

**MARCIANO ESTIOKO, SR., COMPLAINANT, VS. JOSE B. CANTOS,
DEPUTY SHERIFF, COURT OF FIRST INSTANCE OF PANGASINAN,
BRANCH V, VILLASIS, PANGASINAN, RESPONDENT.**

A.M. No. P-865. September 30, 1977

Ponente: FERNANDEZ, J.

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FERNANDEZ, J.:

In a sworn letter-complaint dated December 10, 1974 addressed to the Provincial Commander of the Philippine Constabulary at Lingayen, Pangasinan, Marciano Estioko, Sr. charged Jose B. Cantos, Deputy Sheriff of the Court of First Instance of Pangasinan, Branch V, at Villasis with dishonesty.[1] A copy of said letter-complaint was furnished the Clerk of Court of the Supreme Court on January 13, 1975.[2]

According to the letter complaint, the respondent committed the following dishonest act:

"That sometime in October 13, 1973., Jose B. Cantos, Deputy Sheriff of the Court of First Instance, Branch V, came to my house in San Vicente, Urdaneta, Pangasinan and in connection in the above cited case, collected from me the amount of Two Hundred Thirty Four pesos (P234.00) which I paid in full and for which he issued me a personal receipt, purportedly for Sheriffs fee, publication fee, posting fee, registration of Notice of Levy's fee and some miscellaneous fees in connection with Civil Case No. U-9209, the above cited case;

That consequently I checked with the records and other officials of the said Court of First Instance and found out that Deputy Sheriff Jose B. Cantos was not authorized to collect the amount he got from me nor did he submit the amount he collected from me to the Court;

That I consider this irregularity a severe form of dishonesty as embodied in a Presidential Decree and a grievous violation of the high degree of morality for Public Officials set by President Marcos for the abolition of corruption and restoration of the Government's good image as called for in the New Society x x x."

On January 17, 1975, the Court's Executive Officer, Atty. Arturo B. Buena, endorsed the complaint through the Clerk of Court and Ex-Oficio Provincial Sheriff, Court of First Instance, Urdaneta, Pangasinan, to the respondent, Deputy Sheriff Jose B. Cantos, for comment within ten (10) days from receipt thereof.

On February 14, 1975, respondent Jose B. Cantos submitted his comment, the pertinent portion of which reads:

"1) That on October 11, 1973, the Honorable Court of First Instance of Pangasinan, Branch 9, Urdaneta, Pangasinan, issued a WRIT OF EXECUTION IN CIVIL CASE NO. U-9209, entitled 'JOSE B. CASTILLO ETAL vs. MARCIANO ESTIOKO ET AL';

2) That on same date of October 11, 1973, the undersigned Deputy Sheriff, if only to serve the interest of justice, served the above-mentioned writ of execution to the plaintiffs in the above- entitled case at Barrio San Vicente, Urdaneta, Pangasinan, at 5:00 p.m. and tried his very best to enforce and implement the decision rendered by the Honorable Court in favor of the defendants, Marciano Estioko, et al.;

3) That after the serving of the copies of said writ of execution to the plaintiffs in the above-entitled case, the undersigned Deputy Sheriff informed the defendants Marciano Estioko et al that the Plaintiffs requested the undersigned Deputy Sheriff to give them enough times to comply with the decision rendered by the Honorable Court, specially in the payment of the amount of P900.00 adjudged in favor of the defendant Marciano Estioko and at the same time advised the latter that in case the plaintiffs in the above-entitled case would not be able to pay the said amount of P900.00, then the undersigned Deputy Sheriff would be forced to attach any of the their (plaintiffs) properties and in so doing, the undersigned Deputy Sheriff would at least incur some expenses for Publication Fee, Registration of Notice of Levy Fee, Posting Fee and other miscellaneous expenses to be incurred by the undersigned Deputy Sheriff in an estimated amount of P-234.00 which defendant Marciano Estioko agreed to pay;

'4) That on October 13, 1973, defendant Marciano Estioko paid the undersigned Deputy Sheriff said amount of P-234.00 at the office of the Court of First Instance of Pangasinan, Branch 9, Urdaneta, Pangasinan, when the undersigned Deputy Sheriff was making his SHERIFF'S RETURN in the above-entitled case, and that said payment was even included in the said SHERIFF'S RETURN, a faithful copy of the original Sheriff's Return which is now attached to U-9209 at the Court of First Instance of Pangasinan, Branch 9, Urdaneta, Pangasinan, is hereto attached and made integral part hereof, if only to prove that the undersigned Deputy Sheriff has no intention whatsoever to commit any 'DISHONESTY as defined by General Order No. 2 of the President of the Philippines';

'5) That the undersigned Deputy Sheriff have still in his possession the said amount of P-234.00 ever ready to be spent for its purpose;

6) That the undersigned Deputy Sheriff always advised the herein defendant-complainant MARCIANO ESTIOKO, that I am only waiting for the ALIAS WRIT OF EXECUTION to be issued in the above-entitled case for reason that the first writ of execution had already lapsed or the sixty (60) days life term of the first writ of execution issued in the above-entitled case had already lapsed and therefore, the undersigned Deputy Sheriff is no longer empower and/ or authorized under the Rules of Court to proceed with the enforcement and implementation of the decision rendered in the above-entitled case without the issuance by the Honorable Court of First Instance of Pangasinan, Branch 9, Urdaneta, Pangasinan, an ALIAS WRIT OF EXECUTION;

7) That attached herewith are TRUE COPIES of the findings of the 151st P. C. COMPANY with Headquarters at Tayug, Pangasman, under the Command of 2Lt EFREN M. GUERRERO, PC, if only to prove once more that the undersigned Deputy Sheriff could not and could never commit such an ACT OF DISHONESTY as defined by General Order No. 2 of the President of the Philippines;

8) That the undersigned Deputy Sheriff is not the proper person to file the necessary motion for the issuance of an ALIAS WRIT OF EXECUTION for defendant Marciano Estioko, for reason that the latter got plenty of lawyers appearing for him in the above-entitled case."[3]

Complainant Marciano Estioko, Sr., after having been furnished by this Court with a copy of the comment of respondent wrote a letter dated March 20, 1975, to the Executive Officer of this Court stating that the amount of P234.00 was taken by the respondent from the complainant and his spouse at their residence in Barrio San Vicente, Urdaneta, Pangasinan on October 11, 1973; that the respondent Deputy Sheriff issued only on October 13, 1973 the following receipt:

"THIS IS TO CERTIFY that I have this day received from Mr. MARCIANO B. ESTIOKO, SR. of Urdaneta, Pangasinan, the sum of TWO HUNDRED THIRTY FOUR (P234.00) PESOS only as Sheriffs fee, publication fee, posting fee, registration of Notice of Levy's fee and some miscellaneous fee in connection with the CIVIL

CASE NO. U-9209, entitled 'JOSE CASTILLO ETAL vs. MARCIANO B. ESTIOKO, SR. ET AL' this 13th day of October, 1973 at Villasis, Pangasinan.

(Sgd.) JOSE B. CANTOS
Deputy Sheriff"[4]

that complainant was not informed that the plaintiffs had requested the respondent for "enough time to comply with the decision rendered" against them; that complainant could not understand why the respondent kept the money for one year and three months; and that neither was complainant informed by respondent that it should be complainant's lawyer who should file a motion for the issuance of an Alias Writ of Execution."

The respondent was appointed as deputy sheriff on November 27, 1967. He is still in the service up to the present. This is the only administrative case filed against him.

The record discloses that the respondent received the amount of P234.00 from the complainant in the latter's house in the barrio of San Vicente, Urdaneta, Pangasinan; that it was only after two (2) days when said respondent issued his personal typewritten receipt for the amount; that respondent had kept said amount for about one (1) year and three (3) months; and that the respondent returned the same only after Asst. Fiscal Aquino had advised respondent to return the money to the complainant.

Indeed, if the respondent had no intention of using the amount of P234.00, he should have issued an official receipt of the complainant. The respondent should have informed the complainant what to do to enforce the judgment rendered in his favor; and the respondent should not have kept the money for about one year and three months despite his inability to execute the judgment.

On all fours with the case at bar is *Ganaden vs. Bolasco*[5] an administrative case against a deputy sheriff who received certain sums of money for service of complaint and summons and for a writ of execution without issuing official receipt therefor, wherein this Court said:

"Respondent committed illegal exaction penalized by paragraph 2(b) of Article 213 of the Revised Penal Code for failure to issue receipts for money collected by him officially.

Respondent likewise violated Section 113 of Article 111, Chapter V of the National Accounting and Auditing Manual, providing that no payment of any nature shall be received by a collecting officer without immediately issuing an official receipt in acknowledgment thereof.

The acts and/or omissions of respondent are patent violation of law. They disturb the ethics of public life and vitiate the integrity of the court personnel as well as the court itself. Public service requires utmost integrity and strictest discipline. A public servant must exhibit at all times the highest sense of honesty and integrity. This yardstick has been imprinted in the New Constitution under Section 1 of Article XIII which stressed that 'Public office is a public trust. Public officers and employees shall observe with the highest degree of responsibility, integrity, loyalty and efficiency and shall remain accountable to the people.' Proclamation No. 1081 pointed out that all public officials and employees whether of the national or local government, must conduct themselves in the manner of the new and reformed society. Respondent's conduct is highly prejudicial to the interest of the service. It is classified as a grave offense under subparagraph A, paragraph III of Civil Service Memorandum Circular No. 8, series of 1970."

This Court, however, takes into consideration that respondent herein has continuously been in the service for almost a decade now, having been appointed as Deputy Sheriff on November 27, 1961 and that this is the first administrative case filed against him. Hence only suspension from office should be imposed instead of dismissal from the service.

WHEREFORE, the respondent is hereby found guilty of conduct prejudicial to the best interest of the service and is ordered suspended without pay for a period of six (6) months from office effective upon notice, with a warning that the commission of another offense will be dealt with severely.

SO ORDERED.

Teehankee (Chairman), Makasiar, Muñoz Palma, Martin, and Guerrero, JJ., concur.

[1] Rollo, p. 1.

[2] Rollo, p. 3.

[3] Comment of Respondent. Rollo, pp. 6-7.

[4] Rollo, p. 2.

[5] Adm. Matter No. P-124. May 16, 1975. 64 SCRA 50. 53-54.

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