BENJAMIN T. HOFER, COMPLAINANT, VS. TYRONE V. TAN, SHERIFF IV, OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT, MALAYBALAY CITY, BUKIDNON, RESPONDENT.

A.M. NO. P-05-1990. July 26, 2007

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PER CURIAM:

Paulito R. Hofer (Paulito) was the plaintiff in a civil case[1] for ownership, payment of rentals, and recovery of possession filed against the spouses Rufino and Dionesia Pansacala (spouses Pansacala). On 26 September 2003, the Municipal Circuit Trial Court of Maramag, Bukidnon (trial court) rendered judgment declaring Paulito as the owner of the property subject of the civil case, and ordering the spouses Pansacala to vacate and return the possession of the property. In the writ of execution[2] dated 16 April 2004 (writ), the trial court ordered the sheriff or his deputies to execute the judgment and to make a return of the proceedings. Tyrone V. Tan, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Malaybalay City, Bukidnon (respondent), submitted a sheriff's partial report dated 23 July 2004 stating that:

> I am submitting herewith my Partial Report in the execution of the Judgment in the above-entitled case.
>
> That the undersigned repaired to the place where the subject matter of this case is situated for the purpose of enforcing the Writ of Execution issued in this case.
>
> That arriving thereat, it was found out that the principal defendants were no longer occupying the subject land as they were now residing at Libongan, Lanao del Norte, but there were three privies of defendants, Sylvia Ludibese, Nantie Tresana and Panchito Eduave who were served with copies of the Writ of Execution last July 22, 2004 and were ordered to immediately vacate the said premises, but considering that we are experiencing bad weather condition and that these privies have small children, I gave them three (3) days from service of the Writ for them to personally vacate the said premises and to remove all their improvements from the subject land.
>
> In case said defendants['] privies failed to comply with said order, the extension of three (3) days, it is recommended to plaintiff's counsel that a motion be filed for a Writ of Demolition of all improvements introduced on the subject matter of this case and that plaintiff should require the presence of the surveyor who conducted the relocation survey to pinpoint the meets and bounds of the conflicted land to avoid overlapping of boundaries.[3]

On 16 August 2004, Benjamin T. Hofer (complainant), representing Paulito, filed with the Regional Trial Court, Branch 9, Malaybalay City, an affidavit-complaint (complaint) alleging:

> That, respondent Tyrone V. Tan is an Assistant Provincial Sheriff of the Province of Bukidnon and may be served with summons/notice at the Office of the Clerk of Court, RTC, Malaybalay City;
>
> That, Complainant is the plaintiff in Civil Case No. 1407-M entitled Hofer vs. Dionesia Pansacala, MTC of Maramag Bukidnon;
>
> That, the MTC court has decided the case to eject the defendant, among other things;

> That, on July 23, 2004 respondent executed the decision for which he asked and Complainant gave him P15,000.00. (see Annex 1, receipt)[;]
>
> That, there are three privies contained in the partial return of Respondent which he gave 3 days to vacate; [and]
>
> That, respondent did not come back to finish his work in spite of repeated demands.
>
> WHEREFORE, it is most respectfully prayed of the Honorable Executive RTC Judge Rolando S. Venadas, Sr[.] to compel respondent to do his duty and finish his job.[4]

In his answer and comment[5] dated 24 August 2004 (answer), respondent alleged that he went to the spouses Pansacala's residence on 21 June 2004 to serve copies of the writ. There, he learned from the spouses Pansacala's daughter-in-law, Everly Pansacala (Everly), that the spouses Pansacala had already transferred their residence. He tendered a copy of the writ to Everly and advised her to give the same to the spouses Pansacala. On 22 July 2004, respondent returned to the property to serve the spouses Pansacala's privies copies of the writ. He found out that there were only three privies — not eight as complainant reported — occupying the property. He served the privies copies of the writ and informed them of the contents of the same in the Cebu-Visayan dialect. He also ordered them to vacate the property. However, because of the bad weather, the presence of small children, and the lack of a place to go, he allowed the privies three days within which to vacate the property.[6]

Respondent alleged that he submitted a partial report dated 23 July 2004 to Paulito and the latter's counsel. On 24 July 2004, he returned to the subject property to verify whether the spouses Pansacala's privies had already vacated the same. He found out that they were still there. On the advice of one Atty. Nemesio G. Beltran, respondent submitted an amended partial report dated 3 August 2004 specifically stating the number of shanties to be demolished and the names of the spouses Pansacala's privies. He submitted copies of this report to the trial court's clerk of court, to Paulito, and to the latter's counsel.[7]

In an Indorsement dated 31 August 2004, Judge Rolando S. Venadas, Sr., Executive Judge, Regional Trial Court, Branch 9, Malaybalay City, referred the matter to the Office of the Court Administrator (OCA).

In its Report[8] dated 28 February 2005, the OCA found that "[r]espondent erred when he personally received the amount of P15,000.00 from the complainant to implement the writ of execution." The OCA recommended that the case be re-docketed as a regular administrative matter and that respondent be held liable for misconduct and fined P20,000.

In a Resolution dated 13 April 2005, the Court ordered the re-docketing of the case as a regular administrative matter.

The Court issued a Resolution dated 14 June 2006 requiring the parties to manifest if they were willing to submit the case for decision based on the pleadings and records already filed and submitted. Complainant and respondent did not file any manifestation. The Court considers the parties to have waived their compliance with the Resolution dated 14 June 2006.

On the charge of inefficiency and incompetence in the performance of official duties, the Court finds respondent not liable. "In administrative proceedings, the complainant bears the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence means such relevant evidence as a reasonable mind might accept as adequate to support a conclusion."[9]

In this case, complainant failed to substantiate the allegation that respondent is guilty of simple neglect of duty or inefficiency and incompetence in the performance of official duties. Aside from the bare allegation in his complaint that "respondent did not come back to finish his work in spite of repeated demands," complainant did

not present any evidence to support the charge. Complainant did not state when respondent received a copy of the writ and when respondent was required to submit his

return in accordance with Section 14, Rule 39 of the Rules of Court.[10] Nor did complainant state when he made the demands on respondent and the period of time respondent refused to perform his duties. Even the OCA, in its Report, did not mention anything about respondent's alleged simple neglect of duty or inefficiency and incompetence in the performance of official duties.

Moreover, in his answer, respondent alleged that he performed his duties: (1) he went to the property several times; (2) he served copies of the writ to the spouses Pansacala's daughter-in-law and privies; (3) he ordered the spouses Pansacala's privies to vacate the property; (4) he checked whether the privies had already vacated the property; (5) he submitted a partial report to Paulito and his counsel; and (6) he submitted an amended partial report to the trial court's clerk of court, to Paulito, and to the latter's counsel.[11] He also sent a letter to the provincial director of the Philippine National Police, requesting for assistance in the enforcement of the writ.[12] Without substantial evidence to prove that respondent was remiss in the performance of his duties, this Court cannot hold him administratively liable.

The Court, however, finds respondent liable for grave misconduct, dishonesty, and conduct prejudicial to the best interest of the service. Given the nature of the offense and the fact that respondent is not a first time offender, the Court finds the OCA's recommended penalty too light.

According to complainant, respondent asked, and received, P15,000 from him.[13] To support this allegation, complainant presented a receipt[14] bearing respondent's signature. In his answer, respondent did not deny the fact that he demanded and received P15,000 from complainant. In fact, his answer contained an itemized list of the alleged expenses incurred in the partial enforcement of the writ, totalling P14,900. The expenses were as follows:

> June 21, 2004 — Service of Writ of Execution to defendants Sps. Mr. and Mrs. Dionesia Pansacala at Kiharong, Maramag, Bukidnon.
>
> -
>
> Hiring of motor vehicle
>
> - P1,000.00
>
> -
>
> Honorarium of one police
>
> - 500.00
>
> -
>
> Meals
>
> - 200.00

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_____

P1,700.00

June 22, 2004 — Service of Writ of Execution to defendants' privies and ejectment.

-

Hiring of motor vehicle

- P2,000.00

-

Honorarium for 16 PNP
members of Don Carlos, & [sic]
Maramag, Buk. PNP Station
at P500.00 each

- 8,000.00

P10,000.00

The request of the undersigned for PNP assistance was only for eight (8) PNP members/escorts, but due to the reports of plaintiff's farm laborers to the police authorities that the defendants will violently resist and were fully armed, the PNP Maramag Station, supported the Don Carlos Prov'l. Mobile Group peacekeeping force.

July 24, 2004 – Verification as to whether or not defendants' privies have vacated the subject land.

-

Hiring of motor vehicle

- P1,000.00

-

Honorarium for two (2) PNP escorts

- 1,000.00

- Meals

- 200.00

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P2,200.00

- Sheriff's fees

1,000.00

- TOTAL EXPENSES

----------[P15,000.00]

[15][sic]

Based on these facts, the OCA found respondent guilty of misconduct. Respondent completely ignored the procedure provided in the Rules of Court when he demanded and received P15,000 from complainant. The OCA stated:

> Respondent erred when he personally received the amount of P15,000.00 from the complainant to implement the writ of execution.
>
> x x x x
>
> [T]he respondent sheriff did not give an estimated expenses [sic] in serving the writ of execution to the interested party. Instead, he demanded and received from the complainant P15,000.00 as expenses in implementing the writ of execution. Respondent sheriff totally disregarded the court's authority to approve the expenses that may be incurred in implementing the writ and the authority of the Clerk of Court to disburse to him the amount that may be spent to effect the process, subject to his liquidation within the same period for rendering a return on the process.
>
> RECOMMENDATION: Respectfully submitted for the consideration of this Honorable Court is the recommendation that the instant IPI be re-docketed as a regular administrative matter and respondent be penalized to pay a fine in the amount of twenty thousand pesos (P20,000.00) for misconduct with a stern warning that repetition of the same or similar offense shall be dealt with more severely.[16]

Indeed, respondent violated the procedure laid down in Section 10, Rule 141 of the Rules of Court when he demanded and received money directly from complainant. Section 10 provides in plain and clear terms the procedure to be followed with regard to expenses in the execution of writs. Section 10 states that:

> With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guard's fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation shall be approved by the court. Any unspent amount shall be refunded to

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> the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor. (Emphasis supplied)

As provided in Section 10, before an interested party pays the sheriff for the expenses, the sheriff should first estimate the amount. This amount will then have to be approved by the court. Upon approval, the interested party shall deposit the amount with the clerk of court and ex-officio sheriff who shall disburse the amount to the sheriff assigned to execute the writ. The amount disbursed is subject to liquidation. Any unspent amount shall be returned to the party who made the deposit. Thereafter, the sheriff shall submit a full report.[17] Put differently:

> x x x [A] sheriff is guilty of violating the Rules if he fails to observe the following: (1) preparing an estimate of expenses to be incurred in executing the writ, for which he must seek the court's approval; (2) rendering an accounting; and (3) issuing an official receipt for the total amount he received from the judgment debtor.[18]

In his answer, respondent attempted to justify his actions by showing that he used the money to defray the costs of the partial execution of the writ. Even assuming this were true, respondent would still be liable. Respondent, as an officer of the court and agent of the law, should be aware that there are well-defined steps in the execution of writs. A sheriff can only accept payment for sheriff's fees as provided in Section 10, Rule 141 of the Rules of Court.[19] Acceptance of any other amount is improper, even if it were to be applied for lawful purposes. As this Court held:

> Good faith on the part of the sheriff, or lack of it, in proceeding to properly execute its mandate would be of no moment, for he is chargeable with the knowledge that being the officer of the court tasked therefor, it behooves him to make due compliances. In the implementation of a writ of execution, only the payment of sheriff's fees may be received by sheriffs. They are not allowed to receive any voluntary payments from parties in the course of the performance of their duties. To do so would be inimical to the best interests of the service because even assuming arguendo such payments were indeed given and received in good faith, this fact alone would not dispel the suspicion that such payments were made for less than noble purposes. In fact, even "reasonableness" of the amounts charged, collected and received by the sheriff is not a defense where the procedure laid down in [Section 10], Rule 141 of the Rules of Court has been clearly ignored. Only the payment of sheriff's fees can be lawfully received by a sheriff and the acceptance of any other amount is improper, even if it were to be applied for lawful purposes.[20] (Emphasis supplied)

Sheriffs are not allowed to receive any payments from the parties in the course of the performance of their duties. They cannot just unilaterally demand sums of money from the parties without observing the proper procedural steps.[21] In this case, respondent demanded and received P15,000 directly from complainant without approval from the trial court. The acquiescence of complainant to such expenses does not absolve the respondent of his failure to secure the trial court's prior approval.[22]

This Court condemns any conduct, on the part of all those involved in the administration of justice, which violates the norm of public accountability and diminishes public confidence in the Judiciary.[23] Respondent, in the performance of his duties, deviated from the lofty standards of integrity and prudence exacted from officers of the court. It was highly improper for him to demand and accept money from complainant.

Any amount received by sheriffs in excess of the lawful fees allowed in Section 10 is an unlawful exaction. It constitutes unauthorized fees. This renders them liable for grave misconduct, dishonesty, and conduct prejudicial to the best interest of the service. In Tan v. Paredes,[24] we held that:

> [A] sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps, otherwise, it would amount to dishonesty and extortion.
>
> In this case, Sheriff Paredes asked P10,000 from the plaintiffs to defray the expenses for the implementation of

> the decision without any approval from the court. The acquiescence or consent of the plaintiffs to such expenses does not absolve the sheriff for his failure to secure the prior approval of the court concerning such expense. Moreover, although the plaintiffs gave P5,500 directly to sheriff, he failed to deposit with the court the amount received from the plaintiffs. (Emphasis supplied)
>
> In De Guzman, Jr. v. Mendoza,[25] we held that:
>
> [R]espondent sheriff did not deny receipt of P500.00 although he tried to explain, albeit unsatisfactorily, that the same represented the legal fees for the service and execution of the writ. Under [Section 10], Rule 141 of the Rules of Court, the procedure for the execution of writs and other processes are: first, the sheriff must make an estimate of the expenses to be incurred by him; second, he must obtain court approval for such estimated expenses; third, the approved estimated expenses shall be deposited by the interested party with the Clerk of Court and ex-officio sheriff; fourth, the Clerk of Court shall disburse the amount to the executing sheriff; and fifth, the executing sheriff shall liquidate his expenses within the same period for rendering a return on the writ. Any amount received by the sheriff in excess of the lawful fees allowed by the Rules of Court is an unlawful exaction which renders him liable for grave misconduct and gross dishonesty.
>
> x x x As regards the P500.00, we agree with both the investigating judge and the OCA that the amount exceeded the lawful fees allowed by the Rules of Court. It constitutes unauthorized fees and unlawful exaction which renders respondent sheriff guilty of dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service.
>
> Even granting that the amount of P500.00 represented legal fees, still, respondent sheriff failed to comply with the requirements under [Section 10], Rule 141. (Emphasis supplied)

In Adoma v. Gatcheco,[26] we held that:

> [R]espondent sheriff totally disregarded the aforecited procedure. He failed to make and submit estimate of the sheriff's expenses. The amounts received and demanded by him are therefore unauthorized fees. His acts of accepting and soliciting said monetary considerations make him liable not only for conduct unbecoming a court employee but also for grave misconduct and dishonesty. (Emphasis supplied)

And in Geolingo v. Albayda,[27] this Court found the observations and recommendations of the OCA well-taken. The OCA observed that:

> Charging P5,000.00 for every shanty to be demolished in Civil Case No. 22511 and P15,000.00 in Civil Case No. 26374 for the service of the writ of execution without the approval of the court constitutes grave misconduct and conduct prejudicial to the best interest of the service. Although the sheriff, in the performance of his duties, is not precluded from collecting additional sums from a requesting party, the same should be subject to approval from the court as provided for in [Section 10] Rule 141 of the Rules of Court. Before an interested party pays the sheriff's expenses, the latter should first estimate the amount to be approved by the court. The approved estimated expenses shall be deposited by the interested party with the Clerk of Court and ex-officio sheriff who shall disburse the amount to the executing sheriff. The latter shall liquidate his expenses within the same period for rendering a return on the writ. (Abalde vs. Roque, Jr., 400 SCRA 210 [2003]) Any amount received by the sheriff in excess of the lawful fees allowed by the Rules of Court is an unlawful exaction and renders him liable for grave misconduct and gross dishonesty (Alvares, Jr. vs. Martin, 411 SCRA 248 [2003]). Moreover, any unspent amount shall be refunded to the party who made the deposit.
>
> Respondent failed to comply with the above requirement despite directives of the complainant judge. He failed to explain why he collected P5,000.00 per demolished shanty. This constitutes extortion. Moreover, his explanation regarding the P15,000.00 he collected for the service of the writ of execution in the case of Angelina Pahila-Garrido vs. Damiana Daguno was not authorized by the court, hence, illegal.[28] (Emphasis supplied)

Section 52(A)(1) and (3)[29] of the Revised Uniform Rules on Administrative Cases in the Civil Service[30] classify dishonesty and grave misconduct, respectively, as grave offenses punishable by dismissal for the first offense. Section 52(A)(20)[31] classifies conduct prejudicial to the best interest of the service as a grave offense punishable by suspension of six

months and one day to one year for the first offense. Under Section 58,[32] the penalty of dismissal carries with it the cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification from reemployment in the government service.

Section 53[33] of the Civil Service Rules provides that, in the determination of the penalty to be imposed, mitigating circumstances attendant to the commission of the offense shall be considered. However, respondent did not invoke, nor did the OCA find, any mitigating circumstance favorable to respondent. Respondent is not a first time offender. In Melecio v. Tan,[34] this Court found respondent guilty of misconduct and suspended him for six months, with a stern warning that a repetition of the same or similar act will be dealt with more severely. We stated in Melecio that:

> Indeed, respondent sheriff was grossly inefficient and guilty of misconduct in implementing the writ on April 16, 2003. He evicted the occupants without ascertaining whether the portion they occupy formed part of the litigated property or not. He was aware that there was uncertainty concerning the property occupied by the Manobos as he even recommended in his partial report that an ocular inspection be conducted. Yet he proceeded with the eviction without the benefit of the inspection to determine the exact boundaries. The unfortunate incident could have been avoided had the respondent sheriff observed due care and diligence in ascertaining the exact location of the property subject of the execution.
>
> x x x x
>
> Sheriff Tan not only gravely abused his authority in evicting the Manobos from the property; he also committed misconduct when he demolished the improvements thereon without securing a writ of demolition. As clearly provided under Section 10(d), Rule 39 of the Revised Rules of Civil Procedure, the sheriff must secure a special order of the court before he could destroy, demolish or remove the improvements on the property.
>
> x x x x
>
> We find respondent sheriff guilty of misconduct, which is any unlawful conduct of a person related to the administration of justice and prejudicial to the rights of parties or to the right determination of the cause. It generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose. x x x
>
> WHEREFORE, respondent Sheriff Tyrone V. Tan, Regional Trial Court-Office of the Clerk of Court, Malaybalay City, Bukidnon, is found GUILTY of misconduct and is hereby SUSPENDED for a period of six (6) months without pay, with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely.[35]

Aside from the instant case and the Melecio case, respondent has another administrative case[36] for inefficiency and incompetence in the performance of official duties pending before this Court. With two cases decided against him, and another one pending, respondent has clearly demonstrated his incorrigibility and unfitness to be in the service. In Escobar Vda. de Lopez v. Luna,[37] this Court said:

> For those who have fallen short of their accountabilities, we have not hesitated to impose the ultimate penalty. We will not tolerate or condone any conduct that violates the norms of public accountability and diminishes the faith of the people in the judicial system. For, we cannot countenance any act or omission on the part of all

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> those involved in the administration of justice which would diminish or even just tend to diminish the faith of the people in the judiciary.[38]

Sheriffs are ranking officers of the court. They play an important part in the administration of justice — execution being the fruit and end of the suit, and the life of the law. In view of their exalted position as keepers of the public faith, their conduct should be geared towards maintaining the prestige and integrity of the court.[39] Respondent miserably failed to live up to the high standards required of sheriffs. His impropriety subjected the image of the court to public suspicion and distrust.

WHEREFORE, we find respondent Tyrone V. Tan, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Malaybalay City, Bukidnon, GUILTY of GRAVE MISCONDUCT, DISHONESTY, and CONDUCT PREJUDICIAL TO THE BEST INTEREST OF THE SERVICE. Accordingly, we DISMISS him from the service, with forfeiture of all retirement benefits, except accrued leave credits, and with prejudice to reemployment in any branch or instrumentality of the government, including government-owned or controlled corporations.

SO ORDERED.

Puno, C.J., Quisumbing, Ynares-Santiago, Sandoval-Gutierrez, Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Garcia, and Nachura, JJ., concur.
Velasco, Jr., J., no part due to participation in OCA.

[1] Docketed as Civil Case No. 1407-M, entitled "Paulito R. Hofer v. Mr. and Mrs. Dionesia Pansacala."

[2] Rollo, p. 8.

[3] Id. at 9.

[4] Id. at 6.

[5] Id. at 4-5.

[6] Id. at 4.

[7] Id. at 4-5.

[8] Id. at 40-42.

[9] Pan v. Salamat, A.M. No. P-03-1678, 26 June 2006, 492 SCRA 460, 466.

[10] Section 14, Rule 39 of the Rules of Court 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 the 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 promptly furnished the parties.

[11] Rollo, pp. 4-5.

[12] Id. at 12.

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[13] Id. at 6.

[14] Id. at 7. Annex "1."

[15] Id. at 5.

[16] Id. at 41-42.

[17] Tan v. Paredes, A.M. No. P-04-1789, 22 July 2005, 464 SCRA 47, 54-55; Lopez v. Ramos, A.M. No. P-05-2017, 29 June 2005, 462 SCRA 26, 32-33; Adoma v. Gatcheco, A.M. No. P-05-1942, 17 January 2005, 448 SCRA 299, 303; Alvarez, Jr. v. Martin, A.M. No. P-03-1724, 18 September 2003, 411 SCRA 248, 257; Abalde v. Roque, Jr., 448 Phil. 246, 251 (2003); Danao v. Franco, Jr., 440 Phil. 181, 185 (2002).

[18] Balanag, Jr. v. Osita, 437 Phil. 452, 458 (2002).

[19] Section 10, Rule 141 of the Rules of Court provides:

> SEC. 10. Sheriffs, PROCESS SERVERS and other persons serving processes. —
> x x x x
> (g) For executing a writ or process to place a party in possession of real PROPERTY OR estates, THREE HUNDRED (P300.00) PESOS per property.

[20] Bernabe v. Eguia, A.M. No. P-03-1742, 18 September 2003, 411 SCRA 259, 265-266.

[21] Tan v. Paredes, supra note 17 at 55.

[22] Id.

[23] Danao v. Franco, Jr., supra note 17 at 520.

[24] Supra note 17 at 55.

[25] A.M. No. P-03-1693, 17 March 2005, 453 SCRA 565, 572.

[26] Supra note 17 at 304.

[27] A.M. No. P-02-1660, 31 January 2006, 481 SCRA 32.

[28] Id. at 37.

[29] Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 52. Classification of Offenses. Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:
1. Dishonesty
1[st]offense —Dismissal

x x x x

3. Grave Misconduct
1[st]offense — Dismissal

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

[31] Section 52 of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 52. Classification of Offenses. Administrative offenses with corresponding penalties are classified into grave, less grave or light, depending on their gravity or depravity and effects on the government service.

A. The following are grave offenses with their corresponding penalties:

x x x x

20. Conduct prejudicial to the best interest of the service

1[st]offense — Suspension (6 mos. 1 day to 1 year)
2[nd] offense — Dismissal

[32] Section 58 of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 58. Administrative Disabilities Inherent in Certain Penalties.

a. The penalty of dismissal shall carry with it that of cancellation of eligibility, forfeiture of retirement benefits, and the perpetual disqualification for reemployment in the government service, unless otherwise provided in the decision.

[33] Section 53 of the Revised Uniform Rules on Administrative Cases in the Civil Service provides:

Section 53. Extenuating, Mitigating, Aggravating, or Alternative Circumstances. In the determination of the penalties to be imposed, mitigating, aggravating and alternative circumstances attendant to the commission of the offense shall be considered.

x x x x

Nevertheless, in the appreciation thereof, the same must be invoked or pleaded by the proper party, otherwise, said circumstances shall not be considered in the imposition of the proper penalty. The Commission, however, in the interest of substantial justice may take and consider these circumstances.

[34] A.M. No. MTJ-04-1566, 22 August 2005, 467 SCRA 474.

[35] Id. at 480-482.

[36] A.M. No. P-05-1996, entitled "Estelito R. Marabe v. Tyrone Tan, Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Malaybalay City."

[37] A.M. No. P-04-1786, 13 February 2006, 482 SCRA 265.

[38] Id. at 277-278.

[39] Id. at 275-278.

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