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**FIRST DIVISION**

[A.M. No. P-97-1257. January 18, 1999]

**SPS. ROGELIO & EUSEBIA CORAJE,** *petitioners, vs.* **SHERIFF HENRY BRACEROS,** *respondent.*

**SYNOPSIS**

Petitioners spouses Rogelio and Eusebia Coraje were the judgment debtors in action for collection of a sum of money filed against them by Cecilia Bigcas. Petitioners alleged that on August 31, 1996 respondent sheriff Henry Braceros executed the judgment by seizing their tricycle and deposited the same in court without issuing a receipt. On December 3, 1996, petitioners saw their tricycle driven by a relative of Bigcas soliciting passengers within the public market of Panabo, Davao. Cecilia Bigcas then told them that the tricycle was released to her by respondent after she paid the amount of ₱6,000.00. On December 16, 1996 they found out that there were no sheriff's return, notice of sale, and certificate of sale issued for the seized tricycle attached to the record of the case. Hence, they charged the respondent for "conduct unbecoming a Court Officer" and "abuse of authority." On the other hand, the respondent admitted that he seized the tricycle of the petitioners from Mr. Coraje himself but Mr. Coraje refused to sign any papers relative thereto. Then, he entrusted said tricycle to Mrs. Bigcas for a repair in order to have a good price during the public auction, however, without his knowledge, it was used by the relative of Mrs. Bigcas. On February 5, 1997, the tricycle was sold in a public auction to Mrs. Bigcas being the only bidder.

The Court ruled that while it does condone the acts committed by respondent, his admission of his mistakes and his willingness to learn from them mitigate against his failure to make a Sheriff's Return on time and in holding an illegal public auction as a consequence thereof. The Court also noted that respondent had been a sheriff for only a year at the time of the occurrence of the incidents complained of, and that this is his first offense. To be considered too in mitigation is the fact that the auction sale, albeit conducted late, did not prejudice the judgment debtors. All these circumstances indicate lack of malice on the part of respondent.

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Sheriff Henry Braceros was ordered to pay a fine in the amount of One Thousand Pesos (₱1,000.00) for ignorance in the procedure in implementing writs of execution and for abuse of authority.

**SYLLABUS**

**CONSTITUTIONAL LAW; SUPREME COURT; ADMINISTRATIVE SUPERVISION OVER COURT PERSONNEL; SHERIFF; FAILURE TO MAKE SHERIFF'S RETURN ON TIME AND HOLDING OF ILLEGAL AUCTION; PENALTY MITIGATED WHERE RESPONDENT WHO HAD BEEN SHERIFF FOR ONLY A YEAR ADMITTED MISTAKES AND PRAYED FOR COMPASSION.**— While we do not condone the acts committed by respondent, his admission of his mistakes and his willingness to learn from them mitigate against his failure to make a Sheriff's Return on time and holding an illegal public auction as a consequence thereof. We also note that he had been a sheriff for only a year at the time of the occurrence of the incidents complained of, and that this is his first offense. To be considered too in mitigation is the fact that the auction sale, albeit conducted late, did not prejudice the judgment debtors. All these circumstances indicate lack of malice on the part of respondent. WHEREFORE, foregoing premises considered, SHERIFF HENRY BRACEROS is hereby ordered to pay a fine in the amount of One Thousand Pesos (₱1,000.00) for ignorance in the procedure in implementing writs of execution and for abuse of authority, with a warning that a repetition of the same or similar acts will warrant a more severe penalty.

**D E C I S I O N**

**MELO, *J.*:**

On December 23, 1996, a Joint Affidavit/Complaint was filed by the spouses Rogelio and Eusebia Coraje against herein respondent Sheriff Henry Braceros of the Municipal Trial Court of Panabo, Davao for alleged "conduct unbecoming a Court Officer" and "abuse of authority."

The Coraje spouses alleged that they were the defendants in an action for collection of a sum of money filed by one Cecilia

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Bigcas; that they lost in said case and were served a writ of execution by respondent Braceros; and that they asked the judgment creditor to allow them to satisfy their indebtedness of ₱18,000.00 on installment basis in the amount of ₱500.00 a week, said amount to be deposited with respondent, who, in turn, shall give it to Bigcas. Bigcas agreed to this arrangement.

On August 1, 1996, the Coraje spouses gave their first installment to respondent who issued to them the corresponding receipt. However, on August 31, 1996, respondent immediately seized complainants' tricycle and deposited the same in court without issuing a receipt therefor. Some months later, or on December 3, 1996, complainants saw their tricycle being driven by a relative of Bigcas and soliciting passengers within the public market of Panabo, Davao. Cecilia Bigcas allegedly told them that the tricycle was released to her by respondent after she paid the amount of ₱6,000.00.

On December 16, 1996, complainants examined the record of the case and found that there are no sheriff's return, notice of sale, and certificate of sale issued for the seized tricycle. Clerk of Court Eulalio Elumbaring also allegedly refused to issue a Certification of Non-Issuance.

In his Comment to the complaint, respondent averred that he had difficulty serving the writ of execution on complainants because they leave their house very early in the morning and return home late at night to avoid collectors; that when he was finally able to serve the writ on Mrs. Coraje, she cried because she did not have any money left and all her appliances had been taken by her other creditors; that as proposed by Mrs. Coraje, he talked to the judgment creditor, Cecilia Bigcas, to allow the Coraje spouses to pay their judgment debt on a weekly basis in the amount of ₱500.00 until said judgment is fully satisfied; that complainants paid the initial ₱500.00 and nothing more; that on August 31, 1996, he seized the tricycle of the complainants, then being driven by Mr. Coraje; that Mr. Coraje refused to sign any papers relative to the seizure; that the auction sale of the tricycle was held in abeyance upon the request of both Mr.

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Coraje and the judgment creditor, Mrs. Bigcas, who were both looking for a buyer for the tricycle; that Mrs. Bigcas offered to have the tricyle cleaned and repaired in her house so it would fetch a good price at the auction sale; that believing the request to be a good idea, he acceded, but cautioned Mrs. Bigcas not to use the tricycle; that 2 weeks later, he got back the tricycle from Mrs. Bigcas because it was being used by her relative; that on February 5, 1997, the tricycle was sold in a public auction to Mrs. Bigcas as she was the only bidder.

In a Memorandum dated November 7, 1997 addressed to then Chief Justice Andres R. Narvasa, the Office of the Court Administrator recommended that respondent be fined in the amount ₱5,000.00 for his ignorance of the procedure in implementing writs of execution, and abuse of authority, with a warning that a repetition of the same or similar acts will warrant a more severe penalty.

On February 5, 1998, respondent filed his Comments relative to the findings and recommendations of the Office of the Court Administrator, admitting his shortcomings and praying for compassion. Accordingly, the Office of the Court Administrator modified its recommendation by reducing the fine to ₱1,000.00. Further, proceedings were dispensed with because the complainants could no longer be located at their old address and they failed to give a forwarding address.

We find the modified recommendation of the Office of the Court Administrator to be in order. While we do not condone the acts committed by respondent, his admission of his mistakes and his willingness to learn from them mitigate against his failure to make a Sheriff's Return on time and in holding an illegal public auction as a consequence thereof. We also note that he had been a sheriff for only a year at the time of the occurrence of the incidents complained of, and that this is his first offense. To be considered too in mitigation is the fact that the auction sale, albeit conducted late, did not prejudice the judgment debtors. All these circumstances indicate lack of malice on the part of respondent.

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**WHEREFORE**, foregoing premises considered, SHERIFF HENRY BRACEROS is hereby ordered to pay a fine in the amount of One Thousand Pesos (₱1,000.00) for ignorance in the procedure in implementing writs of execution and for abuse of authority, with a warning that a repetition of the same or similar acts will warrant a more severe penalty.

**SO ORDERED.**

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

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**FIRST DIVISION**

[G.R. No. 109279-80. January 18, 1999]

**PEOPLE OF THE PHILIPPINES,** *plaintiff-appellee, vs.* **OCTAVIO MENDOZA y LANDICHO,** *accused-appellant.*

**SYNOPSIS**

For the death of his wife Cecilia Mendoza, accused-appellant Octavio Mendoza was separately charged with parricide and illegal possession of firearm and ammunition under two informations. Accused-appellant pleaded not guilty to both charges, whereupon a joint trial on the merits commenced, following which, a judgment of conviction was rendered. Dissatisfied, accused-appellant has interposed the instant appeal. The Supreme Court affirmed the judgment of conviction. The Court ruled that although the judgment of conviction is based on circumstantial evidence, conviction is proper if the circumstances proven constitute an unbroken chain which lead to one fair conclusion pointing to the accused, to the exclusion of all others, as the guilty person.