



PHILJA E-Alerts

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Sheriffs: Conduct prejudicial to the best interest of the service.

The Revised Rules of Court only amended the amounts of fees that may be collected for extrajudicial foreclosures of real estate and chattel mortgages conducted under the direction of the sheriff, but the guidelines under Circular No. 7-2002 still apply. Under the said guidelines, it is clear that only the Clerk of Court is authorized to collect payment for such fees.

In *Judge Tan v. Paredes*, the Court pronounced that a sheriff, in implementing a writ of execution, “cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps, otherwise, it would amount to dishonesty or extortion.” Said pronouncement is just as relevant in this case where respondent sheriff, in billing and collecting from the Rural Bank of Polomolok service fees and incidental expenses for the conduct of extrajudicial foreclosure of property, not only failed to follow the proper procedural steps, but acted without authority. Even if done completely in good faith, it cannot be helped that respondent's actuations would be in the eyes of the public tainted with suspicions of dishonesty or extortion.

Respondent's conduct herein falls short of the exacting standards for his position, constitutive of conduct prejudicial to the best interest of the service. The word “prejudicial” means “detrimental or derogatory to a party; naturally, probably or actually bringing about a wrong result.” Respondent's conduct placed not only his office, but the entire Judiciary, in a bad light. He departed himself in a manner not deserving of the public's respect – prejudicial to the best interest of the service.

For conduct prejudicial to the best interest of the service, respondent was suspended without pay for two (2) months and sternly warned that a repetition of the same or similar act will be dealt with more severely. **(A.M. No. P-11-2992 [Formerly A.M. No. 11-8-156-RTC], November 9, 2015)**

Clerks: Grave Misconduct.

Section 2, Canon I of the Code of Conduct for Court Personnel provides that “[c]ourt personnel shall not solicit or accept any gift, favor or benefit based on any explicit or implicit understanding that such gift, favor or benefit shall influence their official actions,” while Section 2(e), Canon III states that “[c]ourt personnel shall not x x x solicit or accept any gift, loan, gratuity, discount, favor, hospitality or service under circumstances from which it could reasonably be inferred that a major purpose of the donor is to influence the court personnel in performing official duties.”

The evidence on record, as found by the OCA, shows that respondent clearly violated these provisions when she accepted money for processing the bail bond of the private complainants' father. The OCA based its observation from the following facts, to wit: (1) the receipt submitted by the private complainants duly signed by respondent stating the latter's receipt of P20,500.00 on October 25, 2012; and (2) respondent's failure to return the said amount to the private complainants despite her failure to obtain the promised bail bond for the private complainants' father.

In *Villahermosa, Sr. v. Sarcia*, this Court held that “[t]he sole act of receiving money from litigants, whatever the reason may be, is antithesis to being a court employee.” In the present case, respondent clearly violated the above norms of conduct as the allegations against her stood completely uncontroverted.

Clearly, respondent's act of collecting or receiving money from litigant constituted grave misconduct in office and merits a grave penalty.

Finding respondent guilty of grave misconduct, respondent was ordered dismissed from the service with forfeiture of all benefits, except accrued leave credits, and disqualified from employment in any branch or instrumentality of the government, including government-owned or controlled corporations. (**A.M. No. P-15-3391, November 16, 2015**)