

FILOMENA MENESES, COMPLAINANT, VS. ALBERTA S. ZARAGOZA, SHERIFF III, METC, BRANCH 45 PASAY CITY, RESPONDENT.

A.M. No. P-04-1768 (Formerly A.M. OCA No. 02-1305-P). February 11, 2004

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PER CURIAM:

This is a complaint filed by Filomena Meneses against Albert S. Zaragoza, Sheriff III of the Metropolitan Trial Court, Branch 45, Pasay City, charging him with dereliction of duty and incompetence relative to Civil Case No. 963-98, entitled “Filomena Meneses vs. Romeo Sugang.”

Complainant alleged that respondent failed to comply with the trial court’s writ of execution and demolition order, despite the fact that he demanded from her the amount of P30,000 purportedly to defray demolition expenses.

In his comment dated March 13, 2002, respondent denied having received the amount of P30,000 and averred the following defenses:

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5. That I take this opportunity to point out this early the high improbability of even the assertions of the alleged witness of Mrs. Meneses who stated under oath “na noong Setyembre 20, 2001 bandang ika-sampu ng umaga nanduon ako sa dulo ng bahay ni Filomena Meneses. At may dumating na sheriff na ang pangalan ay Albert Zarago[z]a. Siya ay humingi kay Filomena Meneses ng pangastos sa pagpapaalis kay Romeo Sugang ng halagang P30,000.00. At nakita ko rin na ibinigay ni Filomena Meneses ang makapal na pera na tig-limang daang piso. Binilang muna ni Albert Zarago[z]a ang pera bago inilagay sa waller niya.” This is a bare faced lie because of the impossibility of putting in a wallet such big amount which is certainly bulky;

6. As to the statement of Mrs. Meneses and her witness that I received the money from her on September 20, 2001, the same is likewise incredible as it is inconsistent with the records of the case as how could I ask money from her then in order to demolish the house of Romeo Sugang when the Order of the Court directing the demolition was only issued on November 26, 2001. The said Order was issued on November 26, 2001 and I immediately served the notice of demolition. Unfortunately, the house was always closed at the time. On the said day, Mrs. Meneses went to out Office and told me that somebody was in the house of Mr. Sugang. As my blood pressure on that day was unstable, I asked our Process Server to serve the Notice but unfortunately, when our Process Server served the same, nobody was inside the subject house. I was not able to immediately enforce the Writ because my doctor advised me to lie low on my activities because my blood pressure then was unstable for which reason I was always not available.[1]

On the recommendation of the Court Administrator, this Court referred the case to the Executive Judge of the Metropolitan Trial Court of Pasay City for investigation, report and recommendation.[2]

In his investigation report dated November 20, 2002, Executive Judge Pedro B. Corales disclosed that:

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Complainant, FILOMENA MENESES, (MENESES, for brevity), is the plaintiff in Civil Case No. 963-98,

entitled “FILOMENA MENESES v. ROMEO SUCGANG,” for EJECTMENT that was raffled to Metropolitan Trial Court, Branch 45, Pasay City presided by HON. JUDGE ZENAIDA G. LAGUILLES; whereas, respondent ALBERT S. ZARAGO[Z]A, (ZARAGO[Z]A, for brevity), is assigned as SHERIFF III of said court.

On 29 March 1999, JUDGE LAGUILLES decided in favor of MENESES. The dispositive portion of the decision reads as follows:

“WHEREFORE, judgment is hereby rendered in favor of the plaintiff and against the defendant ordering the latter and all persons claiming rights under him to:

1. Vacate the aforementioned property described as Lot 24, Block 15 located at 1821 Tramo Street, Pasay City;
2. Pay fair rental on the subject lot pegged at the rate of P1,500.00 a month from September 15, 1990 until the property shall have been actually vacated;
3. Pay attorney’s fees in the amount of P10,000.00; and
4. Pay the cost of the suit.”

SUCGANG, the defendant in the ejectment case, appealed the adverse decision to the RTC. The RTC affirmed en toto the decision of the MeTC. SUCGANG, not satisfied with the decision of the RTC, went to the Court of Appeals and finally to the Supreme Court. However, the appellate courts dismissed his petitions.

In the meantime, during the pendency of the appeal, SUCGANG posted a supersedeas bond for ONE HUNDRED SEVENTY EIGHT THOUSAND (P178,000.00) PESOS.

On 13 April 2000, JUDGE LAGUILLES, granted the motion of MENESES for the issuance of a writ of execution to release the supersedeas bond posted by the defendant in favor of the plaintiff in the total amount of ONE HUNDRED SEVENTY EIGHT THOUSAND (P178,000.00) PESOS (Annex “A,” complainant’s memorandum).

This Order was not executed because SUCGANG appealed to the Court of Appeals where the records of the case were elevated.

On 02 July 2001, JUDGE LAGUILLES reiterated the Order dated 13 April 2000, (Annex “B,” complainant’s memorandum).

On 16 July 2001, MENESES, through her counsel, filed an “Ex-Parte Motion To Appoint A Special Sheriff” (Annex “D,” complainant’s memorandum), alleging among others that:

“That the sheriff assigned to this Honorable Court appears to have his hands full with other writs of execution previously issued, and most of the time he is not available, as he also follows up cases outside Metro Manila. As a consequence, he cannot probably follow up the issuance of the Writ of Execution in the above-entitled case and the subsequent service of the said writ with the bonding company.”

On 24 July 2001, ZARAGO[Z]A sent a notice to the insurance company to pay the amount of ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS (Annex “C,” complainant’s memorandum).

On 11 September 2001, MENESES received ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS from SUCGANG, the supersedeas bond (Exhibit “C”).

On 27 September 2001, ZARAGO[Z]A submitted his “partial report” (Annex “E,” complainant’s memorandum) which reads as follows:

“WHEREAS, on September 20, 2001, the undersigned Sheriff served the copy of Writ of Execution and Notice to vacate giving the defendant to vacate the premises subject of this case within five days to voluntarily

vacate the premises.

After the lapse of five days the undersigned Sheriff went to the address of the defendant and was found out that the said defendant was not able and still refused to vacate the premises.”

On 15 November 2001, JUDGE LAGUILLES, granted the motion of MENESES for writ of demolition (Annex “G,” complainant’s memorandum). Accordingly, on 26 November 2001, the Court issued the writ of demolition.

On 03 February 2002, MENESES, not assisted by her counsel, filed her “EX-PARTE MOTION TO APPOINT SPECIAL SHERIFF” (Exhibit “B”), alleging among others that:

“Plaintiff, to this Honorable Court, most respectfully moves for the appointment of special sheriff, in lieu of sheriff Albert Zarago[z]a, because of the following reasons:

That Sheriff Albert Zarago[z]a promised to demolize (sic) the dwelling structure of Romeo Sugang on December 04, 2001, but he failed to do so, in spite of the fact that he has already received the demolition expenses that he asked for in the amount of P30,000.00.

That Sheriff Albert Zarago[z]a again asked for a second chance to carry out the demolition on January 7, 2002, but as usual he failed to do so. Like the first promised date, he never went to the site of the demolition together with his helper and the policemen to maintain peace and order during the demolition job, as he promised.

That my co-owner of the lot where the Sugang structure is located already needs the place. So please help me by appointing a special sheriff to do the job of demolition.”

On the same day, JUDGE LAGUILLES, in a marginal note, denied the said motion “in view of the fact that the Branch Sheriff has already reported for work and that he promised to proceed with the demolition within one (1) week from today.”

However, on 11 February 2002, MENESES signed a handwritten document (Exhibit “1”), wherein she allowed SUCGANG to stay in the premises until 11 March 2002.

Notably, MENESES filed the motion for appointment of special sheriff and the handwritten document after she had filed her letter-complaint against Zarago[z]a with the Office of the Court Administrator on 15 January 2002.

THE VERSION AND EVIDENCE OF THE COMPLAINANT

THE TESTIMONY OF MENESES

On 20 September 2001, at around 10:00 in the morning, Zarago[z]a passed by her house on his way to serve a copy of the “notice to vacate” upon SUCGANG and demanded THIRTY THOUSAND (P30,000.00) PESOS from her. Allegedly, he would use the money in paying the policemen and other persons during demolition.

In the presence of MARIETTA VICTORIA, one of her lessees, she initially gave TWENTY THOUSAND (P20,000.00) PESOS to the respondent, but the latter asked for additional TEN THOUSAND (P10,000.00) PESOS. Respondent put the money in his clutch bag. She has plenty of cash at that time because she had just received the supersedeas bond from SUCGANG and she has saving from her other business.

The respondent repeatedly promised to her that he would demolish the house of SUCGANG, but he failed to do so because he was always out of the office on the pretext that he was following up other cases in the field or he was sick. It was only on 04 December 2001 when the “notice of demolition” was finally served on SUCGANG, not personally by respondent, but by MANOLO MANUEL GARCIA, the process server in MeTC, Branch 45.

Respondent served the “notice to the insurance” only on 24 July 2001, after she filed her motion to appoint special sheriff on 17 July 2001.

She has an agreement with respondent that on 11 September 2001 he would be in his office to receive for her ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS from SUCGANG, but again he was absent. Hence, upon the suggestion of the branch clerk of court of MeTC, Branch 45, SUCGANG paid directly to her.

The supersedeas bond is for ONE HUNDRED SEVENTY EIGHT THOUSAND (P178,000.00) PESOS, but respondent collected only ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS from SUCGANG and did not bother to collect anymore the balance of EIGHTEEN THOUSAND (P18,000.00) PESOS.

She agreed to extend the demolition of the house of SUCGANG because Zarago[z]a suddenly appeared in her house and she could not do anything since the case already passed through the barangay.

On 13 March 2002, the demolition was completed, not by respondent, but by SUCGANG. In the process, other portions of the house were also destroyed.

THE TESTIMONY OF MARIETTA VICTORIA

On 20 September 2001, at about 10:00 in the morning, she was in the house of MENESES and she saw her counting money. When she was through, MENESES gave the money to Zarago[z]a, which the latter put in his wallet. She heard that the money would be used for “pagpapaalis kay Romeo Sugcang” and that respondent would serve the “notice of demolition.”

Her affidavit was marked as (Exhibit “D,” for complainant and Exhibit “2,” for the respondent).

THE VERSION AND EVIDENCE OF THE RESPONDENT

THE TESTIMONY OF Zarago[z]a

He denied that he demanded THIRTY THOUSAND (P30,000.00) pesos from the complainant on 20 September 2001 and alleged that it was impossible for him to ask for demolition expenses because there was no demolition order yet at that time.

He pointed out to the inconsistency between the testimonies of MENESES and MARIETTA VICTORIA because the former said that respondent put the money in his clutch bag, while the latter said he placed it in his wallet.

He argued that if he was really interested in demanding money from MENESES, he could have simply directed SUCGANG’s lawyer to turnover the ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS directly to him and then deduct the THIRTY THOUSAND (P30,000.00) PESOS. However, he did not do it and instead he instructed SUCGANG to pay directly to complainant.

He explained that he was busy with the other cases and that in the last quarter of 2001, his blood pressure was unstable. Accompanied by GARCIA, he tried to serve the notice of demolition upon SUCGANG around four (4) times, but unfortunately, the latter was always out of the house. Complainant went to his office sometime in December 2001 to tell him that SUCGANG was in his house, but he was not feeling well, so he requested GARCIA to serve the notice of demolition.

THE TESTIMONY OF MANOLO MANUEL GARCIA

On several occasions during the last quarter of the year 2001, Zarago[z]a requested to accompany him in serving writs and processes because he was suffering from hypertension. One of the writs they tried to serve was a notice of demolition but they failed because SUCGANG was always not around and his house was closed.

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Based on the foregoing, Judge Corales found respondent liable for neglect of duty and unlawful demand and collection of P30,000 from complainant on the pretext that it would be used for demolition expenses. Judge Corales recommended that respondent be suspended for six months without pay and ordered to return the amount of P30,000 to complainant.

We concur with the findings of the investigating judge that there is sufficient evidence that respondent committed the acts complained of. However, we disagree with his conclusion that respondent is liable for neglect of duty only. To our mind, respondent is guilty not only of neglect of duty for failing to make a periodic report on partially satisfied or unsatisfied writs but also of grave misconduct for unlawfully demanding and collecting P30,000 from complainant. Hence, we modify the penalty recommended in the light of the gravity of the offenses committed.

Against the strong evidence of the complainant, respondent could only offer denial. He declared that: (a) it was impossible for him to ask for demolition expenses because there was no demolition order yet at that time; (b) had he really wanted to demand money from complainant, he could have simply directed Sugang to turn over to him the amount of the supersedeas bond from which he could have deducted the P30,000; (c) the testimonies of Meneses and Victoria were incredible as they were inconsistent with each other and (d) he was not able to serve the writ immediately because his blood pressure was unstable.

GRAVE MISCONDUCT

When the issue is the credibility of witnesses, the function of evaluating it is primarily lodged in the investigating judge. The rule which concedes due respect, and even finality, to the assessment of credibility of witnesses by trial judges in civil and criminal cases where preponderance of evidence and proof beyond reasonable doubt, respectively, are required, applies a fortiori in administrative cases where the quantum of proof required is only substantial evidence.[3] The investigating judge is in a better position to pass judgment on the credibility of witnesses, having personally heard them when they testified and observed their deportment and manner of testifying. The evaluation of the testimony of witnesses by the trial judge is accorded the highest respect on appeal because the court below had the opportunity to observe the witnesses on the stand and detect if they were telling the truth. This assessment is binding upon the appellate court in the absence of a clear showing that it was reached arbitrarily or that the trial court plainly overlooked certain facts of substance or value that, if considered, might affect the result of the case.[4] We find no reason to depart from this rule. We find Judge Corales' assessment to be a meticulous and dispassionate analysis of the testimonies of the complainant, the respondent and their respective witnesses.

While respondent denies the charge, his unsubstantiated disavowal cannot stand against the positive and detailed account of complainant and Marietta Victoria who was present when complainant handed the money to him. The pertinent testimony of complainant is hereunder reproduced:

COURT:

You said that you gave MANOLO GARCIA a bottle of wine, by the way, did you give MANOLO GARCIA or the respondent, ALBERT ZARAGOZA, a bottle of wine?

A I gave a bottle of wine to ALBERT ZARAGOZA, the respondent in this case, as my Christmas gift, sir.

Q Do you remember if you have given him another gift other than a bottle of wine, Madam Witness.

ATTY. FERRANCULLO:

Leading Your Honor.

COURT:

The witness may answer.

WITNESS:

Yes, Sir.

Q What was that, Madam Witness?

A It was the month of September 20, sir, when ALBERT ZARAGOZA, went to the house and he asked from me the amount of THIRTY THOUSAND PESOS (P30,000.00), which according to him will be used for the demolition of the house of ROMEO SUCGANG. He added that the amount involved is to be used to the payment of the policemen, in payment for the service of the people who will demolish, for meals and other expenses, sir.

Q When he asked for the amount of THIRTY THOUSAND PESOS (P30,000.00) what did you do next?

A

I gave him sixty pieces of five hundred pesos amounting to THIRTY THOUSAND PESOS (P30,000.00). By the way, at first I gave him TWENTY THOUSAND PESOS (P20,000.00), then, he asked for an additional of TEN THOUSAND PESOS (P10,000.00), sir.

ATTY. FERRANCULLO:

May I request the Honorable Court that the answer of the witness in vernacular be put on record, Your Honor. The last part, Your Honor.

WITNESS:

“Nagpadagdag po siya ng sampung libo, sir.”

COURT:

So all in all, the total amount was THIRTY THOUSAND PESOS (P30,000.00).

WITNESS:

Yes, Your Honor.

COURT:

Before you continue, Atty. Martinez, Did you give the amount of THIRTY THOUSAND (P30,000.00) on one occasion only?

WITNESS:

I gave the amount of THIRTY THOUSAND PESOS (P30,000.00) in one day only, Your Honor.

Q After giving him the amount of THIRTY THOUSAND PESOS (P30,000.00) what happened to the promise of the respondent, ALBERT ZARAGOZA, for the demolition?

ATTY. FERRANCULLO:

I will raise my objection, Your Honor. No basis. Misleading because of the word “promise.”

COURT:

Reform your question.

Q Now, you said that the sheriff asked you THIRTY THOUSAND PESOS (P30,000.00) as expenses for the demolition.

(follow-up question)

Do you still recall the date when Sheriff Albert enforced the demolition after you gave him THIRTY THOUSAND PESOS (P30,000.00).

A It was supposed to be implemented in September, sir.

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Q After giving the amount of THIRTY THOUSAND PESOS (P30,000.00) to ALBERT ZARAGOZA, was the execution executed or the writ executed?

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A No, Your Honor, It was not immediately executed and in fact, I waited for quite sometime.[5]

On cross-examination, complainant had this to say:

ATTY. FERRANCULLO

Madam witness, you said part of the THIRTY THOUSAND PESOS (P30,000.00) you allegedly gave to the respondent comes from the rental income, part of it comes from the sale of M-Gas and part of it comes from the Judgment Debt you received from Romeo Suggang, question, how much in this THIRTY THOUSAND PESOS (P30,000.00) comes from the rental income?

A The THIRTY THOUSAND PESOS was part of the ONE-HUNDRED SIXTY THOUSAND PESOS (P160,000.00) that I received from Mr. Romeo Suggang on the month of September 12, 2000.

Q So, madam witness, what you declared during the last hearing, which you confirmed a while ago, when I asked you that this THIRTY THOUSAND PESOS (P30,000.00) which you allegedly gave to the respondent on September 20, 2001, comes from the rental income, comes from the sale of M-Gas, comes from the money you received from Romeo Suggang in connection with the Ejectment case you won is not correct, because now, you're stating that THIRTY THOUSAND PESOS comes only from the money you received from Romeo Suggang on September 12 . . .?

A No, sir, because the THIRTY THOUSAND PESOS (P30,000.00) that I gave is a collation of my savings.

Q Madam witness, you stated that you gave the respondent THIRTY THOUSAND PESOS (P30,000.00) on September 20, 2001, the day you were asked the said amount, in what denomination is this P30,000.00, by hundreds, or by thousands...?

A By FIVE HUNDRED PESOS (P 500.00) in sixty (60) pieces, sir.

Q Where were you when you handed the amount of THIRTY THOUSAND PESOS (P30,000.00) to the respondent, in particular place, where were you?

A I was at home, sir.

Q Was Albert Zaragoza sitting at the time when you allegedly handed to him THIRTY THOUSAND PESOS (P30,000.00)

A Yes, sir.

Q And upon receipt by the respondent of this alleged amount, THIRTY THOUSAND PESOS (P30,000.00), what did he do with the amount?

A I put the money inside the clutch bag, sir.

Q By the way, this THIRTY THOUSAND PESOS (P30,000.00), in what container is it contain (sic), if it (sic) contain (sic) in some container?

A I counted the money first, before I gave it to Albert Zaragoza, sir.

Q Did you place it inside the envelope before giving it to the respondent?

A No, sir, I gave the money personally.

Q That THIRTY THOUSAND PESOS (P30,000.00) comes in (sic) your “aparador” which was inside your house?

A Yes, sir.

Q When you allegedly handed to the respondent, did you again count the same before the respondent?

A Yes, sir.

COURT:

Q Did you count it in the presence of respondent Zaragoza?

A Yes, sir.[6]

Victoria who made the following declaration under cross-examination substantially corroborated Meneses’ testimony:

ATTY. FERRANCULLO:

Q Madam witness, you were stating that when you went upstairs, you saw Mrs. Meneses counting money, how long did you stay upstairs when you went there to give Mrs. Meneses this P250.00?

A I stayed there for quite sometime because I waited her to finish her counting.

Q After she finish (sic) counting the money you turned over to her the P250.00?

A Yes, sir.[7]

Investigating Judge Corales, in respondent to all the allegations of respondent, reported:

The testimonies of MENESES and MARIETTA VICTORIA that ZARAGO[Z]A demanded and received THIRTY THOUSAND (P30,000.00) PESOS from complainant on 20 September 2001 are credible. The exhaustive cross-examination made by the counsel for respondent on these two witnesses did not destroy their credibility. MENESES explained very well that she had enough cash at that time because she received ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS from SUCGANG on 11 September 2001 and part of it came from her savings. The alleged inconsistency pointed out by respondent in the testimony of MARIETTA VICTORIA, i.e., whether ZARAGO[Z]A put the money in his wallet or clutch bag was

sufficiently explained by the witness.

It is true, as argued by ZARAGO[Z]A that on 20 September 2001, there is no writ of demolition yet to talk about. However, at that time there was already a “notice to vacate” that respondent was about to serve on SUCGANG. Complainant who is not well versed in law was made to believe by respondent that he needed money for demolition expenses.

The argument of respondent that if he was interested in demanding money from complainant, he could have directly deducted THIRTY THOUSAND (P30,000.00) pesos from the ONE HUNDRED SIXTY THOUSAND (P160,000.00) PESOS paid by SUCGANG, is flimsy. He could not have done it because he was not around when SCGANG came to his office to pay MENESES. Thus, upon advice of the branch clerk of court, SUCGANG paid directly to MENESES as shown by the receipt.

Judge Corales further found that:

In the course of the investigation of this case, this Office examined the logbook of attendance, in MeTC, Branch 45, Pasay City for the year 2001, particularly the last quarter of the year. This Office noted that there were days when respondent did not sign the logbook, either in the morning or in the afternoon. During those days that he did not sign the logbook, his name was written below the names of the other employees with the note – “implementing writ.” However, the logbook did not state where and what writs he were then implementing.

Further, JUDGE LAGUILLES in her letter dated 15 May 2002 to the Executive Judge, requested for the immediate designation or detail of a sheriff to her sala in view of the continued absence of ZARAGO[Z]A for almost one (1) month. While it is true that the absence of respondent as stated in the request of JUDGE LAGUILLES referred to another month, nonetheless it shows his attitude towards the Office.

In view of all the foregoing, there is no doubt that respondent’s questionable behavior constituted grave misconduct.

NEGLECT OF DUTY

Section 14, Rule 39 of the 1997 Rules of Civil Procedure provides:

Sec. 14. Return of Writ of Execution. – The writ of execution shall be returnable to the court issuing it immediately after the judgment has been satisfied in part or in full. If the judgment cannot be satisfied in full within thirty (30) days after his receipt of the writ, the officer shall report to the court and state the reason therefore. Such writ shall continue in effect during that period within which the judgment may be enforced by motion. The officer shall make a report to the court every thirty (30) days on the proceedings taken thereon until the judgment is satisfied in full, or its effectivity expires. The returns or periodic reports shall set forth the whole of the proceedings taken, and shall be filed with the court and copies thereof furnished the parties.

Accordingly, the sheriff is mandated to make periodic reports on partially satisfied or unsatisfied writs every 30 days, until the judgment is satisfied or its effectivity expires, so as to apprise the court and the litigants of the proceedings taken thereon.

In this case, respondent failed to make the required periodic reports. Although the alias writ of execution was issued on July 2, 2001, respondent belatedly submitted his “partial report” only on September 27, 2001, more than 80 days after the issuance thereof. The execution of judgment is the fruit and end of the suit and is the life of the law. A judgment, if left unexecuted, would be nothing but an empty victory for the prevailing party. Worse, the parties who are prejudiced tend to condemn the entire judicial system.[8] Thus, unless restrained by a court order to the contrary, a sheriff should always see to it that the execution of judgment is never unduly delayed.

Persons involved in the administration of justice, like respondent sheriff, ought to live up to the strictest standards of honesty and integrity in the public service and must at all times be circumspect to preserve the integrity and dignity of our courts of justice. They must at all times not only observe propriety and decorum but must always also be above suspicion.[9] Respondent's actuation erodes the faith and confidence of our people in the administration of justice. He does not deserve to stay in the service any longer.

In *Padilla vs. Arabia*,[10] a deputy sheriff who not only unlawfully received and appropriated money paid for the service of the writ of execution but also deliberately and maliciously prevented the enforcement of the writs of execution was dismissed from the service for serious misconduct and dereliction of duty.

In *Ong vs. Meregildo*,[11] we held that:

Respondent Sheriff's unilaterally and repeatedly demanding sums of money from a party-litigant purportedly to defray expenses of execution, without obtaining the approval of the trial court for such purported expense and without rendering that court an accounting thereof, in effect constituted dishonesty and extortion. That conduct, therefore, fell too far short of the required standards of public service. Such conduct is threatening to the very existence of the system of administration of justice.

Under the Omnibus Rules Implementing Book V of Executive Order No. 292 (Administrative Code of 1987), the penalty for grave misconduct is dismissal, even for the first offense.[12] Sec. 9 of the said rule likewise provides that the penalty shall carry with it the cancellation of eligibility, forfeiture of leave credits and retirement benefits and disqualification from re-employment in the government service.

WHEREFORE, the Court finds respondent Albert S. Zaragoza, Sheriff III, Metropolitan Trial Court of Pasay City, GUILTY of grave misconduct and simple neglect of duty and hereby orders his DISMISSAL from the service, with forfeiture of all retirement benefits which he may be entitled to, except earned leaves, if any, with prejudice to re-employment in the government, including government-owned and controlled corporations. Respondent is further ordered to return the amount of P30,000 to complainant Filomena Meneses within ten days from receipt of notice of this resolution.

This resolution is immediately executory.

SO ORDERED.

Davide, Jr., C.J., Puno, Vitug, Panganiban, Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Callejo, Sr., Azcuna, and Tinga, JJ., concur.

[1] Rollo, pp. 8-9.

[2] Resolution dated July 24, 2002, Rollo, p. 19.

[3] Sections 1, 2 and 5, Rule 133 of the Rules of Court.

[4] *People vs. Moralde*, G.R. No. 131860, January 16, 2003.

[5] TSN, October 2, 2002, pp. 14-18.

[6] TSN, October 17, 20002, pp. 9-13.

[7] TSN, October 22, 2000, p. 17.

[8] *Casaje vs. Gatbalite*, 331 SCRA 508, 513 [2000], citing *Portes vs. Tepace*, 267 SCRA 185, 194 [1997].

[9] Jerez vs. Paninsuro, 304 SCRA 180, 185 [1999].

[10] 242 SCRA 227, 233 [1995].

[11] 233 SCRA 632, 644 [2000].

[12] Sec. 23, Rule XIV.

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