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FIRST DIVISION

[A.M. No. P-00-1420. March 7, 2002]

ROSEMARY P. BERNADEZ, *complainant, vs.* **RICKY V. MONTEJAR, Process Server, RTC, Branch 64, Guihulngan, Negros Oriental,** *respondent.*

SYNOPSIS

When complainant received notice from respondent that the land she mortgaged to the rural bank had been extrajudicially foreclosed and will be sold at public auction, complainant administratively charged respondent for failure to comply with publication requirements and for issuing the notice when he is only a process server. Later, complainant filed another administrative charge against respondent for receiving ₱100 as sheriff's fee evidenced by a handwritten receipt, and for serving his counter-affidavit enclosed in an envelope bearing "Free Postage."

Respondent was absolved on the first charge. RA 7353, the law applicable in the case at bar, provides that the foreclosure of real estate mortgages covering loans granted by rural banks shall be exempt from the publication requirement where the total amount of the loan does not exceed ₱100,000. It also appeared that respondent has been authorized by the judge to perform the functions of a sheriff. On the second charge, respondent is liable to both charges. The National Accounting and Auditing Manual requires issuance of official receipt for all payments. Using an envelope intended for free postage is a violation of the franking privilege. Respondent was fined ₱1,000.00.

SYLLABUS

1. **POLITICAL LAW; ADMINISTRATIVE LAW; COURT EMPLOYEES; DUTY TO SERVE WITH EFFICIENCY AND RESPONSIBILITY.** — We have consistently held that the nature of work of those connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, requires them to serve with the highest degree of efficiency and responsibility, in order to maintain public

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confidence in the judiciary. Since the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standard of honesty, integrity and uprightness. In *OCA v. Sheriff IV Julius G. Cabe*, the Court held that it will never countenance such conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.

2. **CIVIL LAW; SPECIAL CONTRACTS;REAL ESTATE MORTGAGE; RA 7353; PUBLICATION NOT REQUIRED IN FORECLOSURE OF REAL ESTATE MORTGAGES ON LOANS LESS THAN ₱100,000.00 GRANTED BY RURAL BANKS.** — Under Section 6, paragraph 3 of R.A. 7353, otherwise known as the "Rural Banks Act of 1992," the foreclosure of real estate mortgages covering loans granted by rural banks shall be exempt from the requirement of publication where the total amount of the loan, excluding interests, does not exceed ₱100,000.00.

3. **POLITICAL LAW; ADMINISTRATIVE LAW; NATIONAL ACCOUNTING AND AUDITING MANUAL; ALL PAYMENTS RECEIVED REQUIRES ISSUANCE OF OFFICIAL RECEIPT.** – However, respondent should be held liable for issuing a handwritten receipt for payment of sheriff's fees for service of summons in Civil Case No. 98-004-L. Section 113, Article III, Chapter V of the National Accounting and Auditing Manual clearly provides that "no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof."

4. **ID.; ID.; PD 26; FRANKING PRIVILEGE; MISUSE OF ENVELOPE INTENDED FOR FREE POSTAGE.** – Respondent violated Presidential Decree No. 26 when he sent his counter-affidavit to complainant enclosed in an envelope intended for free postage. The franking privilege provided for by PD 26 extends only to judges and refers to official communications and papers directly connected with the conduct of judicial proceedings.

R E S O L U T I O N

YNARES-SANTIAGO, *J.*:

Sometime in June 1997, complainant Rosemary P. Bernadez, acting as attorney-in-fact of her father, Felimon Palomares,

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mortgaged a parcel of land covered by Original Certicate of Title No. FV-14575 to secure a loan obtained from the Rural Bank of Guihulngan (Negros Oriental), Inc.

Subsequently, complainant received notice from respondent Ricky V. Montejar, process server of the Regional Trial Court of Guihulngan, Negros Oriental, Branch 64, that the mortgage had been extrajudicially foreclosed in Extra-Judicial Foreclosure Case No. EX-98-005-G, and that the aforesaid parcel of land will be sold at public auction to the highest bidder on October 28, 1998.[1]

On October 15, 1998, complainant filed an administrative complaint against respondent Montejar for violation of Section 3 (e) of R.A. No. 3019, otherwise known as the Anti-Graft and Corrupt Practices Act, and Usurpation of Authority or Official Functions, as defined and punished under Article 177 of the Revised Penal Code, Gross Misconduct and Conduct Prejudicial to the Best Interest of the Service.[2] Complainant averred that respondent failed to comply with the requirement of publication of notice of the extrajudicial foreclosure of mortgage; and that respondent had no authority to issue the notice of foreclosure since he was only a process server and not a sheriff.

Respondent submitted a Counter-Affidavit,[3] wherein he alleged that he extra-judicially foreclosed the mortgage pursuant to Office Order No. 002-98 dated February 23, 1998,[4] issued by Presiding Judge Felix G. Gaudial, Jr., directing him to perform the duties and responsibilities of Sheriff IV of the office until a regular Sheriff IV is appointed. Respondent further argued that the amount of the unpaid loan was only ₱30,118.17, inclusive of interest, which exempted it from the requirements of publication of notice pursuant to Section 6, paragraph 3 of the Rural Banks Act of 1992 (R.A. 7353). Respondent also contended that he has not given unwarranted benefits, advantage or preference

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[1] *Rollo*, p. 7.

[2] *Ibid.*, pp. 1-4.

[3] *Id.*, p. 12.

[4] *Id.*, p. 14.

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to the mortgagee bank, has never acted in bad faith, and has never displayed partiality to the said bank in effecting the extra-judicial foreclosure sale of the subject property.

It appears that the scheduled auction sale on October 28, 1998 was not held because complainant caused the payment of the loan to the mortgagee bank, causing the latter to withdraw application for extrajudicial foreclosure.

On December 9, 1998, complainant filed another administrative complaint charging respondent Montejar with Grave Dishonesty, Violation of the provisions of R.A. No. 6713 otherwise known as the Code of Conduct and Ethical Standards of Government Officers and Employees, Usurpation of Judicial Function and Gross Misbehavior.[5] She alleged that respondent received the amount of P100.00 as sheriff's fee for service of summons in Civil Case No. 98-004-L, as evidenced by a handwritten receipt which he dated "1-21-98,"[6] despite the fact that said fees were paid upon the filing of the complaint. This shows that respondent assumed the functions of a deputy sheriff even prior to the issuance of Office Order No. 002-98 on February 23, 1998.

Previously, complainant filed on November 3, 1998 with the Deputy Ombudsman for Visayas a complaint against respondent for violation of franking privileges under P.D. No. 26 when the latter served his counter-affidavit enclosed in an envelope bearing "Free Postage".[7] The complaint was referred to the Office of the Court Administrator who recommended that respondent be ordered to pay a fine of One Thousand Pesos (P1,000.00) for violating Section 113 of Article III, Chapter V of the National Accounting and Auditing Manual and P.D. No. 26.

We have consistently held that the nature of work of those connected with an office charged with the dispensation of justice, from the presiding judge to the lowest clerk, requires them to

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[5] *Id.*, p. 36.

[6] *Id.*, p. 44.

[7] *Id.*, p. 35; Annex A of Sworn Letter-Complaint dated December 9, 1998.

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serve with the highest degree of efficiency and responsibility, in order to maintain public confidence in the judiciary.[8] Since the administration of justice is a sacred task, the persons involved in it ought to live up to the strictest standard of honesty, integrity and uprightness.[9]

In *OCA v. Sheriff IV Julius G. Cabe,*[10] the Court held that it will never countenance such conduct, act or omission on the part of all those involved in the administration of justice which would violate the norm of public accountability and diminish or even just tend to diminish the faith of the people in the Judiciary.[11]

Under Section 6, paragraph 3 of R.A. 7353, otherwise known as the "Rural Banks Act of 1992," the foreclosure of real estate mortgages covering loans granted by rural banks shall be exempt from the requirement of publication where the total amount of the loan, excluding interests, does not exceed P100,000.00. Hence, complainant's contention that respondent should be held accountable for the lack of publication of the foreclosure sale is untenable. Anent his authority to act as sheriff, it appears that respondent was duly authorized to perform the functions of sheriff by Judge Felix G. Gaudiel, Jr.

However, respondent should be held liable for issuing a handwritten receipt for payment of sheriff's fees for service of summons in Civil Case No. 98-004-L. Section 113, Article III, Chapter V of the National Accounting and Auditing Manual clearly provides that "no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof."

Likewise, respondent violated Presidential Decree No. 26 when he sent his counter-affidavit to complainant enclosed in an envelope intended for free postage. The franking privilege provided for by PD 26 extends only to judges and refers to

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[8] *Reyes-Domingo v. Morales*, 342 SCRA 6, 16 [2000].

[9] *Anonymous v. Geverola,* 279 SCRA 279 [1997].

[10] A.M. No. P-96-1185, 26 June 2000.

[11] Citing *Mendoza v. Mabutas*, 223 SCRA 411 [1993].

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official communications and papers directly connected with the conduct of judicial proceedings.

In view of the foregoing, we find the recommendation of the Court Administrator for the payment of ₱1,000.00 fine reasonable.

ACCORDINGLY, respondent is ordered to pay a *FINE* in the amount of One Thousand Pesos (₱1,000.00) for violating Section 113, Article III, Chapter V of the National Accounting and Auditing Manual and Presidential Decree No. 26. A repetition of the same or similar acts will be dealt with more severely.

SO ORDERED.

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

SECOND DIVISION

[G.R. No. 112625. March 7, 2002]

CMH AGRICULTURAL CORPORATION, CARLOS M. HOJILLA, CESAR M. HOJILLA, CLAUDIO M. HOJILLA, CORA M. HOJILLA AND CORNELIO M. HOJILLA, *petitioners, vs.* **HON. COURT OF APPEALS AND CRISTOBAL M. HOJILLA,** *respondents.*

SYNOPSIS

Civil Case No. 6256 is a complaint for "Disregarding and Piercing the Veil of Corporate Fiction, Formal Declaration or Recognition of Successional Rights and Recovery of Title with Damages." It was filed by respondent Hojilla against his siblings and the CMH Corp. with the RTC, Br. 45 of Bacolod City.