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similar acts will be dealt with more severely. Respondent is further ordered to restitute to complainants the amount of ₱15,980.00 within 30 days from notice, without prejudice to whatever judicial action he may take to recover his unsatisfied attorney's fees, if any. Let copies of this resolution be furnished all courts in the land, the Integrated Bar of the Philippines, the Office of the Bar Confidant, and let it be spread in respondent's personal record.

SO ORDERED.

Vitug, Panganiban, Purisima, and *Gonzaga-Reyes, JJ.,* concur.

SECOND DIVISION

[A.M No. P-96-1204. March 27, 2000]

MILA MARTINEZ, *complainant, vs.* **CLERK OF COURT ALEXANDER RIMANDO and SHERIFF ABRAHAM ALMAZAN, both of the Office of the Clerk of Court, MTCC, Olongapo City,** *respondents.*

SYNOPSIS

Respondents were charged with grave misconduct for the enforcement of an alias writ of execution in Civil Case no.2748 even when the judgment debt and costs of the writ of execution in the amount of ₱22,000 in said case was already paid by Romeo Idanan. Sheriff Almazan issued a Certificate of Sale in favor of the highest bidder Carmen Cao, who submitted a bid of ₱62,400. Later, the Final Bill of Sale was issued by Almazan, approved by Clerk of Court Rimando.

The Supreme Court ruled that respondents are guilty of gross inefficiency and incompetence. Rimando inadvertently

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signed the Final Bill of Sale notwithstanding the irregularities attending the auction sale. Further, Rimando kept for two years the amount of ₱22,000 and the additional amount of ₱4,000, allegedly for publication, paid by Romeo Idanan. As to Almazan, his offense consisted in varying the terms of the Alias Writ of Execution and, after being informed of the payment made by Romeo, he still proceeded with the auction sale. Also, he kept the amount of ₱25,400, the excess over the amount of the judgment for two years. Respondents were suspended for 6 months and fined an equivalent of three months salary with a warning that a repetition of the same offense will merit their dismissal from office.

SYLLABUS

ADMINISTRATIVE LAW; COURT EMPLOYEES; PERFORMANCE OF DUTIES; DUTY TO CONDUCT SELF ABOVE SUSPICION; VIOLATED IN CASE AT BAR. — Respondent Rimando admited that he inadvertently signed the "Final Bill of Sale" notwithstanding the numerous irregularities attending the auction sale because he was allegedly in a hurry at the time. Such carelessness in the performance of official duties should not be tolerated. Further, respondent Rimando kept the amount of ₱22,000.00 paid for judgment debt and ₱4,000 paid for alleged publication purposes for a period of over two (2) years. He deposited that money with the Office of the Clerk of Court only when he was ordered by the Investigating Judge to do so. Even though it was not clearly shown that he used this money for personal purposes, this raised serious doubt as to his integrity. As an officer of the court, he should have conducted himself in a manner that would not have cast any suspicion or doubt on his integrity. As to respondent Almazan, his offense consists of varying the terms of the Alias Writ of Execution. Also, respondent Sheriff Almazan kept the amount of ₱25,400.00 (representing the excess over the amount of the judgment) in his house for two (2) years, and deposited it only with the Office of the Clerk of Court on November 19, 1996. As stated earlier, this long delay in depositing the money is highly suspicious. It should be stressed that the conduct and behavior of all persons connected with a public office

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charged with the dispensation of justice are circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized with propriety and decorum, but must also be above suspicion. For every employee of the judiciary should be an example of integrity, uprightness and honesty.

RESOLUTION

DE LEON, JR., *J.*:

Before us is a complaint filed by Mila Martinez, as attorney-in-fact of her sister, Norma Idanan-Oca, against respondents Alexander Rimando and Abraham Almazan, Clerk of Court of the Metropolitan Trial Court in Cities (MTCC) of Olongapo City, Branch 4, and Deputy Sheriff, respectively, charging them with Grave Misconduct relative to the enforcement of an alias writ of execution issued by the said court in Civil Case No. 2748 entitled "*Triangle Ace Corporation vs. Norma Oca and her husband, Mr. Oca,*" for Collection of Sum of Money.

The pertinent facts, as culled from the testimonies of the witnesses and the documentary evidence adduced by the parties, are as follows:

On March 25, 1994, an Alias Writ of Execution[1] was issued by Judge Cesar Bada of MTCC, Branch 4, Olongapo City, in Civil Case No. 2748 for the satisfaction of the judgment rendered therein.

On April 21, 1994, respondent Deputy Sheriff Almazan issued a Notice of Levy[2] on a real property of Norma Idanan-Oca and her husband, located at No. 18 National Road, Barrio Barretto, Olongapo City. A Notice of Sheriff's Sale[3] on the said levied property was made by Sheriff Almazan on the same day, informing the public that the said parcel of land shall be sold at public

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[1] *Rollo*, pp. 30-33.

[2] *Rollo*, p. 34.

[3] *Rollo*, p. 36.

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auction on May 27, 1994 between 9:00 o'clock A.M. to 5:00 o'clock P.M.

On May 27, 1994, the day of the auction sale, a certain Romeo Idanan went to the office of the Clerk of Court of MTCC Olongapo City and talked to respondent Alexander Rimando and Antonio Tulio, Clerk of Court and Assistant Clerk of Court, respectively. Upon their advice, Romeo paid the amount of ₱22,000.00 representing the judgment debt and costs of the writ of execution in Civil Case No. 2748 so that the auction sale would no longer push through. Tulio, signing in behalf of respondent Rimando, issued a receipt[4] to Romeo as evidence of the payment made by him. When Romeo left the office of respondent Rimando at 5:00 o'clock P.M., the auction sale has not yet taken place.

The auction sale, however, proceeded despite the notice given to respondent Deputy Sheriff Almazan that the judgment debt and the costs of the writ of execution had been paid by Romeo. Almazan said that he proceeded with the auction sale since he did not personally receive the money.[5] Respondent Almazan issued a Certificate of Sale[6] in favor of the highest bidder, Carmen Cao, who is connected with Triangle Ace Corporation, and who submitted a bid in the amount of ₱62,400. When Atty. Ocampo, the lawyer of the judgment creditor, computed the amount of the indebtedness, the total indebtedness amounted only to ₱37,000.00, hence, there was an excess of ₱25,400.00. Almazan kept the ₱25,400.00 but deposited it with the Office of the Clerk of Court only on November 19, 1996 when the present administrative complaint was being investigated.

On October 21, 1994, respondent Rimando called up Romeo and asked him to pay ₱4,000.00, allegedly for publication. Romeo paid accordingly. On the said occasion, Rimando was never

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[4] *Rollo*, p. 38.

[5] TSN, January 8, 1997, p. 16.

[6] *Rollo*, p. 43.

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informed that the property had been awarded to Cao as highest bidder, during the auction sale held last May 27, 1994.

On July 21, 1995, a Final Bill of Sale[7] was issued by respondent Deputy Sheriff Almazan. This was approved by respondent Rimando.

The petitioners only came to know about the sale sometime in the latter part of November 1995, when Mila Martinez who was then following up some documents in the Office of the City Assessor of Olongapo City was informed by a staff member of the City Assessor's office that the property of her sister had been transferred in the name of Cao. Upon further verification from the records of the City Assessor's Office, it was confirmed that Norma's property is indeed now registered in the name of Cao. Mila Martinez then tried to see respondent Rimando a number of times but he could not be located.

On January 4, 1996, Mila Martinez filed the present administrative complaint with the Office of the Court Administrator. The case was assigned to Judge Alicia L. Santos of the Regional Trial Court of Olongapo City, Branch 73 for investigation, report and recommendation pursuant to the resolution of this Court dated June 30, 1997.

Respondent Almazan denied the allegations of the petitioner against him. He testified that Tulio notified him that the representative of Norma Idanan-Oca has already paid her indebtedness in the amount of ₱22,000.00. He asked for the money so that he could pay the plaintiff, but Tulio did not say anything and instead, walked away. Almazan was surprised that nobody called him when somebody was paying the ₱22,000.00. He claimed that he was ignored as the Deputy Sheriff-in-Charge of the enforcement of the alias writ of execution. And since he did not receive the money, he did not suspend the auction sale. He claimed that he did not believe the letter allegedly signed by Tulio as well as the receipt shown to him as evidence of payment.

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[7] *Rollo*, pp. 44-45.

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Respondent Rimando who testified in his behalf claimed that he was not notified of the scheduled auction sale on May 27, 1994. According to him, after giving instructions to Tulio that day, he left his office and did not know what happened afterwards. He talked to respondent Almazan who informed him that the auction sale pushed through because the sum of ₱22,000.00 was not delivered to him and that the amount of the judgment obligation was ₱32,000.00, and hence, short of ₱6,000.00 to fully cover the obligation. He further testified that the ₱22,000.00 was not directly given to him by Tulio inasmuch as Tulio gave it to one of his staffs who counted the money. He said that he was not able to deposit the money with the RTC Clerk of Court, as ordered, because he received a telegram informing him that his uncle was seriously sick and in a "50-50 condition."[8] He did not inform Idanan anymore that the auction sale proceeded because he already gave full authority to Tulio to take charge in this particular case. According to him, he inadvertently signed the Final Bill of Sale because he was in a hurry to attend the implementation of another writ of execution.

From the evidence adduced by the parties, it appears that the respondents are guilty of gross inefficiency and incompetence.

Respondent Rimando admitted that he inadvertently signed the "Final Bill of Sale" notwithstanding the numerous irregularities attending the auction sale because he was allegedly in a hurry at the time, to help in the enforcement of another writ of execution. If he was indeed in a hurry to go to another place to help in the enforcement of another writ of execution, then he should have postponed the signing of the "Final Bill of Sale" so that he could have more time to scrutinize its contents before signing the said document. Such carelessness of respondent Rimando in the performance of official duties should not be tolerated.

Respondent Rimando tried to avoid the responsibility for the auction sale by claiming that he was not furnished a copy of the Alias Writ of Execution issued by Judge Cesar V. Bada.

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[8] TSN, February 12, 1997, p. 18.

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His claim, however, was belied by Erlinda Dichoso, a clerk at the office of the Clerk of Court, Municipal Trial Court in Cities, Olongapo City who testified that she received a copy of said alias writ of execution.[9] This fact is confirmed by the stamp mark on the alias writ showing that a copy of said alias writ was received by the Office of the Clerk of Court on April 29, 1994.[10] Rimando also offered no satisfactory explanation as to why the alias writ of execution was never recorded in the Execution Book or why it was never brought to his attention.

Another fact which militates against Rimando is the matter of the ₱4,000.00 paid to him by Romeo for the cost of publication. According to Rimando, it was Almazan who informed him that the auction sale pushed through and that the cost of publication was ₱4,000.00. He then contacted Romeo Idanan and asked him to pay an additional ₱4,000.00.[11] The Investigating Judge correctly observed that the collection of this additional amount is without basis. The auction sale pushed through, and the amount of the highest or winning bid was even in excess of ₱25,400.00 over the amount of the judgment debt and more than enough to cover the alleged costs of publication.

Lastly, respondent Rimando kept the said amount of ₱22,000.00 and ₱4,000.00 for a period of over two (2) years. He deposited that money with the Office of the Clerk of Court only when he was ordered by the Investigating Judge to do so.[12] Even though it was not clearly shown that he used this money for personal purposes, this raised serious doubt as to his integrity. As an officer of the court, he should have conducted himself in a manner that would not have cast any suspicion or doubt on his integrity.

As to respondent Almazan, his offense consists of varying the terms of the Alias Writ of Execution. The writ specifically

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[9] TSN, January 15, 1997, p. 6.

[10] *Rollo*, p. 30.

[11] TSN, February 12, 1997, pp. 12-13.

[12] TSN, February 12, 1997, pp. 18-20.

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stated that the judgment debt is ₱21,000.00 representing the indebtedness, costs and fees for the service of the execution. Yet, when Almazan issued the Notice of Sheriff's Sale on Levied Property, he stated therein that the amount to be recovered is ₱21,000.00, *excluding* attorney's fees, costs, sheriff's fees and expenses. We agree with the finding of the Investigating Judge that:

> As shown, the "Alias Writ of Execution" differed substantially from the Notice of the Sheriff's Sale. The Alias Writ *included* in the ₱21,000.00 judgment award, "costs" and the amount of your Sheriff's fees for the service of the execution. While the Notice of Sheriff's Sale excluded "attorney's fees, costs, sheriff's fees and expenses." This glaring disregard made by Sheriff Almazan resulted to different interpretation on how much should be collected from defendant Idanan. Not only that respondent Abraham Almazan did not rely on the dispositive portion of the "Alias Writ of Execution", he also relied on the computation of the judgment creditor's counsel, thus bungled the whole situation.[13]

Respondent Sheriff Almazan's argument that he did not suspend the auction sale because he was not shown the money is devoid of merit since he received a letter from Rimando, although signed by Tulio, informing him of the fact of payment of ₱22,000.00 by the judgment debtor. By virtue of that letter from his superior, he should have suspended the auction sale and informed the court that the amount of ₱22,000.00 has been deposited as payment in the Office of the Clerk of Court. This he failed to do.

Finally, respondent Sheriff Almazan kept the amount of ₱25,400.00 (representing the excess over the amount of the judgment) in his house for two (2) years, and deposited it only with the Office of the Clerk of Court on November 19, 1996.[14] As stated earlier, in respondent Rimando's case, this long delay in depositing the money is highly suspicious. It should be stressed

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[13] Report, p. 16.

[14] TSN, January 8, 1997, pp. 29-30.

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that the conduct and behavior of all persons connected with a public office charged with the dispensation of justice are circumscribed with the heavy burden of responsibility. Their conduct, at all times, must not only be characterized with propriety and decorum, but must also be above suspicion. For every employee of the judiciary should be an example of integrity, uprightness and honesty.[15]

The Investigating Judge recommended that both respondents be suspended for six (6) months and to pay a fine equivalent to three (3) months salary with a warning that any future misconduct will merit their dismissal from office. We agree with the said recommendation which we believe is reasonable or well-taken.

WHEREFORE, respondents Alexander Rimando and Abraham Almazan are hereby ordered *SUSPENDED* for a period of six (6) months and each of them to pay a *FINE* equivalent to three (3) months salary with a *WARNING* that a repetition of the same offense will merit their dismissal from office.

SO ORDERED.

Bellosillo (Chairman), Mendoza, Quisumbing, and *Buena, JJ.*, concur.

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[15] *Cunanan v. Tuazon*, 237 SCRA 380, 388 (1994).