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SO ORDERED.

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

FIRST DIVISION

[A.M. No. RTJ-99-1495. October 18, 2000]

V.C. PONCE CO., INC. and VICENTE C. PONCE, *complainants, vs.* **JUDGE HENEDINO P. EDUARTE, RTC, Branch 20, Cauayan, Isabela and Sheriff ANUEDO G. CAJIGAS, RTC, Branch 19, Bacoor, Cavite,** *respondents.*

SYNOPSIS

This is an administrative complaint filed against Judge Henedino P. Eduarte of the Regional Trial Court of Cauayan, Isabela for gross neglect of duty. Allegedly, respondent judge refused to correct an obviously erroneous computation of the money judgment in Civil Case No. BM-20-1546. Impleaded as party-respondent is Sheriff Anuedo G. Cajigas for incompetence and/or misconduct in implementing an allegedly excessive levy based on the erroneous computation of money judgment in the civil case. After due investigation, the Office of the Court Administrator recommended that both respondents be fined.

A circumspect scrutiny of the record showed that respondent sheriff committed serious misconduct in the discharge of his office. Respondent sheriff had, as an officer of the court, the duty to compute the amount due from the judgment debtor. He is neither allowed, as in this case, to put undue reliance on computations made by private individuals not duly deputized

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by the court, nor is he permitted to delegate such a duty to them. It is only that portion of a decision ordained or decreed in the dispositive portion which should be the subject of execution. No more, no less. Sheriffs should be reminded that writs of execution should always be served and enforce with prudence and caution, taking into consideration all relevant circumstances. In this case, respondent sheriff exhibited a deplorable lack of such prudence, caution and attention in forthwith levying on properties whose value is over three (3) times the amount of the claim, as computed based on the judgment of the lower court and as modified by the appellant tribunal.

For the respondent judge's part, a trial magistrate cannot be allowed to cover up for his lapses in the performance of his bounden duties by simply claiming that he needs to be "reminded" thereof by the parties-litigants. While it is conceded that no one called upon to try the facts or interpret the law in the administration of justice can be infallible and although a judge may not always be subjected to disciplinary action for every erroneous decision he renders, that relative immunity is not a license to be negligent or abusive and arbitrary in performing his adjudicatory prerogatives.

SYLLABUS

1. **REMEDIAL LAW; CIVIL PROCEDURE; EXECUTION OF JUDGMENT; ENFORCEMENT.**— In enforcing or implementing the orders, processes and writs of the court, Section 9 (b) of Rule 39 of the 1997 Rules of Civil Procedure pertinently provides that: SEC. 9 *Execution of judgments for money, how enforced.* — x x x (b) *Satisfaction by levy.* — If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, *sufficient to satisfy the judgment.* If the judgment obligor does not exercise the option, the officer shall first

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levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment. *The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon. When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.*

2. ADMINISTRATIVE LAW; SHERIFFS; FAILURE TO IMPLEMENT EXECUTION OF JUDGMENT IN ACCORDANCE WITH THE LAW IS A MISCONDUCT; CASE AT BAR. — A circumspect scrutiny of the record leaves us convinced that respondent sheriff committed serious misconduct in the discharge of his office. It must first be borne in mind that respondent sheriff has, as an officer of the court, the duty to compute the amount due from the judgment debtor. Second, respondent sheriff ought to know that the computation of the amount due is stated in the writ of execution and, "[c]onsidering the ministerial nature of his duty in enforcing writs of execution, what is incumbent upon [a sheriff] is to ensure that *only that portion of a decision ordained or decreed in the dispositive portion should be the subject of execution.* No more no less." Thus, respondent's insistence on levying on all twenty (20) lots instead of only a tiny fraction thereof which was more than sufficient to satisfy the money judgment, on the basis of the computation made by the winning party, points to no other conclusion than that the operation was contrived to unduly favor the latter. Furthermore, respondent, and all sheriffs for that matter, should be reminded that writs of execution should always be served and enforced with prudence and caution taking into consideration all relevant circumstances. It need not be overemphasized that respondent sheriff exhibited a deplorable lack of such prudence, caution and attention in forthwith levying on properties whose value is over three (3) times the amount of the claim, as computed based on the judgment of the lower court and as modified by the appellate tribunal. A sheriff who fails to limit the properties to be levied to the amount called for in the writ is guilty of misconduct. Along the same vein, a deputy sheriff who made a levy far and

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in excess of the value of the judgment commits a misconduct in office.

3. **ID.; JUDGES; DUTIES; TO OBSERVE PROPRIETY, DISCREETNESS AND DUE CARE IN THE PERFORMANCE OF HIS JUDICIAL FUNCTIONS AND AT ALL TIMES MAINTAIN PROFESSIONAL COMPETENCE.** — A trial magistrate cannot be allowed to cover up for his lapses in the performance of his bounden duties by simply claiming that he needs to be "reminded" thereof by the parties-litigants. While it is conceded that no one called upon to try the facts or interpret the law in the administration of justice can be infallible, and although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be *negligent* or abusive and arbitrary in performing his adjudicatory prerogatives. Indeed, such immunity does not relieve a judge of his obligation to observe propriety, discreetness and *due care* in the performance of his judicial functions. Respondent judge ought to know that "[a]s member of the Bench, he should be the embodiment of competence, integrity and independence. Rule 3.01 of Canon 3 calls for a judge to be faithful to the law and to maintain professional competence. Rule 3.05 admonishes all judges to dispose of the court's business promptly and to decide cases within the periods fixed by law. Rule 3.09 requires a judge to organize and supervise the court personnel to insure the prompt and efficient dispatch of business and requires that at all times the observance of high standards of public service and fidelity.

APPEARANCES OF COUNSEL

Danilo L. Patron for complainant.

R E S O L U T I O N

YNARES-SANTIAGO, *J.*:

Forwarded to the Court by the Preliminary Investigation Bureau of the Office of the Ombudsman, pursuant to its Memorandum

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dated June 23, 1995[1] are the records of Ombudsman Case No. OMB-1-94-2700 entitled *"V.C. Ponce Co., Inc. v. A. Cajigas, et al."* This administrative complaint was filed on August 31, 1994[2] by V.C. Ponce Company, Inc. and Vicente C. Ponce, founder, president and owner of complainant company, against Judge Henedino P. Eduarte, Presiding Judge, RTC, Branch 20, Cauayan, Isabela, for gross neglect of duty. The complaint alleges that respondent judge refused to correct an obviously erroneous computation of the money judgment in Civil Case No. Br. 20-1546, entitled *"Victor G. Valencia v. V.C. Ponce Co., Inc."* Likewise impleaded as party-respondent is Sheriff Anuedo G. Cajigas of RTC, Branch 19, Bacoor, Cavite, for incompetence and/or misconduct in implementing an allegedly excessive levy based on the erroneous computation of money judgment in the civil case.

In a Resolution dated 15 November 1995,[3] the Court required respondents to file their respective comments on the administrative complaint.

After respondents filed their respective comments,[4] the Court issued a Resolution dated November 10, 1997,[5] dispensing with the filing of a consolidated reply and referring the case to the Office of the Court Administrator (OCA) for evaluation, report and recommendation.

The OCA subsequently submitted a Memorandum on March 3, 1998 making the following factual summation:

I

[A] In a case entitled *"Victor Valencia vs. V.C. Ponce Co., Inc."* filed with the RTC, Branch 20, Cauayan, Isabela, respondent Judge

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

[2] *Ibid.*, pp. 7-11.

[3] *Id.*, p. 287.

[4] *Id.*, pp. 288-89, 321-331.

[5] *Id.*, p. 353.

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decided on May 20, 1987 in favor of plaintiff therein and ordered herein complainant to pay the said plaintiff the following:

1. ₱65,000.00 in unpaid allowances plus legal interest starting April 1978;

2. ₱103,740.00 in unpaid rentals plus legal interest starting April 1978;

3. ₱16,000.00 as costs for demobilization of plaintiff's equipment;

4. ₱20,000.00 as moral damages;

5. ₱100,000.00 as exemplary damages;

6. ₱50,000.00 as nominal damages;

7. ₱10,000.00 as costs of litigation;

8. ₱109,748.00 as attorney's fees; and

9. ₱321,150.00 as costs of equipment unreturned;

the total of which amounted to ₱975,638.00 without legal interest still being applied.

[B] This decision was affirmed by the Court of Appeals on February 25, 1995 in all other aspects except with respect to the following modification:

In resume, the award of moral damages is hereby reduced to ₱30,000.00, exemplary damages to ₱30,000.00, attorney's fees and expenses of litigation to ₱40,000.00 while the award of nominal damages is eliminated.

Or a total of ₱605,890.00 without legal interest still being applied;

[C] When respondent Sheriff was trying to enforce the writ of execution issued in favor of therein plaintiff, he was insisting that the judgment debt was ₱1,815,360.78, using "an obviously erroneous computation prepared by Valencia." This was greater than the amount granted by the trial court, which was affirmed by the Court of Appeals by ₱1,209,470.78;

[D] Complainants, therefore, filed with Respondent Judge a very urgent manifestation with motion to correct the computation of the judgment debt;

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[E] Plaintiff therein, Valencia, opposed said motion and claimed that the judgment debt should in fact have been ₱2,947,978,20;

[F] Respondent judge refused to correct the error of respondent Sheriff in an order he issued February 8, 1994;

[G] Complainants filed a Motion for Reconsideration of said order but respondent Judge "decided to sit on" said motion. He even granted Valencia's motion for issuance of *alias* writ of execution despite the pendency of said motion for reconsideration.

[H] On April 14, 1994, respondent Sheriff levied on complainant's properties in Parañaque with a fair market value of ₱23,268,000.00;

[I] On April 22, 1994, complainants were notified that the public auction sale of the levied properties were to be held on May 19, 1994 at 10:00 a.m. in front of the Municipal Hall of Parañaque;

[J] Complainants were able to secure a Temporary Restraining Order from the Court of Appeals enjoining the public auction sale;

[K] On June 16, 1994, the Court of Appeals granted the writ of preliminary injunction

> Upon sufficient showing that the respondent judge has neglected a clear legal duty of correcting the obviously erroneous computation of the money judgment in the case below, subject of the writ of execution, and consequently, the respondent sheriff acted without authority of law and made an excessive levy.

II

Respondent Sheriff, on his part, in his comment stated that:

> [1] In a decision promulgated November 15, 1994 by the Court of Appeals in CA-G.R. SP No. 33925, entitled *"V.C. Ponce Co., Inc. vs. Hon. Henedino P. Eduarte, Judge, RTC, Branch 20, Cauayan, Isabela and Anuedo G. Cajigas, Deputy Sheriff, RTC, Bacoor, Cavite"* said court ruled to annul the Writ of Execution dated January 18, 1994; and
>
> [2] Since said decision "annuls the writ of execution that was carried out x x x therefore, the ruling has the effect of declaring that as if no execution took place. On this point,

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respondent believes that he has done nothing irregular or anomalous."

III

Respondent Judge, on his part, in his Comment stated that:

[1] He rendered a decision on May 20, 1987 in a case entitled "*Victor Valencia vs. V.C. Ponce Co., Inc.*" in favor of Valencia;

[2] Ponce appealed but the Court of Appeals in its decision promulgated February 25, 1992 affirmed the decision with modification on the amount of damages;

[3] He issued an order for the execution of the decision as modified by the Court of Appeals;

[4] Unknown to him, Valencia must have prepared his own computation of the interest of the damages awarded by the Court of Appeals increasing the amount to be paid by Ponce. This is because his court received a motion from Ponce praying that the computation of the interest made by Valencia be corrected;

[5] He denied said motion in his order dated February 8, 1994 as follows:

> The Court denies the very urgent manifestation and motion to correct and prayer to stay enforcement of the writ of execution for the reason that what the Court is enforcing in the writ of execution is the dispositive portion of the decision of this Court as modified by the Court of Appeals. It has nothing to do with the computation made by the plaintiff.

[6] On March 7, 1994, his court received Ponce's motion for reconsideration of this order. He did not resolved it, however, because it was never brought to his attention. He came to know of said motion only on October 21, 1994 when he received the complaint of Ponce which had been filed with the Ombudsman. He resolved said motion on October 28, 1994;

[7] He had this matter investigated. It turned out that Mrs. Imelda Severino, the Criminal Docket Clerk, received on March 7, 1994 the motion for reconsideration because Mrs. Valenta Ramirez, the Civil Docket Clerk, was on leave as her (Mrs. Ramirez) mother was serously ill (her mother did in fact die later during the same month);

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[8] Mrs. Severino placed said motion for reconsideration on top of the table of Mrs. Ramirez as the case record was locked inside the steel cabinet. Mr. Roque Clemente, the Process Server, who he had designated as OIC-Civil Docket Clerk, had not yet arrived in the court when said motion for reconsideration had been placed on top of Mrs. Ramirez's table;

[9] When Mr. Clemente arrived, he decided to place the motion for reconsideration inside another folder so it would not get lost, considering that Atty. Madriaga, their Branch Clerk of Court, who held the key to the filing cabinet had not yet arrived. His intention was to place it in the proper case record folder as soon as the steel cabinet could be opened;

[10] Mr. Clemente left to serve summons at 10:00 A.M. with the motion still inserted inside another case folder as Atty. Madriaga had not yet arrived at that time;

[11] When Mr. Clemente reported for work the next morning, he discovered that the top of the table of Mrs. Ramirez was clean. He assumed that whoever put the records inside the steel filing cabinet placed said motion in the Valencia case record folder;

[12] Even though Mr. Clemente brought out the Valencia case record folder for the hearing on March 11, 1994, he did not check whether or not said motion for reconsideration was attached onto said case record folder;

[13] He took his one month vacation in April 1994, returning for work in May 1994;

[14] In May, 1994, he received a copy of complainant's petition for *certiorari* filed with the Court of Appeals. He, however, did not read the same due to pressure for (*sic*) work as he is Acting Presiding Judge in the RTC, Branch 25, Echague, Isabela. Besides, it is the private respondent who should answer said petition as he is merely a nominal party;

[15] He received on October 21, 1994 the complaint complainant filed with the Ombudsman. Upon reading the same as he had to submit his counter-affidavit, he discovered for the first time the motion for reconsideration complainant filed in the Valencia case but which was inadvertently misplaced;

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[16] He immediately resolved the motion for reconsideration and sent the Court of Appeals a copy of his resolution; and

[17] On November 5, 1994, the Court of Appeals decided said petition for *certiorari*. Part of the dispositive portion of its decision reads as follows:

> The court commands the respondent court to issue a writ of execution in accordance with the dispositive portion of the decision, as modified by the Court of Appeals, and to spell out in the writ itself to be issued by the court under the signature of the presiding judge the full amount of the money judgment in favor of the plaintiff in Civil Case No. Br. 20-1546 of said court, in accordance with the formula indicated in the text of this decision.

Judge Eduarte states that, from hindsight, this trouble could have been avoided had complainant filed a motion for early resolution of said motion for reconsideration — instead of immediately filing a petition for *certiorari* with the Court of Appeals and filing a complaint with the Ombudsman.

He states that the filing of a motion for early resolution is a practice resorted to by some parties. With said motion for early resolution, he could have discovered much earlier that complainant's motion for reconsideration had been misplaced. He could likewise have resolved it much earlier. All this trouble could have been avoided.

On the basis of the foregoing findings, the OCA recommended that: 1.] respondent Judge be fined ₱5,000.00 for dereliction of duty in Civil Case No. Br. 20-1546 entitled "*Victor Valencia v. V.C. Ponce Co., Inc.*" and 2.] Sheriff Anuedo G. Cajigas, RTC, Branch 19, Bacoor, Cavite now with the Office of the Clerk of Court, RTC, Bacoor, Cavite, be fined ₱5,000.00 for gross misconduct in the implementation of a writ of execution in said civil case reasoning thus:

IV

The writ of execution issued by the Clerk of Court, RTC, Branch 20, Cauayan, Isabela is very clear as to what amounts are to be satisfied from the personal and real properties of complainant. x x x

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V

Respondent Sheriff, if he had any common sense at all, would have taken pencil & paper and jotted down the amounts to be satified as follows:

Unpaid allowance ----------	₱ 65,000.00
Unpaid rentals ----------	₱ 103,740.00
Costs-demobilization of equipment ----------	₱ 16,000.00
Costs-equipment ----------	₱ 321,150.00
Moral damages ----------	₱ 30,000.00
Exemplary damages ----------	₱ 30,000.00
Attorney's fees & expenses of litigation ----------	₱ 40,000.00
	₱ 605,890.00

Of course, legal interest has to be applied to the unpaid allowance and unpaid rentals. If he had any doubt as to what rate to use, 12% or 6%, he should have written [the] RTC, Branch 20, Cauayan, Isabela and asked for clarification.

In any case, when he saw plaintiff therein Valencia's estimate of ₱1,815,360.78, he should have exercised prudence and clarified with the court that issued the writ whether the same is in accord with the judgment of the court, as modified by the Court of Appeals, considering that his initial estimates would have shown a minimum amount of ₱605,890.00 only.

While it is true that a sheriff must enforce a writ of execution given to him as the same is a ministerial duty on his part, when what the prevailing party is asking him to enforce is thrice (3x) the amount as computed based on the judgment of the lower court, as modified, it is likewise true that a sheriff must use his discretion in implementing said writ as the court has already nullified such writs where the amount levied is disparately much greater than what was specified in the judgment.

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Either respondent Sheriff Cajigas lacks common sense or he was motivated by plaintiff therein Valencia to act above and beyond the call of duty.

A fine in the amount of ₱5,000.00 will deter respondent Sheriff Cajigas from acting similarly in the future and will, likewise, serve as a warning to other sheriffs who might be like-minded.

VI

Now when complainant brought this matter to the attention of respondent Judge by way of an urgent motion to correct the sheriff, respondent Judge resolved said motion as follows:

> The Court denies the very urgent manifestation and motion to correct and prayer to stay enforcement of the writ of execution for the reason that what the Court is enforcing in the writ of execution is the dispositive portion of the decision of this Court as modified by the Court of Appeals. It has nothing to do with the computation made by the plaintiff. x x x
>
> The Court of Appeals saw it the other way as follows:
>
> Petitioner complained to the respondent lower court, but respondent judge ignored it, ruling that he had "nothing to do with the computation made by the plaintiff" (respondent Valencia).
>
> We find that respondent judge acted with grave abuse of discretion and dereliction of duty mandated by his office.
>
> It is respondent judge's duty to correct an obviously erronous computation of the money judgment being enforced by its specially designated sheriff. The court retains jurisdiction over the execution of its decision.[6] And the court has the inherent power to control the acts of its deputy sheriff performing a ministerial function, especially as in this case the court appointed respondent deputy sheriff Anuedo G. Cajigas a "special sheriff."

This Office recommends that respondent Judge Henedino P. Eduarte, RTC, Branch 20, Cauayan, Isabela be fined in an amount of ₱5,000.00 for such derelection of duty which caused complainant extra suffering and extra besmirched reputation.

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[6] *Agricultural and Industrial Marketing, Inc. vs. CA,* 118 SCRA 49 [1982]; *Mindanao Portland Cement v. Laquihan*, 120 SCRA 930 [1983].

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Had he immediately corrected respondent Sheriff Cajigas, respondent Sheriff Cajigas would not have levied on twenty (20) lots covering more or less 5,187 square meters with a unit valuation of ₱600.00 per square meter thereby exposing complainant to the ire of lot buyers who immediately filed third party claims over the same.

Sheriff Cajigas would have levied on around 711.26 square meters to cover the judgment debt of ₱426,756.00, including the interest on the unpaid allowances and unpaid rentals as per respondent judge's computation when he resolved the misplaced motion for reconsideration of complainant. Had such an area been levied, not many irate buyers would have been affected by the levy.

We agree.

Sheriffs and deptuy sheriffs, as officers of the Court and, therefore, agents of the law, must discharge their duties with due care and utmost diligence because in serving the court's writs and processes and in implementing the orders of the court, they can not afford to err without affecting the efficiency of the enforcement process of the administration of justice.[7] With due acknowledgment of the vital role they play in the administration of justice, sheriffs should realize that they are frontline officials of whom much is expected by the public. Charged with the execution of decisions in cases involving the interest of litigants, they have the duty to uphold the majesty of the law as embodied in those decisions.[8] As we have stressed:

At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensably in close contract with the litigants; hence, their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily

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[7] *Bornasal, Jr. v. Montes*, 280 SCRA 181 [1997], citing *NBI v. Rodolfo G. Tuliao, Sheriff IV, RTC, Cauayan, Isabela, Br. 20*, 270 SCRA 351 [1997] and *Vda. de Abellera v. Nemesio N. Dalisay, Deputy Sheriff, RTC, Branch 9, Balayan, Batangas*, 268 SCRA 64 [1997].

[8] *Orlando Lapena v. Jovito Pamarang, Sheriff IV, Regional Trial Court, Office of the Clerk of Court, Urdaneta, Pangasinan*, A.M. No. P-00-1362, 15 February 2000, p. 6.

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mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice.[9]

In enforcing or implementing the orders, processes and writs of the court, Section 9 (b) of Rule 39 of the 1997 Rules of Civil Procedure pertinently provides that:

SEC. 9 *Execution of judgments for money, how enforced.* —

x x x x x x x x x

(b) *Satisfaction by levy.* — If the judgment obligor cannot pay all or part of the obligation in cash, certified bank check or other mode of payment acceptable to the judgment obligee, the officer shall levy upon the properties of the judgment obligor of every kind and nature whatsoever which may be disposed of for value and not otherwise exempt from execution giving the latter the option to immediately choose which property or part thereof may be levied upon, *sufficient to satisfy the judgment.* If the judgment obligor does not exercise the option, the officer shall first levy on the personal properties, if any, and then on the real properties if the personal properties are insufficient to answer for the judgment.

The sheriff shall sell only a sufficient portion of the personal or real property of the judgment obligor which has been levied upon.

When there is more property of the judgment obligor than is sufficient to satisfy the judgment and lawful fees, ***he must sell only so much of the personal or real property as is sufficient to satisfy the judgment and lawful fees.***

A circumspect scrutiny of the record leaves us convinced that respondent sheriff committed serious misconduct in the discharge of his office. It must first be borne in mind that

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[9] *Judge Abraham D. Cana v. Roberto B. Gebusion, Sheriff IV, RTC, Branch 58, San Carlos City, Negros Occidental*, A.M. No. P-98-1284, 30 March 2000, p. 14, citing *Jerez v. Paninsuro*, 304 SCRA 180 [1999], citing *Punalan-Santos v. Arquiza,* 244 SCRA 527 [1995].

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respondent sheriff has, as an officer of the court, the duty to compute the amount due from the judgment debtor.[10] He is neither allowed, as in this case, to put undue reliance on computations made by private individuals not duly deputized by the court, nor is he permitted to delegate such a duty to them.[11]

Second, respondent sheriff ought to know that the computation of the amount due is stated in the writ of execution and, "[c]onsidering the ministerial nature of his duty in enforcing writs of execution, what is incumbent upon [a sheriff] is to ensure that *only that portion of a decision ordained or decreed in the dispositive portion should be the subject of execution.* No more no less."[12] However, it needs to be pointed out that a sheriff's ministerial duty to enforce the court's writs and orders is not without any limitation. In the performance of his duty, he is deemed to know what is inherently right and inherently wrong.[13] Thus, respondent's insistence on levying on all twenty (20) lots instead of only a tiny fraction thereof which was more than sufficient to satisfy the money judgment, on the basis of the computation made by the winning party, points to no other conclusion than that the operation was contrived to unduly favor the latter.

Furthermore, respondent, and all sheriffs for that matter, should be reminded that writs of execution should always be served and enforced with prudence and caution taking into consideration all relevant circumstances,[14] bearing in mind the injunction in *Penalosa v. Viscaya*[15] that:

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[10] *Bagano v. Paninsoro,* 246 SCRA 146 [1995].

[11] *Ibid.*, p. 149.

[12] *Cunanan v. Cruz,* 167 SCRA 674 [1989]; *Cruz v. Dalisay,* 152 SCRA 482 [1987].

[13] *Tay Chun Suy v. CA,* 229 SCRA 151 [1994].

[14] *Balais v. Abuda,* 146 SCRA 56 [1986].

[15] 84 SCRA 298 [1978].

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Public officers, as recipients of a public trust, are under obligation to perform the duties of their offices honestly, faithfully and to the best of their ability. As trustees for the public, they should demonstrate courtesy and civility in their official actuations with the public. Every public officer is bound to use reasonable skill and diligence in the performance of his official duties, particularly where rights of individuals may be jeopardized by his neglect. In sum, ***he is bound*** *virtute offici,* ***to bring to the discharge of his duties that prudence, caution and attention which careful men usually exercise in the management of their own affairs.***

It need not be overemphasized that respondent sheriff exhibited a deplorable lack of such prudence, caution and attention in forthwith levying on properties whose value is over three (3) times the amount of the claim, as computed based on the judgment of the lower court and as modified by the appellate tribunal. In this regard, the Court pointedly said in *Portes v. Tepace*:[16] "It cannot be stressed strongly enough that although sheriffs may be steeped in 'head knowledge' regarding their ministerial duties in accordance with law, they should concomitantly be imbued with the dedication and commitment better associated with 'heart wisdom.' The ideal sheriff, or any professional employee for that matter, should felicitously combine both qualities in himself."

Third, respondent sheriff acted precipitately and with inordinate haste in forthwith levying on all of complainant's twenty (20) lots which had an aggregate area of 5,187 square meters and a fair market value of ₱23,268,000.00. As pointed out by the OCA, respondent sheriff should have levied on around 711.26 square meters of complainant's real properties to cover the judgment debt of ₱426,756.00, including the interest on the unpaid rentals as per respondent judge's computation, when he resolved the misplaced motion for reconsideration. Any person with an ordinary sense of values on real property — and it is hard to believe that respondent sheriff was entirely devoid of experience or knowledge to more or less have ideas in this respect — could have known that the twenty (20) lots were

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[16] 267 SCRA 185 [1997].

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valued much more than ₱426,756.00 including interest on upaid allowances and rentals. Indeed, respondent must have known that he was taking more than what was needed, yet he proceeded with the levy.

The discrepancy between the amount of the judgment debt due and the value of the properties levied upon is much too glaring to pass off as either a mental lapse or a mere mathematical error in computation. Even on the basis of conventional wisdom or common sense alone, it is clear that properties levied upon were worth infinitely more than the claim sought to be satisified. For all respondent sheriff's protestations that he did nothing irregular or anomalous, his acts, in fact, place under serious inquiry his motives in levying upon the entire twenty (20) parcels of land instead of merely a small portion thereof to satisfy the judgment.

At the risk of sounding trite, it bears stressing that the sheriff is a court officer primarily responsible for the speedy and efficient service of all court processes and writs originating from his court and the branches thereof and those that may be delegated to him from other courts. As such officer whose duties form an integral part of the administration of justice, a sheriff and his deputies may be properly dismissed,[17] fined,[18] or suspended[19] from office by this Tribunal, in the exercise of its administrative supervision over the judicial branch of the government, for actions committed in violation of the Rules of Court which impedes and detracts from a fair and just administration of justice.[20]

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[17] See *Wilfredo F. Araza v. Sheriffs Marlon M. Garcia and Nicolas Tonga*, A.M. No. P-00-1363, 8 February 2000, p. 9.

[18] See *OCA v. Sheriff IV, Julius Cabe, RTC, Branch 28, Catbalogan, Samar*, A.M. No. P-96-1185, 26 June 2000, p. 12.

[19] See *Johnny Gomez, et al. v. Rodolfo A. Concepcion*, A.M. No. P-98-1283, 9 May 2000, p. 5; *Sebastian v. Valino*, 224 SCRA 256 [1993].

[20] *Re: Danilo Cunanan*, 238 SCRA 421 [1994], citing *Hipolito v. Mergas*, 195 SCRA 6 [1991].

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A sheriff who fails to limit the properties to be levied to the amount called for in the writ is guilty of misconduct.[21] Along the same vein, a deputy sheriff who made a levy far and in excess of the value of the judgment commits a misconduct in office.[22] The magnitude of the discrepancy in the enforcement of the levy and the value of the judgment viewed *vis-à-vis* the prevailing facts in this case classifies respondent sheriff's misconduct as serious. Thus, while the Court agrees that respondent should be sanctioned, the recommended penalty is too lenient. The administrative charge against respondent was proven and has more than sufficient basis for disciplinary action which, given the attendant facts, merits a six-month suspension without pay and a fine of Ten Thousand (₱10,000.00) Pesos with a stern warning that a repetition of the same or similar acts would be dealth with more severely.

For this part, respondent judge insists in so many words that he is not to blame for his belated resolution of complainant's motion for reconsideration. He claims in his comment that —

> 6. I did not resolve the Motion for Reconsideration of the order dated February 8, 1994, for the reason that *it was not brought to my attention. The motion for reconsideration was misplaced by the personnel of the Court.* The undersigned came to know of the motion reconsideration only on *October 21, 1994* when he received the complaint of defendant Ponce which he filed with the Ombudsman. Thereafter, on *October 28, 1994,* the undersigned resolved the motion for reconsideration per its (*sic*) order dated October 28, 1994.[23] x x x
>
> x x x x x x x x x
>
> 13. I admit that there was delay in the resolution of the motion for reconsideration, but *the delay was due to the fact that the motion for reconsideration was not brought to my attention.* x x x Had I known of the existence of the motion for reconsideration, I could

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[21] *Policarpio v. Fajardo*, 78 SCRA 210 [1977].

[22] *Salazar, Jr. Construction, Inc. v. Espinelli*, 110 SCRA 32 [1981]; see also *Salazar-Sioco v. Villaflor*, 81 SCRA 229 [1978].

[23] *Rollo*, p. 324.

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have also resolved it like the two other motions of Valencia and Ponce.

Looking back at the incidents, *I would like to state here that all these troubles could have been avoided by a simple motion to resolve or a sort of a reminder by the complainant* Ponce as some litigants are wont to do that it has a pending motion for reconsideration not yet resolved by the court, instead of going immediately to the Court of Appeals on *certiorari*, prohibition and *mandamus* and then to the Ombudsman. *With a motion to resolve or a simple reminder that the motion for reconsideration had not yet been resolved, the undersigned,* as early as the later part of March 1994, or May 1994, when he returned to work after his April vacation, *could have discovered the misplaced motion for reconsideration and resolved the same.*[24] x x x

A trial magistrate cannot be allowed to cover up for his lapses in the performance of his bounden duties by simply claiming that he needs to be "reminded" thereof by the parties litigants. Canon 3, Rules 3.01, 3.04 and 3.05 of the Code of Judicial Conduct state in no uncertain terms that —

CANON 3 - A JUDGE SHOULD PERFORM OFFICIAL DUTIES HONESTLY, AND WITH IMPARTIALITY AND *DILIGENCE.*

Rule 3.01 - A judge shall be faithful to the law and *maintain professional competence.*

x x x x x x x x x

Rule 3.04 - A judge should be patient, attentive and courteous to lawyers especially the inexperienced, to litigants, witnesses and others appearing before the court. *A judge should avoid unconsciously falling into the attitude of mind that litigants are made for the courts, instead of the courts for the litigants.*

Rule 3.05 - *A judge shall dispose of the court's business promptly* and decide cases within the required period. (Italics supplied.)

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[24] *Ibid.*, pp. 330-331.

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While it is conceded that no one called upon to try the facts or interpret the law in the administration of justice can be infallible,[25] and although a judge may not always be subjected to disciplinary action for every erroneous order or decision he renders, that relative immunity is not a license to be *negligent* or abusive and arbitrary in performing his adjudicatory prerogatives.[26] Indeed, such immunity does not relieve a judge of his obligation to observe propriety, discreetness and *due care* in the performance of his judicial functions.[27]

Neither can respondent judge seek refuge behind the acts or omissions of his staff members because —

> A judge x x x is expected to keep his own record of cases so that he may act on them promptly without undue delay. *It is incumbent upon him to devise an efficient recording and filing system in his court so that no disorderliness can affect the flow of cases and their speedy disposition. x x x Proper and efficient court management is as much his responsibility.* He is the one directly responsible for the proper discharge of his functions.[28]

The Court was even more terse in *Pantaleon v. Judge Teofilo L. Guadiz, Jr.*[29] where it said:

> Respondent cannot hide behind the incompetence of his subordinates. He should be the master of his own domain and take responsibility for the mistakes of his subjects.

Succinctly stated, respondent judge ought to know that "[a]s a member of the Bench, he should be the embodiment of

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[25] *Pilipinas Bank v. Tirona-Liwayway*, 190 SCRA 834 [1990].

[26] *De Vera v. Dames III*, A.M. No. RTJ-99-1455, 13 July 1999, 310 SCRA 213.

[27] *Enojas v. Judge Eustaquio Z. Gacott, Jr.*, A.M. No. RTJ-99-1513, 19 January 2000, p. 12, citing *Riego v. Leachon*, 268 SCRA 777 [1997].

[28] *Bernando v. Fabros*, 307 SCRA 28 [1999], citing *OCA v. Villanueva*, 279 SCRA 267 [1997]; *Agcaoili v. Ramos*, 229 SCRA 705 [1994]; See also *OCA v. RTC Judge Amelita D.R. Benedicto*, 296 SCRA 62 [1998] and *Mamamayan ng Zapote I, Bacoor, Cavite v. Balderian*, 265 SCRA 360 [1996]; *Celino v. Abrogar*, 245 SCRA 304 [1995]; italics supplied.

[29] A.M. No. RTJ-00-1425, 25 January 2000, p. 5.

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competence, integrity and independence.[30] Rule 3.01 of Canon 3 calls for a judge to be faithful to the law and to maintain professional competence. Rule 3.05 admonishes all judges to dispose of the court's business promptly and to decide cases within the periods fixed by law. Rule 3.09 requires a judge to organize and supervise the court personnel to insure the prompt and efficient dispatch of business and requires that at all times the observance of high standards of public service and fidelity.[31] Suffice it to state that respondent judge fell short of these ideals.

A careful evaluation of the facts of the case, the pleadings of the parties and the evidence adduced, convinces the Court that respondent judge is guilty of dereliction of duty for his delay in resolving complainant's motion for reconsideration of the obviously erroneous computation of the money judgment in Civil Case No. Br. 20-1546.

WHEREFORE, respondent Judge Henedino P. Eduarte is hereby found GUILTY of DERELICTION OF DUTY and FINED in the amount of Five Thousand (₱5,000.00) Pesos. He is further ADMONISHED to be more circumspect in the performance of his judicial functions. Respondent Sheriff Anuedo G. Cajigas is hereby found GUILTY of SERIOUS MISCONDUCT and is *SUSPENDED* for Six (6) Months without pay and FINED in the amount of Ten Thousand (₱10,000.00) Pesos. Both respondents are likewise STERNLY WARNED that the commission of similar acts in the future shall be dealt with more severely by this Court.

SO ORDERED.

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

Puno, J., no part due to past relation with a party.

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[30] Re: Report on the Judicial Audit of Cases in the RTC, Br. 35, Iriga City, 299 SCRA 382 [1998], citing *OCA v. Judge Walerico Butalid*, 293 SCRA 589 [1998]; *Sanchez vs. Vestil*, 298 SCRA 1 [1998], citing *Ng v. Judge Leticia Ulibari*, 293 SCRA 342 [1998] and *OCA v. Judge Walerico Butalid, supra.*

[31] *Antonio Yu-Asensi v. Judge Francisco D. Villanueva, MTC, Branch 36, Quezon City*, A.M. No. MTJ-00-1245, p. 15.