Supreme Court E-Library

REPORT OF CASES

DETERMINED IN THE

SUPREME COURT OF THE PHILIPPINES

EN BANC

[A.M. No. P-99-1316. October 29, 1999]

KENNETH S. NEELAND, *complainant, vs.* **ILDEFONSO M. VILLANUEVA, Clerk of Court, Regional Trial Court, Bacolod City, and NELSON N. ABORDAJE, Sheriff III, Municipal Trial Court in Cities, Branch 4, Bacolod City,** *respondents.*

SYNOPSIS

Sugarland Motor Sales filed with the City Sheriff, Bacolod City, a request for foreclosure of the chattel mortgage constituted on a car owned by the mortgagor, herein complainant, and its sale at public auction to satisfy an obligation owing to them as mortgagee in the amount of twenty thousand pesos (₱20,000). Acting upon the request, respondent sheriff seized the motor vehicle and sold it at public auction to the highest bidder, Sugarland Motor Sales, for forty thousand pesos (₱40,000.00). After the sale, respondent Clerk of Court, as *ex-officio* Provincial Sheriff, issued a certificate of sale. However, the remaining balance between the sum at which the vehicle was sold and the obligation sought to be satisfied and expenses of sale, amounting to twenty thousand pesos (₱20,000.00) was not turned over to complainant. Hence, the present administrative charge against respondents by complainant for gross misconduct for their failure to turn over to the complainant the excess bid price.

The Supreme Court found respondent sheriff's failure to turn over to complainant the excess of the bid price to have constituted,

Supreme Court E-Library

if not dishonesty, gross misconduct prejudicial to the best interest of the service warranting the supreme penalty of dismissal from the service. The Court also found respondent Clerk of Court equally responsible for his failure to supervise respondent sheriff in the performance of the latter's duties. Respondent Clerk of Court issued a certificate of sale without ascertaining whether the balance due from the winning bidder had already been turned over and accounted to the mortgagor. His negligence amounted to gross misconduct equally warranting the maximum penalty of dismissal from the service.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; PUBLIC OFFICERS; SHERIFFS; FAILURE TO TURN OVER EXCESS OF THE BID PRICE CONSTITUTED DISHONESTY OR GROSS MISCONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE.**— We find respondent sheriff's failure to turn over to complainant the excess of the bid price constituted, if not dishonesty, gross misconduct prejudicial to the best interest of the service. Under the Chattel Mortgage Law, the sheriff conducting the auction sale must *receive* the winning *bid in cash* and apply such proceeds "to the payment, first, of the costs and expenses of keeping and sale, and then to the payment of the demand or obligation secured by such mortgage, and the residue shall be paid to the mortgagor or person holding under him on demand." Thus, the officer who conducted the foreclosure must demand and actually receive the *cash* proceeds of the auction sale from the highest bidder and turn over the balance to the mortgagor. It was, therefore, irregular for the sheriff not to demand and receive the entire bid price in cash from the winning bidder, or at the very least, to demand the excess amount and turn it over to the mortgagor. Respondent Abordaje admitted that he did not receive the remaining amount of twenty thousand pesos (₱20,000.00) from the winning bidder, Sugarland Motor Sales. He demanded the amount from the Sugarland Motor Sales but was told that the amount was *applied to cover other charges* which complainant had with Sugarland. This is not authorized under the law. Besides, respondent Abordaje did not reflect these facts and circumstances in his minutes of auction sale. Neither can respondent Villanueva, Jr. escape responsibility for his failure to supervise Sheriff Abordaje in the performance of the latter's duties. Clerk of

Supreme Court E-Library

Court Villanueva, Jr. issued a certificate of sale without ascertaining that the balance of Twenty Thousand pesos (P20,000.00) due from winning bidder Sugarland Motor Sales was duly turned over and accounted to the mortgagor.

2. **ID.; ID.; ID.; THE CLERK OF COURT IS EQUALLY GUILTY OF GROSS MISCONDUCT IN THE PERFORMANCE OF HIS DUTIES.**— Respondent Villanueva, Jr., a lawyer occupying a position of responsibility, must be alert at all times to an honest conduct of foreclosures of chattel mortgages. In this particular case, there was a difference of P20,000.00 between the winning bid and the obligation of complainant, but respondent Abordaje did not turn over the amount to complainant. Thus, respondent Villanueva, Jr. is equally guilty of gross misconduct in the performance of his duties. As an officer of the court, he was duty-bound to use reasonable skill and diligence in the performance of his officially-designated duties.

3. **ID.; ID.; ID.; FAILURE TO COMPLY WITH THE STRICT AND RIGOROUS STANDARDS REQUIRED OF ALL PUBLIC OFFICERS AND EMPLOYEES MAY WARRANT DISMISSAL FROM SERVICE; CASE AT BAR.**— Time and again, we have said that the "conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion. Respondents failed to comply with the strict and rigorous standards required of all public officers and employees and have caused an erosion of faith in the judiciary. Thus, respondents must be meted the maximum penalty because all involved in the dispensation of justice must live up to the strictest standard of honesty and integrity in the public service.

APPEARANCES OF COUNSEL

Pamplona, Genito & Valdezco for complainant.

Supreme Court E-Library

RESOLUTION

PER CURIAM:

On December 16, 1996, Kenneth S. Neeland filed with the Office of the Chief Justice a verified letter-complaint[1] against Atty. Ildefonso M. Villanueva, Jr., Clerk of Court and *Ex-Officio* Provincial Sheriff, Regional Trial Court, Negros Occidental, and Nelson N. Abordaje, Sheriff III, Branch 04, Municipal Trial Court in Cities, Bacolod City, for gross misconduct.

The complaint arose out of the following incident:

On December 8, 1995, Sugarland Motor Sales filed with the City Sheriff, Bacolod City, a request for foreclosure of the chattel mortgage constituted on a Toyota Sedan, owned by the mortgagor, Kenneth S. Neeland, and its sale at public auction to satisfy an obligation owing to the mortgagee, Sugarland Motor Sales in the amount of twenty thousand pesos (₱20,000.00).

Acting upon the request, Sheriff Nelson Abordaje seized the motor vehicle and issued a notice of auction sale scheduling its sale at auction on February 6, 1996 at the Daewoo Cars compound, Lacson St., Bacolod City. Accordingly, on said date, respondent Abordaje proceeded to conduct the auction sale.

On February 6, 1996, Sheriff Nelson Abordaje sold the motor vehicle at public auction to the highest bidder, Sugarland Motor Sales, for forty thousand pesos (₱40,000.00). On the same date, Clerk of Court Ildefonso M. Villanueva, as *ex-officio* Provincial Sheriff, issued a certificate of sale conveying the motor vehicle to Sugarland Motor Sales. However, the remaining balance between the sum at which the vehicle was sold and the obligation sought to be satisfied and expenses of sale, amounting to twenty thousand pesos (₱20,000.00), was not turned over to Neeland.

Hence, this complaint.

Neeland alleged that the seizure and sale of his motor vehicle was patently irregular, as he had not executed a chattel mortgage

[1] Dated December 3, 1996, *Rollo*, pp. 1-2.

Supreme Court E-Library

over the same. He further contended that the difference at which the vehicle was sold and the obligation sought to be satisfied was not turned over to him. He prayed that an investigation be conducted and that respondents be penalized accordingly.

In his Reply dated August 21, 1997,[2] Nelson N. Abordaje attached the Deed of Chattel Mortgage executed by Neeland and Sugarland Motor Sales to prove that a mortgage obligation indeed existed. He admitted that Neeland was not personally served with a copy of the petition for extrajudicial foreclosure and the deed of chattel mortgage because complainant could not be found at his given address. However, the posting of notices and other requirements for public auction sale were properly complied with.

Respondent Abordaje noted that complainant had several opportunities to claim his motor vehicle, particularly at the public auction sale, but failed to do so. At the time that the Sheriff executed the certificate of sale in favor of the mortgagee, notarized on February 13, 1996, Neeland did not claim the excess of the bid and the amount of the obligation, which was twenty thousand pesos (₱20,000.00). According to respondent, since Neeland failed to demand said amount, it remained with the mortgagee.

In his Comment dated August 18, 1997,[3] Clerk of Court Ildefonso M. Villanueva, Jr. stated that on July 31, 1995, Neeland executed a Deed of Chattel Mortgage in favor of Daewoo Cars Bacolod over a Toyota Sedan Cressida with Engine No. 18R-1727008 and Chassis No. RX30-601611, which was assigned to the Sugarland Motor Sales. He admitted that there was a difference in the amount of the bid and the obligation sought to be satisfied, but denied knowing whether or not Sheriff Abordaje turned over the amount to Neeland.

In his Report dated April 21, 1998,[4] Executive Judge Anastacio I. Lobaton found that the auction sale on February 6, 1996 was conducted in accordance with the prescribed rules and regulations,

---

[2] *Rollo*, pp. 14-15.

[3] *Rollo*, pp. 18-19.

[4] *Rollo*, pp. 45-51.

Supreme Court E-Library

and "respondent Abordaje was duty bound to demand and collect from the highest bidder, the mortgagor, the aforesaid difference amounting to ₱20,000.00 and deposit the same to the Office of the Clerk of Court for safekeeping since the mortgagor was not around to claim it. When the highest bidder failed to turn over the said difference, it would have been wise and proper for respondent Abordaje to have rendered a report on the matter to his superior, respondent Villanueva, Jr."[5]

The Executive Judge held that respondent Villanueva, Jr. can not take refuge behind the negligence of his subordinate in failing to turn over the proceeds of the auction sale to the mortgagor. He recommended that respondents be reprimanded with warning.

On March 17, 1999, this Court referred the matter to the Court Administrator for evaluation, report and recommendation.[6]

In his Memorandum dated May 11, 1999, Court Administrator Alfredo L. Benipayo upheld the findings of the investigating judge declaring that the chattel mortgage was validly executed, absent convincing proof of forgery. During the hearings before the investigating judge, complainant admitted that the signature appearing at the right hand margin of the deed of chattel mortgage and those appearing at the back page were his signatures.[7] He also admitted that the signature appearing in the affidavit of good faith was his.[8]

The Court Administrator agreed with the findings of the investigating judge that both respondents are liable for not demanding from the highest bidder, Sugarland Motor Sales, the difference in the amount of ₱20,000.00 between the bid and the obligation of complainant. However, the Court Administrator held that such omission did not amount to gross misconduct.

---

[5] Report, *Rollo*, p. 50.

[6] Resolution, *Rollo*, p. 75.

[7] TSN, March 19, 1998, pp. 17-18, *cited in* Memorandum, Court Administrator, *Rollo*, p. 2.

[8] TSN, March 19, 1998, p. 22, *cited in* Memorandum, Court Administrator, *Rollo*, p. 3.

Supreme Court E-Library

We disagree. We find respondent sheriff's failure to turn over to complainant the excess of the bid price constituted, if not dishonesty, gross misconduct prejudicial to the best interest of the service.

Under the Chattel Mortgage Law, the sheriff conducting the auction sale must *receive* the winning *bid in cash* and apply such proceeds "to the payment, first, of the costs and expenses of keeping and sale, and then to the payment of the demand or obligation secured by such mortgage, and the residue shall be paid to the mortgagor or person holding under him on demand."[9]

Thus, the officer who conducted the foreclosure must demand and actually receive the *cash* proceeds of the auction sale from the highest bidder and turn over the balance to the mortgagor. It was, therefore, irregular for the sheriff not to demand and receive the entire bid price in cash from the winning bidder, or at the very least, to demand the excess amount and turn it over to the mortgagor.

Respondent Abordaje admitted that he did not receive the remaining amount of twenty thousand pesos (₱20,000.00) from the winning bidder, Sugarland Motor Sales. He demanded the amount from Sugarland Motor Sales but was told that the amount was *applied to cover other charges* which complainant had with Sugarland.[10] This is not authorized under the law. Besides, respondent Abordaje did not reflect these facts and circumstances in his minutes of auction sale.

Neither can respondent Villanueva, Jr. escape responsibility for his failure to supervise Sheriff Abordaje in the performance of the latter's duties. Clerk of Court Villanueva, Jr. issued a certificate of sale without ascertaining that the balance of Twenty Thousand pesos (₱20,000.00) due from winning bidder Sugarland Motor Sales was duly turned over and accounted to the mortgagor.

Respondent Villanueva, Jr., a lawyer occupying a position of responsibility, must be alert at all times to an honest conduct of

---

[9] Section 14, par. 2, Chattel Mortgage Law.

[10] TSN, March 19, 1998, pp. 39-41, *cited in* Memorandum, Court Administator, *Rollo*, p. 78.

Supreme Court E-Library

foreclosures of chattel mortgages. In this particular case, there was a difference of ₱20,000.00 between the winning bid and the obligation of complainant, but respondent Abordaje did not turn over the amount to complainant.

Thus, respondent Villanueva, Jr. is equally guilty of gross misconduct in the performance of his duties. As an officer of the court, he was duty- bound to use reasonable skill and diligence in the performance of his officially-designated duties.[11]

Time and again, we have said that the "conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion."[12]

Respondents failed to comply with the strict and rigorous standards required of all public officers and employees and have caused an erosion of faith in the judiciary. Thus, respondents must be meted the maximum penalty because all involved in the dispensation of justice must live up to the strictest standard of honesty and integrity in the public service.[13]

WHEREFORE, the Court hereby finds respondents Clerk of Court and *Ex-Officio* Provincial Sheriff Ildefonso M. Villanueva, Jr., Regional Trial Court, Bacolod City, and Sheriff III Nelson N. Abordaje, Municipal Trial Court in Cities, Branch 04, Bacolod City, both guilty of gross misconduct and orders their *DISMISSAL* from the service, with forfeiture of all leave credits and retirement benefits, if any, and with prejudice to re-instatement or re-employment in any agency, branch or instrumentality of the government, including government-owned and controlled corporations.

---

[11] *Ayo vs. Violago-Isnani*, A. M. No. RTJ-99-1445, June 21, 1999.

[12] *Samonte vs. Gatdula*, A. M. No. P-99-1292, February 26, 1999.

[13] *Nicol vs. Blanca*, A. M. No. P-99-1290, May 19, 1999.

Supreme Court E-Library

SO ORDERED.

Davide, Jr., C. J., Melo, Vitug, Kapunan, Mendoza, Panganiban, Purisima, Pardo, Buena, Gonzaga-Reyes, and *De Leon, Jr., JJ.*, concur.

Bellosillo, Puno, Quisumbing, Ynares-Santiago, JJ., on official leave.

SECOND DIVISION

[A.M. No. RTJ-99-1505. October 29, 1999]
(Formerly A.M. No. 99-692-RTJ)

ARSENIA T. BERGONIA, *complainant, vs.* **Judge ALICIA B. GONZALEZ-DECANO,** *respondent.*

SYNOPSIS

Complainant charged respondent judge with bias, partiality and conduct unbecoming of a judge and violation of Canon 3, Rule 3.04 of the Canons of Judicial Ethics. Complainant alleged that during a hearing, respondent judge humiliated her by saying in open court *"Bakit hindi ka pa umalis?* (referring to the property subject matter of the civil case), *"Naiintindihan mo ba itong nakasulat dito?* (referring to the motion for execution and demolition), to which complainant answered, *"Mayroon po akong abogado,"* and proceeded to wait for her counsel. Complainant further alleged that on several occasions, whenever her counsel was late for the hearings, respondent judge will say in open court, *"Siguro, hindi mo binabayaran ang abogado mo?* After studying the records of the case, the Court gave more credence to the allegations of the complaint and admonished respondent judge for exhibiting conduct unbecoming of a judge. According to the Court, respondent judge had departed from the proper judicial decorum by using such intemperate and insulting language directed towards complainant herein. Her choice of words was not proper and as a judge, respondent should not resort to the use of undignified