

**GAUDENCIO CONSUNJI, COMPLAINANT, VS. JOSE VILLANUEVA,
DEPUTY SHERIFF, CFI, DAVAO CITY, RESPONDENT.***Adm. Case No. 153, Adm. Matter No. P-205. November 27, 1974*

Ponente: FERNANDO, J.

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Two administrative complaints were filed against respondent Jose Villanueva, Senior Deputy Sheriff of the Court of First Instance of Davao, Branch VI. The first[1] was for his failure to comply with the mandatory provision set forth in Section 18, Rule 39 requiring the publication of the sheriff's notice of auction sale of real property[2] in favor of complainant, Gaudencio Consunji in connection with the execution of a money judgment. The other complaint[3] had its origin in the same official dealing. He was charged with receiving from such complainant the sum of P100.00 for registering the said deed of sale, but he failed to do so. The receipt of such amount was denied. There was, as it turned, no sufficient evidence to substantiate it. There is no denying the fact however that he did fail to comply with his duty to post the sheriff's notice of auction sale. He could not assert the contrary. He would offer the rather lame explanation that there was no necessity to do so as the judgment-debtor had a written waiver, one that came to the knowledge of the complainant who did consent. Moreover, he could not deny his failure to file with the registrar of deeds a copy of the provisional certificate of sale, contrary to another mandatory provision.[4]

There is need therefore for disciplinary sanction. The imposition should ordinarily follow automatically. A recommendation of leniency was submitted in view of the fact that respondent was near retirement age and no damage resulted from his omission to do what is required by law. This is not to say that a failure of a public official to do what is incumbent on him should just be glossed over. The fact that he was about to retire when the incident occurred may be an explanation, but certainly it is not a justification. For the ideal of a public office as a public trust implies that until the last day of one's tenure, strictest compliance with the requirement of the law as to the duty to be performed is necessary.

WHEREFORE, respondent Jose Villanueva is hereby severely reprimanded.

Barredo, Antonio, Fernandez, and Aquino, JJ., concur.

[1] Administrative Case No. 153.

[2] Rule 39, Section 18 of the Rules of Court insofar as pertinent reads: "Notice of sale of property on execution. — Before the sale of property on execution notice thereof must be given as follows: *** (c) In case of real property by posting a similar notice particularly describing the property for twenty (20) days in three public places in the municipality or city where the property is situated, and also where the property is to be sold, and, if the assessed value of the property exceeds four hundred pesos (P400), by publishing a copy of the notice once a week, for the same period, in some newspaper published or having general circulation in the province, if there be one. If there are newspapers published in the province in both the English and Spanish languages, then a like publication for a

like period shall be made in one newspaper published in the English language, and in one published in the Spanish language."

[3] Administrative Case No. 205.

[4] Rule 39, Section 27 of the Rules of Court provides: "Conveyance of real property. Certificate thereof given to purchaser and filed with registrar. — Upon a sale of real property, the officer must give to the purchaser a certificate of sale containing: (a) A particular description of the real property sold; (b) The price paid for each distinct lot or parcel; (c) The whole price by him paid; (d) The date when the right of redemption expires. A duplicate of such certificate must be filed by the officer in the office of the registrar of deeds of the province where the property is situated."

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