KENNETH S. NEELAND, COMPLAINANT, VS. ILDEFONSO M. VILLANUEVA, CLERK OF COURT, REGIONAL TRIAL COURT, BACOLOD CITY, AND NELSON N. ABORDAJE, SHERIFF III, MUNICIPAL TRIAL COURT IN C...

A.M. No. P-99-1316. October 29, 1999

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PER CURIAM:

On December 16, 1996, Kenneth S. Neeland filed with the Office of the Chief Justice a verified letter-complaint[1] against Atty. Ildefonso M. Villanueva, Jr., Clerk of Court and Ex-Officio Provincial Sheriff, Regional Trial court, Negros Occidental, and Nelson N. Abordaje, Sheriff III, Branch 04, Municipal Trial Court in Cities, Bacolod City, for gross misconduct.

The complaint arose out of the following incident:

On December 8, 1995, Sugarland Motor sales filed with the City Sheriff, Bacolod City, a request for foreclosure of the chattel mortgage constituted on a Toyota Sedan, owned by the mortgagor, Kenneth S. Neeland, and its sale at public auction to satisfy an obligation owing to the mortgagee, Sugarland Motor Sales in the amount of twenty thousand pesos (P20,000.00).

Acting upon the request, Sheriff Nelson Abordaje seized the motor vehicle and issued a notice of auction sale scheduling its sale at auction on February 6, 1996 at the Daewoo Cars compound, Lacson St., Bacolod City. Accordingly, on said date, respondent Abordaje proceeded to conduct the auction sale.

On February 6, 1996, Sheriff Nelson Abordaje sold the motor vehicle at public auction to the highest bidder, Sugarland Motor Sales, for forty thousand pesos (P40,000.00). On the same date, Clerk of Court Ildefonso M. Villanueva, as ex-officio Provincial Sheriff, issued a certificate of sale conveying the motor vehicle to Sugarland Motor Sales. However, the remaining balance between the sum at which the vehicle was sold and the obligation sought to be satisfied and expenses of sale, amounting to twenty thousand pesos (P20,000.00), was not turned over to Neeland.

Hence, this complaint.

Neeland alleged that the seizure and sale of his motor vehicle was patently irregular, as he had not executed a chattel mortgage over the same. He further contended that the difference at which the vehicle was sold and the obligation sought to be satisfied was not turned over to him. He prayed that an investigation be conducted and that respondents be penalized accordingly.

In his Reply dated August 21, 1997,[2] Nelson N. Abordaje attached the Deed of Chattel Mortgage executed by Neeland and Sugarland Motor Sales to prove that a mortgage obligation indeed existed. He admitted that Neeland was not personally served with a copy of the petition for extra-judicial foreclosure and the deed of chattel mortgage because complainant could not be found at his given address. However, the posting of notices and other requirements for public auction sale were properly complied with.

Respondent Abordaje noted that complainant had several opportunities to claim his motor vehicle, particularly at the public auction sale, but failed to do so. At the time that the Sheriff executed the certificate of sale in favor of the mortgagee, notarized on February 13, 1996, Neeland did not claim the excess of the bid and the amount of the obligation, which was twenty thousand pesos (P20,000.00). According to respondent, since Neeland failed to demand said amount, it remained with the mortgagee.

In his Comment dated August 18, 1997,[3] Clerk of Court Ildefonso M. Villanueva, Jr. stated that on July 31, 1995, Neeland executed a Deed of Chattel Mortgage in favor of Daewoo Cars Bacolod over a Toyota Sedan Cressida with Engine No. 18R-1727008 and Chassis No. RX30-601611, which was assigned to the Sugarland Motor Sales. He admitted that there was a difference in the amount of the bid and the obligation sought to be satisfied, but denied knowing whether or not Sheriff Abordaje turned over the amount to Neeland.

In his Report dated April 21, 1998,[4] Executive Judge Anastacio I. Lobaton found that the auction sale on February 6, 1996 was conducted in accordance with the prescribed rules and regulations, and "respondent Abordaje was duty bound to demand and collect from the highest bidder, the mortgagor, the aforesaid difference amounting to P20,000.00 and deposit the same to the Office of the Clerk of Court for safekeeping since the mortgagor was not around to claim it. When the highest bidder failed to turn over the said difference, it would have been wise and proper for respondent Abordaje to have rendered a report on the matter to his superior, respondent Villanueva, Jr."[5]

The Executive Judge held that respondent Villanueva, Jr. can not take refuge behind the negligence of his subordinate in failing to turn over the proceeds of the auction sale to the mortgagor. He recommended that respondents be reprimanded with warning.

On March 17, 1999, this Court referred the matter to the Court Administrator for evaluation, report and recommendation.[6]

In his Memorandum dated May 11, 1999, Court Administrator Alfredo L. Benipayo upheld the findings of the investigating judge declaring that the chattel mortgage was validly executed, absent convincing proof of forgery. During the hearings before the investigating judge, complainant admitted that the signature appearing at the right hand margin of the deed of chattel mortgage and those appearing at the back page were his signatures.[7] He also admitted that the signature appearing in the affidavit of good faith was his.[8]

The Court Administrator agreed with the findings of the investigating judge that both respondents are liable for not demanding from the highest bidder, Sugarland Motor Sales, the difference in the amount of P20,000.00 between the bid and the obligation of complainant. However, the Court Administrator held that such omission did not amount to gross misconduct.

We disagree. We find respondent sheriff's failure to turn over to complainant the excess of the bid price constituted, if not dishonesty, gross misconduct prejudicial to the best interest of the service.

Under the Chattel Mortgage Law, the sheriff conducting the auction sale must receive the winning bid in cash and apply such proceeds "to the payment, first, of the costs and expenses of keeping and sale, and then to the payment of the demand or obligation secured by such mortgage, and the residue shall be paid to the mortgagor or person holding under him on demand."[9]

Thus, the officer who conducted the foreclosure must demand and actually receive the cash proceeds of the auction sale from the highest bidder and turn over the balance to the mortgagor. It was, therefore, irregular for the sheriff not to demand and receive the entire bid price in cash from the winning bidder, or at the very least, to demand the excess amount and turn it over to the mortgagor.

Respondent Abordaje admitted that he did not receive the remaining amount of twenty thousand pesos (P20,000.00) from the winning bidder, Sugarland Motor Sales. He demanded the amount from Sugarland Motor Sales but was told that the amount was applied to cover other charges which complainant had with Sugarland.[10] This is not authorized under the law. Besides, respondent Abordaje did not reflect these facts and circumstances in his minutes of auction sale.

Neither can respondent Villanueva, Jr. escape responsibility for his failure to supervise Sheriff Abordaje in the performance of the latter's duties. Clerk of Court Villanueva Jr. issued a certificate of sale without ascertaining that the balance of Twenty Thousand pesos (P20,000.00) due from winning bidder Sugarland Motor Sales was duly turned over and accounted to the mortgagor.

Respondent Villanueva, Jr., a lawyer occupying a position of responsibility, must be alert at all times to an honest conduct of foreclosures of chattel mortgages. In this particular case, there was a difference of P20,000.00 between the winning bid and the obligation of complainant, but respondent Abordaje did not turn over the amount to complainant.

Thus, respondent Villanueva, Jr. is equally guilty of gross misconduct in the performance of his duties. As an officer of the court, he was duty-bound to use reasonable skill and diligence in the performance of his officially-designated duties.[11]

Time and again, we have said that the "conduct and behavior of every one connected with an office charged with the dispensation of justice, from the presiding judge to the lowliest clerk, should be circumscribed with the heavy burden of responsibility. His conduct, at all times must not only be characterized by propriety and decorum but above all else must be above suspicion."[12]

Respondents failed to comply with the strict and rigorous standards required of all public officers and employees and have caused an erosion of faith in the judiciary. Thus, respondents must be meted the maximum penalty because all involved in the dispensation of justice must live up to the strictest standard of honesty and integrity in the public service.[13]

WHEREFORE, the Court hereby finds respondents Clerk of Court and Ex-Officio Provincial Sheriff Ildefonso M. Villanueva, Jr., Regional Trial Court, Bacolod City, and Sheriff III Nelson N. Abordaje, Municipal Trial Court in Cities, Branch 04, Bacolod City, both guilty of gross misconduct and orders their DISMISSAL from the service, with forfeiture of all leave credits and retirement benefits, if any, and with prejudice to re-instatement or re-employment in any agency, branch or instrumentality of the government, including government-owned and controlled corporations.

SO ORDERED.

Davide, Jr., C.J., Melo, Vitug, Kapunan, Mendoza, Panganiban, Purisima, Pardo, Buena, GonzagaReyes, and De Leon, Jr., JJ., concur.
Bellosillo, Puno, Quisumbing, and Ynares-Santiago, JJ., on official leave.

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[1] Dated December 3, 1996, Rollo, pp. 1-2.

[2] Rollo, pp. 14-15.

[3] Rollo, pp. 18-19.

[4] Rollo, pp. 45-51.

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[5] Report, Rollo, p. 50.

[6] Resolution, Rollo, p. 75.

[7] TSN, March 19, 1998, pp. 17-18, cited in Memorandum, Court Administrator, Rollo, p. 2.

[8] TSN, March 19, 1998, p. 22, cited in Memorandum, Court Administrator, Rollo, p. 3.

[9] Section 14, par. 2, Chattel Mortgage Law.

[10] TSN, March 19, 1998, pp. 39-41, cited in Memorandum, Court Administrator, Rollo, p. 78.

[11] Ayo vs. Violago-Isnani, A. M. No. RTJ-99-1445, June 21, 1999.

[12] Samonte vs. Gatdula, A. M. No. P-99-1292, February 26, 1999.

[13] Nicol vs. Blanca, A. M. No. P-99-1290, May 19, 1999.

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