

AURORA B. GO, COMPLAINANT, VS. MARGARITO A. COSTELO, JR., SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 11, CALUBIAN, LEYTE, RESPONDENT.*A.M. NO. P-08-2450 (FORMERLY OCA IPI NO. 00-27-CA-P). June 10, 2009*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/243cc011d8ba/>**PER CURIAM:**

Before this Court is the affidavit-complaint[1] dated June 19, 2003 filed by complainant Aurora B. Go with the Office of the Court Administrator (OCA), charging respondent Margarito A. Costelo, Jr., Sheriff IV of the Regional Trial Court (RTC), Branch 11, Calubian, Leyte, with grave misconduct, falsification and abuse of authority.

In her complaint, Go alleged that she executed a Deed of Absolute Sale in favor of her sister Anita Conde over a parcel of land covered by Tax Declaration No. ARP 09004-00109. On November 8, 2001, while the complainant was in Taiwan, she received a call from Conde, who informed her that respondent Sheriff was going to subject said parcel of land to an auction sale on that same day, pursuant to a Writ of Execution[2] dated July 18, 2001 issued against complainant by the Municipal Trial Court in Cities (MTCC) of Cebu City in an ejectment case.[3] Complainant advised Conde to avail herself of legal remedies such as filing a third-party claim to prevent the auction, but despite proof of ownership shown by Conde to respondent, the latter proceeded with the sale.

Complainant further alleged that respondent Sheriff: (1) took advantage of her absence from the Philippines and surreptitiously and hastily proceeded with the auctioning of the real property; (2) persisted in conducting the auction sale with patent partiality in favor of Doris Sunbanon, the prevailing party in the ejectment case; (3) made it appear that a person residing in the subject property received the notice of auction by falsifying the signature of the alleged person in the purportedly received copy of the notice, but such person was unknown to complainant and Conde; (4) failed to make proper posting of the notice of auction; (5) did not acknowledge the documents evidencing the transfer of ownership of property from complainant to Conde, and said that the Deed of Absolute Sale was "gawa-gawa" [simulated]; and (6) falsified the entries in the Certificate of Sale by stating that it was executed and notarized on November 8, 2001 by a certain Atty. Roberto dela Peña when in truth a certified photocopy of the notarial book of Atty. Dela Peña shows that no such document was notarized on said date or immediately thereafter.

Also, complainant stated that it was doubtful whether respondent actually conducted an auction sale on November 8, 2001, considering that a strong typhoon hit Calubian from November 6 to 8, 2001, as a result of which offices were closed. She further averred that, on the day of the auction sale, Conde went to the Sheriff's Office, where she was told by respondent that there would be no auction sale that day. Conde was advised to bring the Deed of Sale and third-party claim to respondent's house, so that he could make a report to the MTCC, Branch 2, Cebu City that Conde was the new owner of the property. When Conde brought the required documents to respondent's house, she learned that respondent still failed to report to the court her claim over the property. This prompted Conde to file a Third-Party Claim[4] on November 15, 2001 before the MTCC, Branch 2, Cebu City. However, when Conde went to respondent's office to deliver a photocopy of her third-party claim, respondent showed her

the Certificate of Sale[5] in the name of Doris Sunbanon, who was the highest bidder in the auction sale held on November 8, 2001.

On the other hand, respondent filed his Comment[6] dated September 9, 2003, wherein he denied that he committed irregularities in auctioning the subject property, for a Levy on Execution had been made based on the certified true copy of the tax declaration issued by the Municipal Assessor of Calubian, Leyte and the same was duly annotated by the Register of Deeds for the Province of Leyte. He claimed that, before November 12, 2001, he had no knowledge that the property sold at public auction was owned by a certain Anita Conde, and that the sole basis of the Levy on Execution and the Sheriff's auction sale was the mere fact that the declared owner of the property was complainant Go, the losing party in the ejectment case. It was only when Conde filed her third-party claim that respondent came to know that there was a third-party claimant over the property in question.

Respondent also denied having described the Deed of Absolute Sale as "gawa-gawa." He averred that before he conducted the auction sale, he sent a copy of the Notice of Sale on Execution of Real Property to the complainant by registered mail, but it was returned with a notation "party moved out" and marked "RTS" by the Calubian Post Office. He, likewise, claimed that the auction sale had not been cancelled or postponed due to inclement weather, and that he had the Certificate of Sale duly notarized on November 8, 2001.

Respondent pointed out that the complainant executed the Deed of Absolute Sale in favor of Conde on January 24, 2001, barely two months after the Court of Appeals promulgated its decision in the ejectment case dated November 16, 2000 against complainant, which showed that the complainant transferred her property to prevent the court from levying the same.

On June 29, 2004, the OCA recommended that the complaint be referred to Judge Alejandro Diongzon of the RTC of Calubian, Leyte on the ground that the issues raised by the complainant could not be resolved on the basis of the submitted pleadings and documents alone, and that a full-blown investigation was necessary,[7] a recommendation that the Court adopted in its Resolution[8] dated October 20, 2004. However, on January 19, 2005, complainant filed with the OCA an Urgent Motion for Inhibition[9] of Judge Diongzon claiming that the latter would be partial in handling the case, because said judge was the approving officer of the Certificate of Sale. In a Resolution[10] dated April 20, 2005, the Court recalled its Resolution dated October 20, 2004 and, instead, directed Judge Crisostomo Garrido of the RTC of Carigara, Leyte to conduct an investigation and submit a report and recommendation thereon within sixty (60) days from receipt of the Resolution.

On May 17, 2006, respondent filed before the Court a Motion[11] praying that the investigation of the case be returned to the RTC, Branch 11, Calubian, Leyte on the ground that Judge Diongzon had already retired. His motion was denied in a Memorandum[12] of the OCA dated September 18, 2006.

In his Report and Recommendation[13] dated February 20, 2007, Judge Garrido found respondent to have acted without authority in conducting a public auction sale of the subject property on execution, stating that:

Nowhere could be gleaned from the said order that Respondent Sheriff, Costelo, Jr. was authorized to conduct public auction sale of the property on execution. Neither was there any evidence presented that the Sheriff of MTCC, Branch 2, Cebu City has delegated such authority to Sheriff Costelo, Jr., to conduct a public auction sale of the property on execution. The Respondent Sheriff could have exercised prudence and restraint in the performance of his duty. Instead of conducting [a] public auction sale of the property on execution, he could have filed his return of the property levied, to the MTCC, Branch 2, Cebu City for its sheriff to conduct the public auction sale, pursuant to the provision of the 2[nd] paragraph of Sec. [6] Rule 39, 1997 Rules of Civil Procedure. Blinded by the expectation of sheriff's fees, the respondent sheriff had forgotten his bounden duties and responsibilities as employee of the judiciary that public office is a public trust.

The Certificate of Sale, Minutes of Auction Sale dated November 8, 2001, are fictitious, fabricated and spurious documents, mere concoction of facts to give a semblance of legality to the illegal acts of Sheriff Costelo, Jr. This evaluation finds support from the Certification issued by the Cebu PAGASA and the Philippine Coast Guard, Cebu Station, Cebu City, viz:

CERTIFICATION - Cebu PAGASA

On November 6, 7 & 8, 2001, Storm Signal No. 2, with heavy rains of gusty winds of 54 to 65 kilometers per hour were raised over the entire provinces of Cebu, Samar, Leyte, Dinagat Island, Bohol, Masbate and Panay Island, with rough to very rough seas, with wave height of 3 to 5 meters.[14]

CERTIFICATION - Philippine Coast Guard

On these three days that the typhoon battered these islands in the Visayas, no vessels of 2000 gross tonnage and less were given clearance to leave Cebu for Leyte, Samar and other Visayan islands.[15]

Evidence admissible when original document is a public record. When the original of a document is in the custody of a public officer or is recorded in a public office, its contents may be proved by a certified copy issued by the public officer in custody thereof. (emphasis theirs)

Obviously, it was impossible for the judgment creditor Doris Sunbanon to be present in Leyte on November 6, 7 & 8, 2001, moreso, in Calubian, Leyte attending a public auction sale on November 8, 2001 at the Office of the Regional Trial Court, Branch 11, Calubian, Leyte, when all water and air transportation facilities in Cebu were not given any clearance to leave for Leyte and the other Visayan islands. Experience had taught us that when PAGASA raises typhoon signal No. 2 over the provinces affected, school classes and offices, both public and private, are automatically suspended.

Judgment Creditor Doris U. Sunbanon was not presented in Court during the hearing of this case, to corroborate the allegation of Respondent Sheriff that she was present during the auction sale of the real property on execution on November 8, 2001 in Calubian, Leyte, nor in the days prior thereto. There was no evidence presented that indeed, Doris U. Sunbanon was in Leyte on the aforesaid dates. Not even hotel bills, receipts of her stay in Leyte or marine vessel or airplane tickets were presented for her return trip to Cebu City from Leyte, after the November 8, 2001 alleged auction sale, indicia of her absence in the public auction sale of the real property on execution on November 8, 2001.

Neither any of the Court personnel of RTC Branch 11, Calubian, Leyte, who were allegedly present and had signed the logbook on November 8, 2001 was presented in Court, to corroborate the testimony of Sheriff Costelo, Jr., that indeed, they were holding office on November 8, 2001, despite typhoon signal no. 2 in the provinces of Samar and Leyte, indicative that the logbook allegedly signed by [the] Court employees is spurious and of doubtful authenticity, unavailing and undeserving credit for it can be easily accomplished to serve one's ulterior motive.

The validity, genuineness, authenticity and due execution of the Certificate of Sale issued by Respondent Sheriff Costelo, Jr., dated November 8, 2001, was put in issue when Notary Public Roberto Dela Peña of Calubian, Leyte, who allegedly notarized the Certificate of Sale on November 8, 2001 was put to the witness stand. Roberto Dela Peña denied that he notarized the alluded Certificate of Sale and that his signature appearing on the acknowledgment portion of the said document is fake, a product of falsification and forgery. The entries denominated as Document 161, Page 37, Book 3, Series of 2000, appearing on the Certificate of Sale were forged, falsified and fictitious entries.

Document No. 161, Page No. 37, Book 3, Series of 2000 as entered in the Notarial Register of Notary Public Roberto Dela Peña refers to a document denominated as Cancellation and Discharge of Mortgage, executed by

and between Spouses Fileo and Angeles Arias, and Baruel Rimandaman, Leonila B. Pepito and Alfredo Lagora, and not the Certificate of Sale issued by the respondent sheriff.

Court's observation and examination of the said entries on page 37 of the Notarial Register of Roberto Dela Peña, appears to be genuine and authentic, without any erasure or alteration, written in freehand writing and in chronological order of events, written in the middle portion of page 37 of the notarial registry, indicative that the document entered thereto is the true act of the notary public in recording his transaction for the day, pursuant to his oath of office.

There is credence to the testimony of Roberto Dela Peña that the Certificate of Sale issued by the respondent sheriff, was fictitious, falsified and a product of forgery. Moreover, Roberto Dela Peña, being 70 years old and in the twilight of his life, testified clearly and in a straightforward manner, relative to the entries on page 37 of his Notarial Register. Other infirmities in the other pages in his Notarial Register could only be attributed to old age.

Sheriff Margarito Costelo, Jr. having acted without [any] authority to conduct a public auction sale of the real property on execution, the public auction sale is illegal, invalid and void ab initio. Under the rules, supra, the public auction sale of the real property on execution shall only be conducted at the office of the Clerk of Court, MTCC, Branch 2, Cebu City, the Court which issued the Writ of Execution.

Judiciary officers must, at all times, be accountable to the people. They serve with utmost degree of integrity, responsibility, loyalty and efficiency in their duties. In the case at bar, respondent sheriff, Margarito Costelo, Jr. has [been] remiss of his duties and must account to the people who repose their trust on him. Such grave misconduct committed by the respondent sheriff, deserves the highest degree of sanctions. The respondent sheriff is a disgrace to the Judiciary.

WHEREFORE, premises considered, it is most respectfully recommended:

- That the public auction sale of real property on execution be declared Null and Void;
- That respondent MARGARITO COSTELO, JR., be dismissed from the service for Grave Misconduct, Dishonesty and unfit of a judicial officer (sic), with forfeiture of all benefits, except leave credits, if any, with prejudice for re-employment in the government or any agency and instrumentality thereof, including government-owned and controlled corporations.

RESPECTFULLY RECOMMENDED.[16]

On March 22, 2007, respondent filed with the RTC of Carigara, Leyte, a Motion for Reconsideration[17] of the Report and Recommendation of Judge Garrido; and on June 1, 2007, an Omnibus Supplemental Motion for Reconsideration/Motion to Re-Open the Case and to Inhibit the Investigating Judge.[18] He claimed that the penalty of dismissal from service was too harsh, considering the circumstances of the case, and submitted the following to support his motion: (1) affidavit[19] of Roberto dela Peña recanting his earlier affidavit and testimony that his signature in the Certificate of Sale was falsified; (2) Daily Time Records[20] of the court employees of the RTC, Branch 11, Calubian, Leyte, showing perfect attendance and no late days for the month of November 2001, except for Utility Worker Elpidio Gudmalin, who filed a leave of absence from November 13 to 15, 2001; (3) photocopy of the Order[21] dated November 8, 2001 of the Investigating Judge during the hearing in Sp. Proc. No. 714, to prove that the Investigating Judge himself conducted a hearing on November 8, 2001; and (4) PNP Leyte Crime Laboratory Report dated June 7, 2007, stating that the signature of Roberto dela Peña appearing on the duplicate copy of the Sheriff's Certificate of Sale and his signature duly submitted belonged to one and the same person.

In a Resolution dated August 6, 2007, the Court referred Judge Garrido's Report and Recommendation dated February 20, 2007 to the OCA for evaluation, report and recommendation within 30 days from notice. On March 12, 2008, the OCA submitted a Memorandum stating that:

We find no reason to disturb the findings of Judge Crisostomo Garrido. During the course of the investigation, the Investigating Judge saw the demeanor of the witnesses and he personally knows the conditions prevailing in the area during the time that there was allegedly a typhoon. Respondent had the opportunity to present transcripts of court hearing, if any, on November 8, 2001. The belated submission of the joint affidavit of his co-employees after learning that he would be dismissed from the service can be taken as a mere act of saving respondent from the recommended penalty of dismissal.

We are inclined to believe that the Daily Time Records submitted [for] the month of November 2001 did not reflect the true attendance of court employees. It would seem improbable that in a coastal town like Calubian, all the employees would register a perfect attendance with no late despite hoisting of Storm Signal No. 2 in the province for 3 days. As convincingly observed by the Investigating Judge, not one among the court personnel who were allegedly present on November 8, 2001 testified during the investigation "indicative that the logbook signed by the court employees is spurious and of doubtful authenticity x x x."

As to the affidavit of Notary Public Roberto Dela Peña recanting his earlier testimony, the same hardly deserves credence. The Court has invariably regarded affidavits of recantation as highly unreliable. As held in *People vs. Rojo* (114 SCRA 304), an affidavit of retraction which indicates it [to] be a mere afterthought has no probative value.

As to the PN[P] Crime Laboratory Report yielding a same signature result, it must be noted that Roberto Dela Peña gave a specimen of his signature only on 31 May 2007, after he has executed his affidavit recanting his earlier testimony.

The rest of the alleged newly discovered evidence are obtainable at the time the investigation was conducted. For an evidence to be considered "newly discovered," it could not have been discovered prior to the trial by the exercise of due diligence.

In view of the foregoing, it is respectfully recommended that the instant case be redocketed as a regular administrative case and that, as submitted by the Investigating Judge, respondent Sheriff Margarito A. Costelo, Jr. be **DISMISSED FROM THE SERVICE** effective immediately with forfeiture of all benefits except his accrued leave credits with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

The Court agrees with the recommendation of the OCA affirming the findings of Judge Garrido.

In his Report, the Investigating Judge confirmed that respondent effected a valid service of the Notice of Sale on the judgment debtor, herein

complainant, in accordance with Section 6,[22] Rule 13 of the Rules of Civil Procedure. The Notice of Sale on Execution of Real Property was likewise duly published for three (3) consecutive weeks by the *Sunday Punch*, a newspaper of regional circulation in Leyte and Samar, from October 15 to 21, 22 to 28 and October 29 to November 4, 2001, as evidenced by the Affidavit of Publication[23] executed by its publisher, Danilo Silvestre.

However, respondent had no authority to conduct the public auction sale of the property in question. Neither was there any evidence to show that the Sheriff of the MTCC, Branch 2, Cebu City, delegated such authority to respondent. The Order dated September 25, 2001 of Presiding Judge Anatolio S. Necesario of the MTCC, Branch 2, Cebu City, clearly provided that the power and authority given to respondent was only to levy on the property, as quoted:

ORDER

Acting on the Amended Motion filed by plaintiff-movant for being well-taken and meritorious, the same is hereby granted.

The deficiency judgment in the amount of P143,294.39 is supported by the sheriff's return of the Writ of Execution already attached to the expediente of the case.

WHEREFORE, the Deputy Sheriff of this Court (Court) or the Deputy Sheriff of the Regional Trial Court of Calubian, Leyte is hereby authorized to levy on the property of the defendants situated in Calubian, Leyte for the full satisfaction of the deficiency judgment up to the extent of the sum of P143,294.39 exclusive of costs.

SO ORDERED.[24]

Even assuming that respondent was given the authority to hold an auction sale, the complainant was able to establish during the investigation that the former did not actually conduct a public auction sale of the property on execution, in violation of paragraphs (c) and (d) of Section 15, Rule 39 of the Rules of Civil Procedure, quoted as follows:

Sec. 15. Notice of Sale of Property on Execution. - Before the sale of property on execution, notice thereof must be given as follows:

x x x x

(c) In case of real property, by posting for twenty (20) days in the three (3) public places abovementioned, a similar notice particularly describing the property and stating where the property is to be sold, and if the assessed value of the property exceeds fifty thousand (P50,000.00) pesos, by publishing a copy of the notice once a week for two (2) consecutive weeks in one newspaper selected by raffle, whether in English, Filipino, or any major regional language published, edited and circulated or, in the absence thereof, having general circulation in the province or city;

(d) In all cases, written notice of the sale shall be given to the judgment obligor, at least three (3) days before the sale, except as provided in paragraph (a) hereof where notice shall be given at any time before the sale, in the same manner as personal service of pleadings and other papers as provided by section 6 of Rule 13.

The notice shall specify the place, date and exact time of the sale which should not be earlier than nine o'clock in the morning and not later than two o'clock in the afternoon. The place of the sale may be agreed upon by the parties. In the absence of such agreement, the sale of real property or personal property not capable of manual delivery shall be held in the office of the clerk of court of the Regional Trial Court or the Municipal Trial Court which issued the writ or which was designated by the appellate court. In the case of personal property capable of manual delivery, the sale shall be held in the place where the property is located.[25]

The fact that a public auction sale could not have possibly taken place on November 8, 2001 is corroborated by the Certifications of Cebu PAGASA and the Philippine Coast Guard that there was a typhoon on the date of sale. Moreover, no evidence was presented in court to prove that Sunbanon was at the auction sale. Neither did any of the court personnel of the RTC, Branch 11, Calubian, Leyte, testify that they held office during the storm on November 8, 2001.

Respondent's belated submission of evidence, which was done only after the investigation had been completed, does not merit probative value, as the same was a mere afterthought. It has been consistently held that an affidavit of recantation is unreliable and deserves scant consideration, since the asserted motives for the repudiation are commonly held suspect, and the veracity of the statements made in the affidavit of repudiation are frequently and deservedly subject to serious doubt.[26] Moreover, the OCA observed that the Daily Time Record appeared to be

altered or falsified, as it was shown that there was no work on November 8, 2001 due to the inclement weather, but respondent was indicated as purportedly present.

In *Malabanan v. Metrillo*,^[27] the Court defined misconduct as a transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, unlawful behavior; willful in character, improper or wrong behavior, while "gross" has been defined as "out of all measure beyond allowance; flagrant; shameful; such conduct as is not to be excused." As a sheriff and officer charged with the dispensation of justice, respondent's conduct and behavior must be circumscribed with the heavy burden of responsibility.^[28] In the present case, by the very nature of their functions, sheriffs, like respondent, are called upon to discharge their duties with care and utmost diligence and, above all, to be above suspicion. Instead of following what the MTCC directed in its Order, respondent conducted a public auction sale when in fact he had no authority to do so and even falsified a Certificate of Sale. Having been in the service for 17 years, respondent should have taken the rules by heart, for it is expected that someone as considerably experienced as he is would know the proper procedure for disposing of property at a public auction sale.

Notably, while the Investigating Judge concluded that the Certificate of Sale and Minutes of Auction Sale were fictitious, fabricated and spurious documents, he found respondent liable for gross misconduct and dishonesty without mentioning his findings as to respondent's acts of falsification and abuse of public authority. In the Court's assessment of the records, however, it finds that respondent was likewise liable for falsification of an official document when he falsified the Certificate of Sale and Minutes of Public Auction Sale, and abuse of public authority when he disposed of the property by auction sale instead of levying the same, as he was directed to do in the Order of the MTCC judge.

Respondent's acts are clearly in violation of Canon IV of the Code of Conduct for Court Personnel,^[29] the pertinent provisions of which state:

Sec. 1. Court personnel shall at all times perform official duties properly and with diligence, and to commit themselves exclusively to the business and responsibilities of their office during working hours.

Sec. 3. Court personnel shall not alter, falsify, destroy or mutilate any record within their control. This provision does not prohibit amendment, correction or expungement of records or documents pursuant to a court order.

Sec. 6. Court personnel shall expeditiously enforce rules and implement orders of the court within the limits of their authority.

The Uniform Rules on Administrative Cases in the Civil Service^[30] likewise provides that grave misconduct is punishable by dismissal from the service under Section 52-A(3), Rule IV thereof, while falsification of official document is also punishable by dismissal from the service under Section 52-A(6) thereof.

In *Padua v. Paz*,^[31] the Court found respondent sheriff liable for grave misconduct and falsification of public document and, accordingly, dismissed him from the service when the latter committed perjury and gave false testimony. In the present case, respondent's act of conducting a public auction sale, which amounted to grave misconduct, and his falsification of the Certificate of Sale and the Minutes of Auction Sale are in flagrant disregard of the law and deserve the supreme penalty of dismissal.

The Court has consistently held that sheriffs play a significant role in the administration of justice, for they are primarily responsible for the execution of a final judgment, which is "the fruit and end of the suit, and is the life of the law." Thus, sheriffs are expected to show a high degree of professionalism in performing their duties. As officers of the court, they are expected to uphold the norm of public accountability and to avoid any kind of

behavior that would diminish or even just tend to diminish the faith of the people in the Judiciary.[32] Herein respondent failed to abide by these postulates.

Let this case serve as a warning to all court personnel that the Court, in the exercise of its administrative supervision over all courts and their personnel, will not hesitate to enforce the full extent of the law in disciplining and purging from the Judiciary all those who are not befitting the integrity and dignity of the institution, even if such enforcement would lead to the maximum penalty of dismissal from the service despite their length of service.

WHEREFORE, respondent Sheriff Margarito A. Costelo, Jr. is found GUILTY of grave misconduct, grave abuse of authority, and falsification of official document; and is DISMISSED from the service with forfeiture of all benefits and privileges, except accrued leave credits, if any, and with prejudice to re-employment in any branch or agency of the government, including government-owned or controlled corporations.

This Decision shall take effect immediately.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, and Brion, JJ., concur.
Carpio Morales, J., on official leave.

[1] Rollo, Vol. I, pp. 8-13.

[2] Id. at 187-189.

[3] Docketed as Civil Case No. R-36953, entitled "Doris Sunbanon v. Aurora Go."

[4] Rollo, Vol. I, p. 15.

[5] Id. at 16.

[6] Id. at 26-28.

[7] Id. at 46-49.

[8] Id. at 50.

[9] Id. at 71-83.

[10] Id. at 80.

[11] Id. at 156-158.

[12] Rollo, Vol. II, pp. 31-32.

[13] Rollo, Vol. I, pp. 228-241.

[14] Id. at 43-44.

[15] Id. at 46.

[16] Id. at 238-241.

[17] Id. at 242-245.

[18] Rollo (Vol. II), pp. 35-46.

[19] Id. at 58.

[20] Id. at 48-52.

[21] Id. at 55.

[22] Sec. 6. Personal service. - Service of the papers may be made by delivering personally a copy of the party or his counsel, or by leaving it in his office with his clerk or with a person having charge thereof, if no person is found in his office, or his office is not known, or he has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion then residing therein.

[23] Rollo, Vol. I, p. 35

[24] Id. at 237-238.

[25] Emphasis supplied.

[26] *Firaza v. People of the Philippines*, G.R. No. 154721, March 22, 2007, 518 SCRA 681, 692-693.

[27] A.M. No. P-04-1875, February 6, 2008, 544 SCRA 1, 7.

[28] *Vilar v. Angel*, A.M. P-06-2276, February 5, 2007, 514 SCRA 147, 153, citing *Civil Service Commission v. Cortez*, 430 SCRA 593 (2004).

[29] A.M. No. 03-06-13-SC effective June 1, 2004.

[30] Promulgated by the Civil Service Commission through Resolution No. 99-1936 dated August 31, 1999 and implemented by Memorandum Circular No. 19, series of 1999.

[31] A.M. No. P-00-1445, April 30, 2003, 402 SCRA 21.

[32] *Flores v. Marquez*, A.M. P-06-2277, December 6, 2006, 510 SCRA 35, 44.

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