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SO ORDERED.

Davide, Jr., C.J., (Chairman), Puno, Kapunan, and *Ynares-Santiago, JJ.,* concur.

EN BANC

[A.M. No. P-00-1371. January 23, 2002]
(Formerly OCA IPI No. 98-410-P)

DEVELOPMENT BANK OF THE PHILIPPINES (DBP), *complainant, vs.* **RUBEN S. NEQUINTO, Sheriff IV, Regional Trial Court, Branch 145, Makati City,** *respondent.*

SYNOPSIS

Development Bank of the Philippines (DBP), through its Chief Legal Counsel, filed an administrative complaint against respondent sheriff for abuse in the implementation of the writ of execution issued by the trial court in connection with its decision in a case for collection of sum of money filed by FPHC against DBP, whereby the trial court decided against DBP. In the implementation of the writ of execution, respondent insisted on enforcing FPH's bloated computation of ₱46,310,684.93, as the judgment debt, instead of the amount of ₱19,998,400.00 stated in the writ. Respondent threatened to seal the bank's vault and to forcibly seize any money he may possibly retrieve from the teller's cages if he were not paid in cash the full amount demanded. He also levied on sensitive computers of the bank threatening not only to disrupt but to collapse its operations. Respondent likewise denied DBP its option to choose which of its property may be levied upon, as provided for in Section 9(b), Rule 39, Revised Rules of Court.

The Supreme Court resolved to dismiss respondent from the service because he deliberately failed to follow the

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procedure on how to execute a money judgment prescribed in the Revised Rules of Court. As an officer of the court, respondent was obliged to conduct himself with propriety and restraint. He cannot make use of his public office to oppress or abuse a party especially a sensitive financial institution like the DBP. His conduct showed unjustified braggadocio. He did not comply with the set procedure in the rules.

The Supreme Court found respondent guilty of grave misconduct, grave abuse of authority, and conduct prejudicial to the best interests of the service.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERIFFS; IMPLEMENTATION OF WRITS AND PROCESSES; SHERIFFS CANNOT MAKE USE OF HIS PUBLIC OFFICE TO OPPRESS OR ABUSE A PARTY.** — Sheriffs play an important role in the administration of justice. As agents of the law, they are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they cannot afford to err without affecting the integrity of their office and the efficient administration of justice. As an officer of the court, Sheriff Nequinto was obliged to conduct himself with propriety and restraint. He cannot make use of his public office to oppress or abuse a party especially a sensitive financial institution like the DBP. His conduct showed unjustified braggadocio. He did not comply with the set procedure in the rules.

2. **ID.; ID.; ID.; ID.; ID.; ABUSE IN IMPLEMENTATION OF WRIT OF EXECUTION, DESERVES THE PENALTY OF DISMISSAL FROM THE SERVICE; CASE AT BAR.**— For reasons only known to him, respondent Sheriff Nequinto was overzealous in implementing the writ of execution against DBP, a government financial institution impressed with public interest. He went outside the law when he threatened to seal the bank's vault and to forcibly seize any money he may possibly retrieve from the tellers' cages, if he were not paid in cash the full amount demanded. He levied on sensitive computers of the bank threatening not only to disrupt but to collapse its

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operations. In *Office of the Court Administrator v. Judge Fuentes and Sheriff Paralisan,* the Court characterized such abuse in the implementation of a writ of execution as "grave misconduct or conduct prejudicial to the best interest of the service," which deserve the penalty of dismissal from the service.

3. **ID.; ID.; ID.; ID.; SHERIFFS MUST ACT WITH UTMOST RESPONSIBILITY, INTEGRITY, COMPETENCE AND LOYALTY; CASE AT BAR.**— Sheriffs ought to perform their duties with utmost responsibility, integrity, competence and loyalty, and with justice, lead modest lives, and uphold public interest. In this case, respondent sheriff failed to observe the strict standards required of all public officers and employees. He must remember that overbearing conduct can only bring their office into disrepute and erode public respect.

RESOLUTION

***PER CURIAM*:**

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.[1]

The Case

Before the Court is an administrative complaint filed by the Development Bank of the Philippines (hereafter, DBP) against Sheriff Ruben S. Nequinto (hereafter, Sheriff Nequinto), Sheriff IV Regional Trial Court, Makati, Branch 145 for (a) dereliction of duty and violation of Administrative Circular No. 12 (Acting as special sheriff for a party litigant) in connection with the

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[1] *Vda. de Abellara v. Dalisay,* 335 Phil. 527, 530-531 (1997), quoted in *Tan v. Dael,* 335 SCRA 513, 520-521 (2000).

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implementation of the writ of execution (pending appeal); (b) violation of the clear provisions of Sec. 9, Rule 39 of the 1997 Rules of Civil Procedure; (c) knowingly violating Sec. 14, Rule 39 of the 1997 Rules of Civil procedure; (d) grave abuse of authority; and (e) conduct prejudicial to the interests of the government and/or a government financial institution.

The Facts

On June 14, 1993, the Court appointed respondent Ruben S. Nequinto, Regional Trial Court Deputy Sheriff, Regional Trial Court, Branch CXLV, Makati (now Sheriff IV, Regional Trial Court, Makati, Branch 145) and to this date has been with the Court for twenty-four (24) years.[2]

On October 17, 1996, FPHC filed with the Regional Trial Court, Makati, Branch 147[3] a case for collection of sum of money[4] against DBP.

On August 8, 1997, the trial court rendered a summary judgment against DBP. The dispositive portion of the decision reads:

"WHEREFORE, in view of the foregoing, the Court finding merit in the motion for summary judgment, hereby renders judgment in favor of the plaintiff and against defendant, ordering the latter to pay the former:

"1. the sum of ₱19,998,400 as unpaid rentals inclusive of interest as 12% per annum as of 31 March 1995, plus interest at 12% per annum on the amount of ₱9,999,200 after 31 March 1995 until full payment of the principal;

"2. attorney's fees equivalent to 20% of the amount claimed in the preceding paragraph;

"3. the costs.

"SO ORDERED."

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[2] Confidential Report of the OCA, *Rollo*, pp. 42-46.

[3] Judge Teofilo L. Guadiz, Jr. presiding.

[4] Docketed as Civil Case No. 96-1701. *Rollo*, p. 17.

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On September 3, 1997, FPHC filed with the trial court a motion for execution pending appeal; DBP filed a motion for reconsideration of the trial court's decision.[5]

On November 24, 1997, the trial court granted FPHC's motion for execution pending appeal, thus:[6]

"WHEREFORE, in view of the foregoing, the Court, finding the "Motion For Execution Pending Appeal" to be well-taken, hereby grants the same. Let a writ of execution issue accordingly upon the filing of a bond in the amount of ₱30 million, subject to the approval of the court.

"SO ORDERED."

On November 25,1997, FPHC filed an *ex-parte* motion for appointment of special sheriff with the trial court, praying that Sheriff Nequinto of Branch 145 be appointed to implement the writ of execution.[7]

On November 25, 1997, the trial court designated Sheriff Nequinto as special sheriff to implement the writ of execution as the regular deputy sheriff of Branch 147 was in Isabela.[8] Accordingly, the trial court issued a writ of execution directed to Sheriff Nequinto. We quote the writ:[9]

"TO: Special Sheriff RUBEN S. NEQUINTO
Regional Trial Court
Makati City

"GREETINGS:

"WE COMMAND YOU that of the goods and chattels of DEVELOPMENT BANK OF THE PHILIPPINES with address at DBP

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[5] Statement of Facts, Administrative Matter for Agenda, Confidential Report of the OCA, *Rollo*, pp. 42-46.

[6] Administrative Complaint, Order of the Trial Court, Annex "A", *Rollo*, pp. 12-15.

[7] Administrative Complaint, *Ex-Parte* Motion for Appointment of Special Sheriff, Annex "B", *Rollo*, p. 16.

[8] Administrative Complaint, Order of the Trial Court, Annex "C", *Rollo*, p. 17.

[9] Administrative Complaint, Writ of Execution, Annex "D", *Rollo*, pp. 20-21.

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Building, Makati Avenue corner Sen. Gil Puyat Avenue, Makati City, Metro Manila, you cause to be made the following:

"1) the sum of ₱19,998,400 as unpaid rentals inclusive of interest at 12% per annum as of 31 March 1995, plus interest at 12% per annum on the amount of ₱9,999,200 after 31 March 1995 until full payment of the principal;

"2) attorney's fees equivalent to 20% of the amount claimed in the preceding paragraph;

"3) the costs.

"together with your lawful fees for service of this execution all in money of the Philippines which plaintiff recovered in this Court on August 18, 1997 against the defendant and that you tender the same to said plaintiff aside from your own fees on this execution, and to like-wise return this writ into this Court Immediately thereafter with you proceedings indorsed thereon.

"But if sufficient personal property cannot be found whereof to satisfy this execution and lawful fees thereon, then you are commanded that of the lands and buildings of defendant you cause to be made the sums of money in the manner required buy law and the Rules of Court, and to make return of your proceedings with this Writ immediately thereafter.

We quote the Court Administrator's narration of how respondent Sheriff implemented the writ:[10]

"On November 26, 1997, respondent Sheriff accompanied by FPHC's counsel, Atty. Fernando F. Manas, Jr., and FPHC's representatives Atty. Pedro Malabanan an Anthony Jay B. Consunji, proceeded to the DBP Head Office building at Sen. Gil Puyat Avenue, Makati City.

"After gaining entry into DBP's premises, respondent went to the Cash Management Department and announced his threat to *seal* the Banks' vault and to levy DBP's *computers* and *office equipment* if his demand for payment is not complied with. Respondent Sheriff told Bank officials that the amount to be executed against DBP is *₱46,310,684.94* which amount greatly *exceeds* the *one stated* in the Writ of Execution.

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[10] Confidential Report of the OCA, *Rollo*, pp. 42-46.

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"The lawyers of the Bank requested the respondent to give them time to verify the Writ of Execution in his possession. The respondent sheriff was also informed that DBP had not yet received any copy of the Order granting FPHC's motion for execution pending appeal. They also called the Sheriff's attention to the fact that the amount sought to be enforced (₱46,310,684.93)[11] does not correspond to the amount indicated in the writ. Respondent was also shown a copy of DBP's own computation of the amount taking into account the interests and costs.[12] Moreover, respondent was advised that his manner of enforcing the writ (sealing the Bank's vault) will disrupt, if not paralyze the bank's and its branches' operations. However, despite the Bank's objections, respondent insisted on sealing the bank's vault if he is not paid in cash and threatened to forcibly seize any money he may possibly retrieve from the teller's cages. Because of the respondent's adamant insistence to seal the Bank's vault, the Bank was constrained, under protest, to issue a Manager's Check for P10 Million to respondent[13] and offered to the respondent its property covered by TCT No. 196837 located in Sta. Cruz, Manila which has an appraised value of ₱18,387,900.00 to be levied upon, pursuant to Section 9, Rule 39 of the 1997 Rules of Civil Procedure. Respondent refused to accept the offer and insisted that he be paid in cash.

"In spite of the said payment and offer of real property for levy, respondent issued a "notice of Levy or Sale on Execution"[14] wherein he made it appear that he was leyying on certain personal properties of DBP which he *did not specifically describe* but generally referred to as : "fifteen (15) units Personal Computers 386 MITAC, Samsung; One Hundred (100) units office tables with chairs." Unknown to the complainant respondent also served notices of garnishment of DBP's deposits with the Land Bank of the Philippines and the PCI Bank.

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[11] Administrative Complaint, Computation of Accrued Interest for ₱30 million at 12% per annum starting 12.1.86 to 11.26.97, Annex "E", *Rollo*, p. 22.

[12] Administrative Complaint, Annex "F", *Rollo*, p. 23.

[13] Administrative Complaint, Acknowledgement Receipt, Annex "G", p. 24.

[14] Administrative Complaint, Notice of Levy and/or Sale on Execution, Annex "I", *Rollo*, p. 26.

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"In view of respondent's unjustified rejection of DBP's offer and patently abusive manner in implementing the writ, complainant bank filed a "Motion for Approval of Supersedeas Bond an for Holding in Abeyance the Implementation of the Writ of Execution and Sale on Execution"[15] calling the attention of the Judge to the irregularities in the proceedings of respondent. Respondent sheriff, on December 2, 1997, proceeded to bank's head office for the purpose of conducting the "sale" of the alleged "levied properties" despite knowledge of DBP's Motion and the fact that respondent was served with a letter from the Bank's Chief Legal Counsel interposing vigorous objection to the scheduled sale on execution.[16]

"In his "sheriff's Report on Execution" dated 3 December 1997 respondent falsely made it appear that he was prevented from entering the building of DBP.[17] In the same Report, respondent *willfully and deliberately* concealed the fact that the bank had issued a ₱10 Million check to him, that it had offered for levy its real property valued at ₱18 Million and that he issued Writs of Garnishments involving DBP's deposits with the Land Bank of the Philippines and other banks."

On January 27, 1998, DBP through its Chief Legal Counsel, Atty. Carlos R. Cruz filed with the Office of the Court Administrator, Supreme Court (hereafter, OCA) an administrative complaint against Sheriff Nequinto praying that he be disciplinarily dealt with.[18]

On March 31, 1998, the Court Administrator required respondent sheriff Nequinto to answer the above mentioned complaint within ten (10) days from notice. On May 14, 1998, respondent sheriff submitted his answer to the complaint. He admitted that he "threaten *(sic)* to seal the banks' vault but

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[15] Administrative Complaint, Motion for Approval of supersedeas Bond and to Hold in Abeyance the Implementation of the Writ of Execution and Sale on Execution, Annex "J", *Rollo*, pp. 27-30.

[16] Administrative Complaint, Letter of December 1, 1997 from DBP Chief Legal Counsel to Sheriff Nequinto, Annex "K", *Rollo*, pp. 31-32.

[17] Administrative Complaint, Sheriff's Report on Execution, Annex "L", *Rollo*, p. 33.

[18] Administrative Complaint, *Rollo*, pp. 1-11, p. 10.

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such thing is impossible." He also admitted that he levied on fifteen (15) units personal computers, 386 MITAC, Samsung, one hundred(100) units office tables with chairs and scheduled the sale on December 2, 1997, without even posting notices nor posted sheriff's guard at the DBP building. On December 2, 1997, respondent sheriff tried to enforce the notice of levy on execution at the DBP building but he was not let-in and was even pushed out of the building.[19]

On February 7, 2000, the OCA submitted its report and recommendation.[20]

On March 1, 2000, the Court resolved to docket the case as a regular administrative proceeding and required the parties to manifest whether they were willing to submit the case for resolution on the basis of the pleadings within ten (10) days from notice hereof.[21]

On April 3, 2000, DBP manifested its willingness to submit the case for resolution on the basis of its sworn letter-complaint dated January 23, 1998.[22]

On July 17, 2000, the Court required Sheriff Nequinto to show cause why he should not be disciplinary dealt with or punished for contempt for failure to comply with the resolution of March 1, 2000.[23] The Court gave respondent Sheriff Nequinto a period of ten days from receipt of the resolution to comply.[24]

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[19] *Rollo*, pp. 38-40.

[20] The OCA recommended that (1) the instant case be re-docketed as an administrative matter; (2) respondent be ordered to pay a fine of P1,000.00 and (3) respondent be warned that a repetition of similar acts shall be dealt with more severely (Confidential Report of the OCA, *Rollo*, pp. 42-46, at p.46).

[21] *Rollo*, p. 47.

[22] *Rollo*, p. 48.

[23] Requiring respondent to manifest if he is willing to submit the case for resolution on the basis of the records on hand.

[24] *Rollo*, p. 53.

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Still respondent Sheriff Nequinto failed to comply with the above resolution.[25]

On February 26, 2001, the court reiterated its resolution of July 17, 2000, giving respondent Sheriff Nequinto ten (10) days from receipt of the resolution to comply.[26]

To date, Sheriff Nequinto has not complied with the Court's three resolutions.[27] Hence, we declare the case submitted for resolution.

The Court's Ruling

We resolve to dismiss respondent Sheriff Nequinto from the service. He deliberately failed to follow the procedure on how to execute a money judgment prescribed in the Revised Rules of Court. Rule 39, Section 9, provides:

"Sec. 9 Execution of judgments for money, how enforced – (1) Immediate payment on demand – The officer shall enforce an execution of a judgment for money by demanding from the judgment obligor the immediate payment *of the full amount stated in the writ of execution and all lawful fees*. The judgment obligor shall pay in cash, certified bank check payable to the judgment obligee, or any other form of payment acceptable to the latter, the amount of judgment debt under proper receipt directly to the judgment obligee or his authorized representative if present at the time of payment. The lawful fees shall be handed under proper receipt to the executing sheriff who shall turn over the said amount within the same day to the clerk of court of the court that issued the writ (*italics ours*)"

Rule 39, Section 14, further provides:

"Section 14 Return of writ of execution — The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the

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[25] The period to comply expired on August 21, 2000.

[26] Resolution of the Court, *Rollo*, p. 54.

[27] Dated March 1, 2000, July 17, 2000 and February 26, 2001 respectively.

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writ, the officer shall report to the court and state the reason therefore. Such writ shall continue in effect during the period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole proceedings taken, and shall be filed with the court and copies thereof promptly furnished the parties."

Respondent Sheriff Nequinto also denied DBP its option to choose which of its property may be levied upon, as provided for in Section 9 (b), Rule 39, Revised Rules of Court.

Sheriffs play an important role in the administration of justice. As agents of the law, they are called upon to discharge their duties with due care and utmost diligence because in serving the court's writs and processes and implementing its orders, they can not afford to err without affecting the integrity of their office and the efficient administration of justice.[28]

As an officer of the court, Sheriff Nequinto was obliged to conduct himself with propriety and restraint. He cannot make use of his public office to oppress or abuse a party especially a sensitive financial institution like the DBP. His conduct showed unjustified braggadocio. He did not comply with the set procedure in the rules. We quote the OCA's evaluation with respect to this matter:[29]

"However, with regard to the failure of respondent to abide diligently with Sec. 6, Rule 57 of the Rules of Court which provides that:

> "SEC. 6 Officer's return – Immediately after executing the order the officer must make a return thereon to the clerk or judge of the court from which the order issued, *with a full statement of his proceedings* under the order and a complete

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[28] *Teresa T. Gonzales La'O & Co., Inc. v. Sheriff Jadi T. Hatab,* 329 SCRA 646 (2000); *Orlando T. Mendoza v. Sheriff IV Robert M. Tuquero, and Sheriff IV Antonio V. Leano, Jr.,* A.M. NO. P-99-1343, June 28, 2001.

[29] Confidential Report of the OCA, *Rollo*, p. 45.

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inventory of the property attached, together with any counter-bond given by the party against whom the attachment is issued, and serve a copy of any such counter-bond on the applicant or his lawyer."

"*Respondent therefore could not be unaware of such basic rule to evade his positive duty.* Crystal clear in the Sheriff's Return dated 03 December 1997 is the fact that respondent omitted to mention what transpired on 26 November 1997 when DBP tendered the ₱10 million check. We are inclined to believe then that *respondent intentionally and deliberately made the questioned omission* considering that the amount involved is quite impossible to be overlooked. Moreover, nowhere can we find in respondent's explanation the reason why he tried to conceal the said misdeed so as to refute the charges made in the complaint. His nonfeasance may only mean that *he was trying to mislead the court and herein complainant* (DBP). (*italics ours*)"

Neither did Sheriff Nequinto mention that DBP offered its real property valued at ₱18 Million for levy. We find abusive and without legal basis his insistence on enforcing FPHC's bloated computation of ₱46,310,684.93, as the judgment debt, instead of the amount of ₱19,998,400.00 stated in the writ.

For reasons only known to him, respondent Sheriff Nequinto was overzealous in implementing the writ of execution against DBP, a government financial institution impressed with public interest. He went outside the law when he threatened to seal the bank's vault and to forcibly seize any money he may possibly retrieve from the teller's cages, if he were not paid in cash the full amount demanded. He levied on sensitive computers of the bank threatening not only to disrupt but to collapse its operations.

In *Office of the Court Administrator v. Judge Fuentes and Sheriff Paralisan,*[30] the Court characterized such abuse in the implementation of a writ of execution as "grave misconduct or conduct prejudicial to the best interest of the service," which deserve the penalty of dismissal from the service.

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[30] 317 Phil 604 (1995).

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Respondent Sheriff Nequinto has not even complied with three show cause orders of this court. His conduct was highhanded and arbitrary and even defied the Supreme Court's directives. His corrupt and ulterior motives were self-evident.[31]

Sheriffs ought to perform their duties with utmost responsibility, integrity, competence and loyalty, and with justice, lead modest lives, and uphold public interest.[32] In this case, respondent sheriff failed to observe the strict standards required of all public officers and employees.[33] He must remember that overbearing conduct can only bring their office into disrepute and erode public respect.[34]

The Fallo

WHEREFORE, the Court finds respondent Ruben S. Nequinto, Sheriff IV, Regional Trial Court, Makati, Branch 145, guilty of grave misconduct, grave abuse of authority, and conduct prejudicial to the best interests of the service and hereby *DISMISSES* him from the service with forfeiture of retirement benefits, except earned leave credits, if any, with prejudice to reinstatement and reemployment in any branch, instrumentality or agency of the government including government owned and controlled corporations, particularly the DBP.

SO ORDERED.

Davide, Jr., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Pardo, Buena, Ynares-Santiago, De Leon, Jr., Sandoval-Gutierrez, and *Carpio, JJ.*, concur.

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[31] See *Rosanna Casalme v. Deputy Sheriff Marvin S. Rivera*, 368 Phil. 370, 373 (1999).

[32] Section 2, Republic Act No. 6713.

[33] *Ong v. Meregildo*, 233 SCRA 632 (1994); *GVM, Inc. v. De Guzman*, 227 SCRA 684 (1993).

[34] *Mariano Hernandez v. Samuel Aribuabo*, A.M. No. P-00-1439, December 5, 2000.