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repetition of this or a similar offense will be dealt with more severely;

(2) to *ADMONISH* Judge Lerio C. Castigador to exercise effective supervision over the personnel of his court, especially those charged with collection of the Fiduciary Fund and other trust funds (Judiciary Development Fund and Trust Fund); and

(3) to *ADVISE* Ms. Corazon Perez, Officer-in-Charge, to observe strictly Circular No. 50-95 and pertinent circulars of the Court.

SO ORDERED.

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

Bellosillo, J., on leave.

EN BANC

[A.M. No. P-99-1316. August 8, 2000]

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

In 1996, Sugarland Motor Sales placed the highest bid price in the amount of ₱40,000 for a motor vehicle owned by Neeland subject of an auction sale. Sheriff Abordaje, who conducted the public auction sale, turned over the amount of ₱20,000, representing payment of the mortgage obligation of Neeland,

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to mortgagee Sugarland Motor Sales. Clerk of Court Villanueva, as *ex-officio* Provincial Sheriff, issued a certificate of sale conveying the motor vehicle to Sugarland Motor Sales. However, the balance of ₱20,000 remained unaccounted for and was not turned over to the mortgagor. For this, Abordaje and Villanueva were dismissed from service for gross misconduct. Villanueva filed this motion for reconsideration.

The Court noted that this is the first administrative complaint against Villanueva in his long years of service with the judiciary. Thus, although the Court remained convinced that he was remiss in his duty in this particular case, his lack of previous derogatory record may be considered in his favor. Hence, the Court granted the motion for reconsideration, and set aside the dismissal of Villanueva from office. He was, however, held liable for neglect of duty and sentenced to pay a fine of ₱5,000.

SYLLABUS

ADMINISTRATIVE LAW; COURT OFFICIALS; CLERK OF COURT; FAILURE TO EXERCISE PROPER SUPERVISION OVER SUBORDINATE CONSTITUTES NEGLECT OF DUTY.— Nevertheless, we remain convinced that respondent was remiss in his duty in this particular case. Hence, respondent must be held accountable for failure to exercise proper supervision over his subordinate. However, respondent's lack of previous derogatory record may be considered in his favor.

APPEARANCES OF COUNSEL

Pamplona, Genito & Valdezco for complainant.
Ramon C. Gonzaga, Jr. for Atty. I. Villanueva, Jr.

RESOLUTION

PER CURIAM:

This refers to a motion for reconsideration of the resolution of the Court promulgated on October 29, 1999, dismissing respondent Ildefonso M. Villanueva, clerk of court, Regional Trial Court, Bacolod City from the service and forfeiting all

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his leave credits and retirement benefits, if any, with prejudice to reinstatement or reemployment in any agency, branch or instrumentality of the government, including government-owned and controlled corporations.

On February 6, 1996; Sugarland Motor Sales placed the highest bid price in the amount of forty thousand (₱40,000.00) pesos for a motor vehicle owned by Kenneth S. Neeland subject of an auction sale. Sheriff Nelson N. Abordaje, who conducted the public auction sale, turned over the amount of twenty thousand (₱20,000.00) pesos, representing payment of the mortgage obligation of Kenneth S. Neeland, to mortgagee Sugarland Motor Sales. 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 balance of twenty thousand pesos remained unaccounted for and was not turned over to the mortgagor. Consequently, an administrative complaint was lodged against Sheriff Abordaje and Clerk of Court Ildefonso M. Villanueva. Not satisfied with the explanation given by both respondents concerning the proceeds of the sale, after due hearing, on October 29, 1999, the Court meted out the penalty of dismissal to both Sheriff Abordaje and Clerk of Court Villanueva for gross misconduct.

Hence, this motion for reconsideration filed by respondent Villanueva.[1]

After a review of the records, we note that this is the first administrative complaint against respondent in his long years of service with the judiciary. He has also introduced various innovations in court to increase the efficiency of the employees.

Nevertheless, we remain convinced that respondent was remiss in his duty in this particular case. It cannot be overlooked that respondent failed to oversee the rightful turnover of the balance of the proceeds of auction sale to the corresponding party, and more, the payment of the sheriff's commission to the court. He merely signed the minutes of the sale without ensuring the accuracy of its contents and he signed the certificate of sale

[1] Dated November 23, 1999, *Rollo*, pp. 92-118.

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without checking the disposition of the balance of the proceeds and fees accruing to the court. Respondent must be held accountable for failure to exercise proper supervision over his subordinate.[2]

However, respondent's lack of previously derogatory record may be considered in his favor. Hence, we reduce the penalty.

WHEREFORE, the Court *GRANTS* the motion for reconsideration of respondent Ildefonso M. Villanueva, and *SETS ASIDE* the resolution only insofar as it dismisses him from office. He is, however, held liable for neglect of duty and sentenced to pay a *FINE* in the amount of five thousand (₱5,000.00) pesos, with warning that a repetition of the same or similar offense will be dealt with more severely.

SO ORDERED.

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

Bellosillo, J., on official leave.

THIRD DIVISION

[G.R. No. 119122. August 8, 2000]

PHILIPPINE BASKETBALL ASSOCIATION, *petitioner, vs.* **COURT OF APPEALS, COURT OF TAX APPEALS, AND COMMISSIONER OF INTERNAL REVENUE,** *respondents.*

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[2] *Fabiculana vs. Gadon*, 239 SCRA 542 (1994).