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SECOND DIVISION

[Adm. Matter No. R-394-P. January 30, 1986]

TEOFILO FINEZA and VALENTINA FINEZA, *complainants, vs.* **ELIAS ANACLETO, Deputy Provincial Sheriff of Iligan City,** *respondent.*

SYLLABUS

ADMINISTRATIVE LAW; COURT PERSONNEL; DEPUTY SHERIFF; DERELICTION OF DUTY; NOT PRESENT IN CASE AT BAR.— When the appellate court's decision was remanded to the lower court for execution of the judgment, the respondent addressed a letter to the complainants to "settle" the payment of the attorney's fees or "make some sort of arrangement" not later than April 15, 1985 otherwise their residential lot at Pala-o, Iligan City, would be sold at public auction on May 21, 1985 in order to satisfy the obligation. On April 12, 1985 the complainants deposited P3,015.00 with the Regional Trial Court at Iligan City under O.R. No. 2919216 in payment of the attorney's fees adjudged against them. Despite the payment, the property of the Finezas was advertised for sale at public auction in the *Lanao Mail* issues of April 22, April 29, and May 6, 1985. The complainants now claim that the publication of the sale in the *Lanao Mail* and in other public places despite the payment already made was an act of harassment which embarrassed, humiliated and destroyed their good name. In his defense the respondent states that it was only on April 24, 1985 that he came to know that the complainants had made the deposit. He also states that on the same day he wrote a letter to the publisher of the Lanao Mail which was handed to Mrs. Fineza for delivery. Notwithstanding the letter, the publication of the sale in the *Lanao Mail* was not discontinued because, according to the respondent, Mrs. Fineza did not deliver the letter and his claim is confirmed by Mrs. Natividad I. Jove, a stenographic reporter of the Regional Trial Court in Iligan City.

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DECISION

ABAD SANTOS, *J.*:

The spouses Teofilo and Valentina Fineza filed the instant case against Elias Anacleto, deputy provincial sheriff of the Regional Trial Court at Iligan City. They alleged harassment and dereliction of duty.

The record shows that in Civil Case No. V-70 of the defunct Court of First Instance of Lanao del Norte, the Finezas prevailed but upon appeal to the then Court of Appeals the decision was reversed and the Finezas were ordered, *inter alia*, to pay the opposing parties attorney's fees in the amount of ₱3,000.00.

When the appellate court's decision was remanded to the lower court for execution of the judgment, the respondent addressed a letter to the complainants to "settle" the payment of the attorney's fees or "make some sort of arrangement" not later than April 15, 1985 otherwise their residential lot at Palao, Iligan City, would be sold at public auction on May 21, 1985 in order to satisfy the obligation.

On April 12, 1985 the complainants deposited ₱3,015.00 with the Regional Trial Court at Iligan City under O.R. No. 2919216 in payment of the attorney's fees adjudged against them. Despite the payment, the property of the Finezas was advertised for sale at public auction in the *Lanao Mail* issues of April 22, April 29, and May 6, 1985. The complainants now claim that the publication of the sale in the *Lanao Mail* and in other public places despite the payment already made was an act of harassment which embarrassed, humiliated and destroyed their good name.

In his defense the respondent states that it was only on April 24, 1985 that he came to know that the complainants had made the deposit "when Mrs. Valentina Fineza, one of the complainants herein appeared at the respondent's office and was very angry because, as according to her, why was the Notice of Sheriff's Sale of their property still appeared in the LANAO MAIL, one of the City's local newspaper, when they already paid the

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to the publisher of the Lanao Mail which was handed to Mrs. Fineza for delivery. The letter was worded thus:

"May I request that the publication of the legal Notice in re: Fineza vs. Badelles be stopped considering that the plaintiff Fineza have already paid the judgment on the 12th yet so that this Notice could not have been published.

"The bearer, Mrs. Fineza, will arrange with you as to the cost the one issue or I will just arrange with our office that you will be compensated to the notice being stopped or suspended."

Notwithstanding the letter, the publication of the sale in the *Lanao Mail* was not discontinued because, according to the respondent, Mrs. Fineza did not deliver the letter and his claim is confirmed by Mrs. Natividad I. Jove, a stenographic reporter of the Regional Trial Court in Iligan City.

We dismiss the charge for utterly lacking in merit.

It appears that Mr. Teofilo Fineza is a government auditor who holds office "barely about 10 meters away from the Office of the Clerk of Court." It would have been a simple matter for him to have informed the respondent who had given the complainants ample time to pay the fees adjudged about the deposit which he had made on April 12, 1985. But he did not. And when the respondent wrote a letter to the publisher of the *Lanao Mail* to discontinue the publication of the notice of sale, Mrs. Fineza did not deliver the letter alleging later: "Why should I be the one to stop the publication when I was not the one who have it published? Why should we be the one to pay the cost of publication when we were not the one who have it published?"

WHEREFORE, the instant administrative case is dismissed for lack of merit.

SO ORDERED.

Concepcion, Jr., Escolin, Cuevas, and *Alampay, JJ.*, concur.