixed therein. As found by Investigating Judge Mauricio Rivera during the hearing of this administrative case, "the sacks of rice were taken from the court house early in the morning of August 4, 1997 and were brought to Marikina City without the knowledge of the court and were sold to a cousin of judgment creditor Adela Villon." This is a blatant disregard of the rules as respondent Gatlabayan failed to follow strictly the procedural requirements laid down in Section 19, Rule 39 of the 1997 Rules on Civil Procedure which explicitly states that "all sales of property under execution must be made at public auction to the highest bidder *to start at the exact time fixed in the notice.*"

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2. ID.; ID.; ID.; ID.; MISCONDUCT; WHEN GOODS SOLD IN EXCESS OF THAT NECESSARY IN THE EXECUTION OF MONEY JUDGEMENTS. — The 200 sacks of rice sold by respondent Sheriff Gatlabayan likewise were in excess of the amount necessary to satisfy the judgment and costs. The rule is well-settled that a sheriff is guilty of misconduct where he failed to limit the goods to be levied to the amount called for in the writ. Section 15, Rule 39 of the Rules of Court (now Section 9 [b] of the 1997 Rule on Civil Procedure) expressly provides that "when there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, within the view of the officer, he must levy only on such part of the property as is amply sufficient to satisfy the judgment and costs."

3. ID.; ID.; ID.; ID.; NOT LIABLE TO THIRD PARTY CLAIMS IN THE ENFORCEMENT OF EXECUTION AS THERE IS BOND POSTED FOR DAMAGES. — Anent complainant's claim that the alleged "public sale" should not have proceeded on August 4, 1997 in view of the pendency of the complainant's motion for reconsideration (denying his application for writ of injunction), the same has no merit. It should be noted that although herein complainant filed a Third-Party Claim, the judgment creditor Adelo Villon posted a sufficient bond of ₱130,000.00 equivalent to the value of the 200 sacks of rice to answer for any damage which complainant may suffer by reason of the writ of execution. Section 16, Rule 39 states that when a property is claimed by a third person, the officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnify the officer against such claim by a bond in a sum not greater than the value of the property levied on. Thus, in one case, it was ruled that when a third-party claim is filed, the sheriff is not bound to proceed with the levy of the property unless the judgment creditor or his agent posts an indemnity bond against the claim. Such bond is meant for the payment of damages the third-party claimant may suffer if the sheriff proceeds with the levy. It serves to shield the sheriff from any personal liability for such damages.

4. ID.; ID.; ID.; ID.; NO DUTY TO GIVE NOTICE OF AUCTION SALE TO ONE NOT PARTY IN JUDGMENT TO BE ENFORCED. — As regards complainant's claim that he should have been given notice of the auction sale, the same is not tenable. He was not a party in the judgment sought to be enforced. The judgment obligor was Pascualita Domdom, the accused in the criminal cases aforementioned. Therefore, the

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phrase "judgment obligor" under Section 15, Rule 39 to whom written notice should be given does not apply to herein complainant de Guzman.

5. ID.; ID.; ID.; ID.; DUTIES AND RESPONSIBILITIES. — Well-entrenched is the rule that a public office is a public trust. Public officers and employees are duty bound to serve with the highest degree of responsibility, integrity, loyalty, and efficiency and shall remain accountable to the people. 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. The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law. He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom. Sheriffs play an important part in the administration of justice. As an officer of the court, a sheriff is duty-bound to use reasonable skill and diligence in the performance of his duties; and conduct himself with propriety and decorum and act above suspicion. Respondent Gatlabayan fell short of his duty. For his misconduct as discussed-above, respondent Gatlabayan exposed himself and his office to suspicion. He failed to live up to the strictest standards of honesty and integrity in the public service. The Court has emphasized, time and again, that the conduct and behavior of everyone connected with an office charged 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.

D E C I S I O N

GONZAGA-REYES, *J.*:

Complainant David de Guzman is a businessman engaged in rice retailing in Angono, Rizal while respondent Paulo M. Gatlabayan is the Deputy Sheriff of the Regional Trial Court of Antipolo, Rizal.

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In the instant administrative complaint, complainant de Guzman charges respondent Gatlabayan with Grave Abuse of Authority and Grave Misconduct relative to Criminal Cases Nos. 94-28361, 94-28354, 94-28598, 94-28599, 94-28600, 94-28601, 94-28602, 94-28603 and 94-28604 entitled "*People of the Philippines vs. Pascualita Domdom*" and Civil Case No. 97-4496, (for Recovery of Personal Property with Prayer for the Issuance of a Temporary Restraining Order and a Writ of Preliminary Injunction).

From the records, the following are the antecedent facts: The Metropolitan Trial Court of Marikina issued a writ of execution dated November 7, 1996 for the satisfaction of judgment in favor of one Adela Villon against Pascualita Domdom, president of Angono Rice Retailers' Association, as a result of the criminal cases filed against the latter by the former. The writ of execution commanded the sheriff "that, of the goods and chattels of Pascualita Domdom (defendant), you cause to be made the sum" as stated therein in the aggregate amount of ₱92,800.00 "together with your lawful fees for the service".[1]

The writ of execution was not served at Marikina City but it was served in Antipolo, Rizal when the sheriff of Marikina City endorsed the writ of execution to the sheriff of the Municipal Trial Court of Binangonan, Rizal. Thus, on July 2, 1997, in coordination with the sheriff of Binangonan, Rizal, herein respondent Deputy Sheriff Gatlabayan seized two hundred (200) sacks of rice by virtue of the above-mentioned writ of execution.[2]

Complainant presented to respondent sheriff a Third-Party Claim to prove his ownership over the sacks of rice but the latter ignored the same. Despite several pleas and the presentation of documents showing ownership of the sacks of rice, respondent did not return the same and instead scheduled the auction sale on July 9, 1997. To avert the sale, complainant filed on July 8, 1997 a petition for recovery of personal property with prayer for issuance of temporary restraining order and a writ of injunction docketed as Civil Case No. 97-4496 before the Regional Trial

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[1] Annex "1", p. 57, *Rollo*.

[2] p. 1 of Order dated July 31, 1997, Annex "3", p. 60, *Rollo*.

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Court of Antipolo, Rizal wherein said court issued a temporary restraining order and set the hearing on the application for preliminary injunction. Meanwhile, on July 30, 1997, complainant filed a manifestation and motion for the release of 86 bags of rice which were allegedly in excess of the amount to be satisfied in accordance with the writ of execution.

On July 31, 1997, the RTC issued an Order denying the application for writ of preliminary injunction. This order was received by complainant on August 1, 1997 and by respondent on August 4, 1997. On August 4, 1997, complainant filed a motion for reconsideration of the said order while on the same day, respondent Gatlabayan and Villon took the 200 bags of rice from the premises of the courthouse of the RTC-Antipolo without the permission of the court and respondent levied and executed the same.

In the present administrative case, complainant prays that respondent Gatlabayan be investigated for grave abuse of authority and grave misconduct:

"a. in capriciously executing the Writ of Execution dated November 7, 1996.

b. in forcibly taking complainant's property with the assistance of dismissed policeman Jun Llanes, former deputy Sheriff Villaran, Gregorio Gatlabayan, and Binangonan deputy Sheriff Cecil Pulan without valid and legal ground.

c. issuing Notice of Levy and Sale of property on July 31, 1997 despite of the fact that the Order denying the application for preliminary injunction was released only on August 1, 1997 a copy of which was received by respondent on August 4, 1997 and secondly despite knowledge of the pendency of the manifestation with Urgent Motion and Motion for Reconsideration of the Order dated July 31, 1997;

d. in not giving notice to complainant/claimant of the scheduled August 4, 1997 auction sale and disregarding court's order to maintain status *quo* and giving too much favor to Mrs. Adela Villon apparently in exchange of the total amount of ₱30,000.00 he charged from Mrs. Villon."[3]

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[3] Complaint, p. 5, *Rollo*.

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In his Answer/Position Paper, respondent Gatlabayan denied the allegations in the complaint. He averred that the writ of execution was properly implemented and that the enforcement of the writ even during the pendency of the complainant's manifestation with motion and the motion for reconsideration was valid since the Order of July 31, 1997 denying complainant's prayer for issuance of a writ of preliminary injunction and the lapse of the temporary restraining order (TRO) issued earlier effectively removed any obstacle that barred him from selling the levied properties. Respondent further contends that there was no valid objection to the conduct of the auction sale as the notice of sale was duly posted by him; that the proceedings of the auction sale were lawfully and regularly performed and duly recorded in the minutes; and, that the proceeds of the sale were lawfully applied to the various legal expenses.

In the Resolution dated July 5, 1999, this Court referred the case to Executive Judge Mauricio M. Rivera of the Regional Trial Court, Antipolo City for investigation, report and recommendation.

Meanwhile, herein complainant David de Guzman filed a Reply to respondent's Answer alleging that the 200 sacks of rice which were illegally levied by respondent belongs to complainant and these sacks of rice were part of the 800 sacks of rice purchased by him from the National Food Authority (NFA) in the aggregate amount of ₱560,000.00. He allegedly paid the said amount directly to the NFA. He further avers that the name of Pascualita Domdom was in the receipt to facilitate the release of the said rice in her capacity as president of the Angono Rice Retailers' Association. He further states that out of the proceeds of the sale of ₱130,000.00, respondent charged the judgment creditor Villon the amount of ₱5,000.00.

In his Recommendation dated April 12, 2000, Investigating Judge Mauricio M. Rivera found that the conduct of the auction sale by respondent Gatlabayan exceeded the bounds of regularity and procedure as provided by the Rules of Court. Investigating Judge Rivera noted that respondent Gatlabayan, together with Villon, took the 200 sacks of rice from the court premises in

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the early morning of August 4, 1997 without the knowledge of the RTC-Antipolo. These sacks of rice were sold without public bidding in Marikina City and the amount realized from the sale was for ₱130,000.00. The Investigating Judge found respondent Gatlabayan guilty of the administrative charge of grave abuse of authority and grave misconduct and recommended that the penalty of suspension from the service for a period of six (6) months be imposed upon him. We quote hereunder the pertinent portions of the findings of facts made by the Investigating Judge:

> "1. That Paulo Gatlabayan levied the 200 sacks of rice on August 4, 1997;
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> 2. He took the 200 sacks of rice from the premises of the Antipolo Court house early in the morning of August 4, 1997 together with Adela Villon and brought them to Marikina City without the knowledge of Branch 73, RTC Antipolo;
>
> 3. The 200 sacks of rice were sold without public bidding in Marikina City contrary to the certificate of sale signed by Sheriff Paulo Gatlabayan that the auction sale were (sic) made at 10:00 A.M. in front of the RTC of Antipolo, which is not correct;
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> 4. The amount of the sale was for ₱130,000.00 to Adela Villlon as "the aforementioned highest bidder" in the auction sale according to the certificate of sale signed by Paulo Gatlabayan but the testimony of Adela Villon stated that she sold the rice to her husband's cousin in Marikina City."[4]

On September 25, 2000, the Court Administrator submitted his Memorandum recommending the dismissal of respondent Gatlabayan from the service, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch or instrumentality of the government, including government-owned or controlled corporation. He opined that respondent failed to refute the charges against him and the rule is settled that silence of a party when he has ample opportunity to controvert the charges against him is deemed an admission. He noted that as found by the Investigating Judge,

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[4] pp. 7-8, Recommendation dated April 12, 2000.

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respondent sold the 200 sacks of rice without a public bidding and then prepared a certificate of sale and in the process, committed falsification of a public document.

We agree with the recommendation of both the Investigating Judge and the Court Administrator that respondent Gatlabayan is guilty as charged.

Respondent sheriff Gatlabayan was overzealous and committed irregularities in implementing the writ of execution. While it is the duty of the sheriff, as a ministerial officer, to enforce the writ in the absence of instructions or a restraining order, he should proceed with reasonable celerity and promptness to execute it according to its mandate.[5]

Respondent Gatlabayan went beyond the call of his duties when he took the 200 sacks of rice without the knowledge of the RTC-Antipolo and sold the same without a public bidding. While it is true that the Notice of Levy and Sale of Personal Property/ies Upon Writ of Execution[6] signed by respondent Gatlabayan stated that the public auction was scheduled on August 4, 1997 in front of the RTC House, Circumferential Road at 10:00 o'clock in the morning, no auction sale was actually made in the place and time fixed therein. As found by Investigating Judge Mauricio Rivera during the hearing of this administrative case, "the sacks of rice were taken from the court house early in the morning of August 4, 1997 and were brought to Marikina City without the knowledge of the court and were sold to a cousin of judgment creditor Adela Villon."[7] This is a blatant disregard of the rules as respondent Gatlabayan failed to follow strictly the procedural requirements laid down in Section 19,[8] Rule 39 of the 1997 Rules on Civil Procedure which explicitly states that "all sales of property under execution must be made at public auction to the highest bidder *to start at the exact time fixed in the notice*."

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[5] *Mamanteo vs. Magumun*, 311 SCRA 259.

[6] Annex "5", pp. 66, *Rollo*.

[7] pp. 6 & 7 of his Recommendation.

[8] formerly Section 21, same Rule, Revised Rules of Court.

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Moreover, the 200 sacks of rice sold respondent Sheriff Gatlabayan likewise were in excess of the amount necessary to satisfy the judgment and costs. During the hearing on August 7, 1997 on the Motion for Reconsideration and Motion to Maintain Status *Quo* in Civil Case No. 97-4496, the alleged "highest bidder" Adela Villon testified that the sheriff (herein respondent) charged her "₱15,000.00, ₱10,000.00 for Atty. Rosantina and indemnity in the amount of ₱5,000.00" and that the amount stated in the writ of execution was ₱92,000.00.[9] It would appear that the total amount charged, including miscellaneous and incidental expenses, should have been only ₱107,000.00 but respondent Sheriff Gatlabayan levied upon all the 200 sacks of rice of complainant and sold the same for ₱130,000.00 at ₱650.00 per sack.[10] Respondent sheriff should have limited the number of sacks to be sold by simply adding the amount as indicated in the writ of execution and the incidental expenses. The rule is well-settled that a sheriff is guilty of misconduct where he failed to limit the goods to be levied to the amount called for in the writ.[11] Section 15, Rule 39 of the Rules of Court (now Section 9 (b) of the 1997 Rule on Civil Procedure)[12] expressly provides that "when there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, within the view of the officer, he must levy only on such part of the property as is amply sufficient to satisfy the judgment and costs."[13] In this case, respondent Gatlabayan made an excessive levy to raise an amount more than that needed to satisfy the judgment and costs.

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[9] pp. 4 & 6, TSN, August 7, 1997, pp. 46 & 48, *Rollo.*

[10] p. 3, TSN, August 7, 1997, p. 107, *Rollo.*

[11] *Policarpio vs. Fajardo*, 78 SCRA 210; *Padolina vs. Henson*, 173 SCRA 269.

[12] 1997 Rules of Civil Procedure took effect July 1, 1997. Section 9 (b), Rule 39 provides: "x x x When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.

[13] also, *Cagayan de Oro Coliseum, Inc. vs. CA*, 320 SCRA 731.

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Respondent stated in his Answer/Position Paper that the Certificate of Sale would negate the claim of excess in the proceeds of the sale. But the Court notes a discrepancy in the Notices of Levy and Sale of Personal Property/ies Upon Writ of Execution dated July 2, 1997[14] and August 1, 1997[15] signed by respondent Gatlabayan which stated the amounts of levy as ₱72,800.00 and ₱82,000.00, respectively, and the Minutes of Auction Sale,[16] signed also by the same respondent. In the Minutes of Auction Sale, it was stated that the "auction sale" was "held on August 4, 1997 at 10:00 A.M. in front of the RTC House, Circumferential Road, Antipolo, Rizal" and 200 bags of NFA rice were sold to the "highest bidder" Adela Villon and that the bid price was ₱130,000.00. The Minutes did not contain any computation of the obligations as indicated in the standard form.

In the Certificate of Sale,[17] respondent sheriff stated that the "auction sale" was conducted on August 4, 1997 at 10:00 o'clock in the morning in front of the Regional Trial Court Circumferential Road, Antipolo, Rizal and that the sum of "₱82,000.00 as principal amount plus ₱10,000.00 as for Indemnity Bond and another sum of ₱10,000.00 as Sheriff's Incidental expenses and the further sum of ₱28,500.00 as Attorney's fees and other miscellaneous expenses, all in the total sum of ₱130,000.00," were credited to the full satisfaction of the writ of execution. The Writ of Execution[18] states that the total amount of the obligation is ₱92,800.00 which does not conform with the statement made by respondent in the Notices of Levy as well as in the Certificate of Sale that the principal amount was ₱82,000.00. The discrepancy in the principal amount as stated in the Certificate of Sale, the Notices of Levy and the Minutes of Auction Sale, which were all signed by respondent Gatlabayan is clear. It is without an iota of doubt that the amounts indicated in the Certificate of Sale were meant only to justify the total value of the sale of

[14] Annex "F", p. 13, *Rollo*.
[15] Annex "5", p. 66, *Rollo*.
[16] Annex "7", p. 68, *Rollo*.
[17] Annex "8", p. 69, *Rollo*.
[18] Annex "1", p. 57, *Rollo*.

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the sacks of rice in the amount of ₱130,000.00 but did not reflect the true and lawful fees and charges.

Anent complainant's claim that the alleged "public sale" should not have proceeded on August 4, 1997 in view of the pendency of the complainant's motion for reconsideration (denying his application for writ of injunction), the same has no merit. It should be noted that although herein complainant filed a Third-Party Claim, the judgment creditor Adelo Villon posted a sufficient bond of ₱130,000.00 equivalent to the value of the 200 sacks of rice to answer for any damage which complainant may suffer by reason of the writ of execution.[19] Section 16,[20] Rule 39 states that when a property is claimed by a third person, the officer shall not be bound to keep the property, unless such judgment creditor or his agent, on demand of the officer, indemnify the officer against such claim by a bond in a sum not greater than the value of the property levied on. Thus, in one case,[21] it was ruled that when a third-party claim is filed, the sheriff is not bound to proceed with the levy of the property unless the judgment creditor or his agent posts an indemnity bond against the claim. Such bond is meant for the payment of damages the third-party claimant may suffer if the sheriff proceeds with the levy. It serves to shield the sheriff from any personal liability for such damages.

As regards complainant's claim that he should have been given notice of the auction sale, the same is not tenable. He was not a party in the judgment sought to be enforced. The judgment obligor was Pascualita Domdom, the accused in the criminal cases aforementioned. Therefore, the phrase "judgment obligor" under Section 15, Rule 39 to whom written notice should be given does not apply to herein complainant de Guzman.

Well-entrenched is the rule that a public office is a public trust. Public officers and employees are duty bound to serve with the highest degree of responsibility, integrity, loyalty, and efficiency

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[19] Order of July 31, 1999, Annex "I", pp. 29-33, *Rollo*.

[20] formerly Section 17, same Rule.

[21] *De Guzman vs. Ong*, 304 SCRA 206.

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and shall remain accountable to the people. 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.[22]

The sheriff, as an officer of the court upon whom the execution of a final judgment depends, must necessarily be circumspect and proper in his behavior. Execution is the fruit and end of the suit and is the life of the law.[23] He is to execute the directives of the court therein strictly in accordance with the letter thereof and without any deviation therefrom.[24]

Sheriffs play an important part in the administration of justice. As an officer of the court, a sheriff is duty-bound to use reasonable skill and diligence in the performance of his duties;[25] and conduct himself with propriety and decorum and act above suspicion.[26] Respondent Gatlabayan fell short of his duty. For his misconduct as discussed-above, respondent Gatlabayan exposed himself and his office to suspicion. He failed to live up to the strictest standards of honesty and integrity in the public service.

The Court has emphasized, time and again, that the conduct and behavior of everyone connected with an office charged 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.[27]

We find the recommendation of dismissal by the Court Administrator to be too harsh, it appearing that this is the first

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[22] *Hernandez vs. Borja*, 242 SCRA 162; *Office of the Court Administrator vs. Fuentes*, 247 SCRA 506.

[23] *Tan vs. Herras*, 195 SCRA 1; *Eduarte vs. Ramos*, 238 SCRA 36.

[24] *Villareal vs. Rarama*, 247 SCRA 43.

[25] *Ayo vs. Violago-Isnani*, 308 SCRA 543.

[26] *Mamanteo vs. Magumun, supra.*

[27] *Gacho vs. Fuentes, Jr.*, 291 SCRA 474.

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offense. Suspension for six (6) months without pay, as recommended by the Investigating Judge, is more appropriate.

WHEREFORE, respondent Deputy Sheriff Paulo M. Gatlabayan of the RTC-Antipolo City is hereby *SUSPENDED* from the service for a period of *SIX (6) MONTHS* without pay, commencing upon notice of this Decision.

SO ORDERED.

Melo, (Chairman), Vitug, Panganiban, and *Sandoval-Gutierrez, JJ.*, concur.

FIRST DIVISION

[G.R. No. 118334. February 20, 2001]

PEOPLE OF THE PHILIPPINES, *plaintiff-appellee, vs.* **LARRY CONSEJERO y PASCUA and ROMMEL MALAPIT (at large), accused. LARRY CONSEJERO** *y* **PASCUA,** *accused-appellant.*

SYNOPSIS

Accused Larry Consejero and Rommel Malapit were charged with robbery with homicide. Only accused-appellant Larry Consejero was arraigned since his co-accused, Rommel Malapit is still at large. Accused-appellant pleaded not guilty and interposed the defenses of denial and alibi.

After due trial, the court convicted accused-appellant of the crime charged.

Hence, this appeal.

A combination of accused' concerted and complementary acts vividly manifests a common criminal intent to kill the victims, Desto Castillo and Dionisio Usigan, and to take the Briggs