

LEONARDO TAN, COMPLAINANT, VS. JUAN HERRAS, DEPUTY SHERIFF, RESPONDENT.

A.M. No. P-90-404. March 11, 1991

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/8cd5baa29af6/>

PER CURIAM:

An affidavit-complaint was filed against respondent Deputy Sheriff Juan Herras by Leonardo Tan through counsel, Atty. Juanito R. Dimaano. The complainant was the plaintiff in Civil Case No. 910-A entitled "Leonardo Tan v. Spouses Eugene and Carmen Zamora" in whose favor a decision was rendered by the Regional Trial Court of Antipolo, Branch 71.

In a resolution dated October 24, 1990, the Court referred the administrative matter to Executive Judge Marietta A. Legaspi for investigation. In compliance with said resolution and following the directive contained in a letter by Court Administrator Meynardo Tiro, dated November 14, 1990, the Executive Judge made the following report, after investigating the case:

xxx xxx xxx

"On November 28, 1990, the undersigned issued an order requiring the parties and their counsel to appear on December 7, 1990 at 1:30 p.m. for investigation of the above-entitled administrative matter.

The complainant together with his counsel, Atty. Juanito Dimaano, and the respondent appeared. Upon oral motion for postponement by the respondent on the ground that he failed to contact his lawyer and without objection on the part of the complainant, the investigation was reset on December 27, 1990 at 10:30.

On December 27, 1990, the parties appeared and agreed that the investigation be reset for the last time on December 28, 1990 at 9:00 A.M. with the complainant showing to the respondent his statement of account and the latter promising to pay the construction materials which he obtained from the former and used in building his house.

It should be noted that in paragraph 3 of the comment dated October 5, 1990 which the respondent submitted to the Supreme Court (Third Division), he made mention of his indebtedness to the complainant in the amount of P15,000.00 representing the value of the construction materials which he used in his new residential house in Antipolo, Rizal and which he undertook to pay on October 15, 1990 but did not pay.

At the scheduled investigation this morning, the complainant and his counsel submitted an affidavit of desistance (copies of which are now forming part of the record of this case) after the respondent has made a partial payment of his obligation.

It should be remembered that the complaint of Leonardo Tan, plaintiff in Civil Case No. 910-A and in whose favor decision was rendered by the Regional Trial Court of Antipolo, Rizal, Branch 71, was anchored on the fact that respondent deputy sheriff Juan Herras got money from him in the total amount of P3,600.00 in connection with the writ of execution which was assigned to him for implementation including the registration of the certificate of sale with the office of the Register of Deeds of Rizal but did not register the said certificate of sale.

The contention of the respondent in his comment that the various amounts which he received from the complainant as appearing in the cash vouchers and receipts attached to the affidavit-complaint were given to him as sheriff's incidental expenses and not necessarily lawful fees as provided under the rules is preposterous and untenable. No justifiable reason was given by the respondent for his failure to register the certificate of sale with the Register of Deeds notwithstanding receipt of the total amount of P3,600.00 which should have been used to defray the expenses for registration of the certificate of sale including the payment of documentary stamps and other incidental expenses.

The respondent was tasked to implement a writ of execution and not a writ of demolition. He need not be assisted by other sheriffs in executing the decision in Civil Case No. 910-A much less in registering the certificate of sale. The allegation in his comment to the effect that the money given to him by the complainant was used for his three meals together with the other deputy sheriffs is not a justification for his failure to register the certificate of sale with the Register of Deeds.

Furthermore, the act of the respondent in obtaining construction materials from the complainant which he used in his newly built residential house as alleged in paragraph 3 of his comment and his refusal and failure to pay the same constitutes conduct highly unbecoming of a court employee especially so that he was the sheriff assigned to implement a writ of execution wherein herein complainant was the plaintiff and in whose favor decision was rendered.

Notwithstanding the affidavit of desistance executed by the complainant, it is respectfully recommended that Deputy Sheriff Juan Herras, R.T.C. Branch 71, Antipolo, Rizal be reprimanded and warned that a repetition of similar acts will be dealt with more severely. Further, respondent should be admonished that henceforth, he should not obtain goods on credit from parties having cases in their sala especially in cases wherein he is assigned to implement a writ as the same constitutes conduct highly unbecoming of a sheriff/court employee."

We agree with the findings of the Investigating Judge but her recommendation as to the penalty to be imposed on the respondent is inappropriate considering the grave nature of the offense.

Time and again, the Court has stressed that the conduct and behavior of everyone connected with the dispensation of justice from the presiding judge to the lowest clerk should be circumscribed with the heavy burden of responsibility. This is specially true of sheriffs. The conduct of Judges and court personnel at all times must not only be characterized by propriety and decorum but must also be above suspicion. (*Llanes v. Borja*, Adm. Matter No. P-86-32, December 10, 1990; *Jereos, Jr. v. Reblando*, Sr. 71 SCRA 126, 131-132 [1976])

We note the affidavit of desistance filed by the complainant stating that there was no intent on the part of Juan Herras not to perform his duties as Deputy Sheriff. Nonetheless, the actuations of the respondent which are certainly unbecoming of a court employee can not just simply be disregarded.

The fact that respondent obtained a debt from the complainant in the amount of P15,000.00 representing the value of the construction materials which he used in his new residential house in Antipolo and which he undertook to pay and did not pay certainly constitutes a serious offense. This may be considered not merely as a wilful failure to pay a just debt on his part but more important the respondent clearly took undue advantage of a litigant in a case before the court. He incurred an indebtedness and asked money from a litigant whose case was assigned to him to implement the writ of execution.

One of a sheriff's principal functions is to execute final judgments and orders. In this case, the respondent's failure to register the certificate of sale despite the money given to him to defray the expenses for registration and the failure to implement the writ of execution in favor of the complainant without justifiable reasons manifest undue disregard of his duties and functions as deputy sheriff. This, the Court can not condone.

Because the Sheriff used the P3,600.00 for his own interests, the period to redeem the property subject of the writ

had to run for another year from the date of late registration. The explanation that the respondent needed the P3,600.00 to pay for the meals eaten by him and the other deputy sheriffs is puerile. He was implementing a writ of execution and not demolition. The money was for registration of the certificate of sale, not to feed several people who were not even needed in the work assigned to him. The statement that the P3,600.00 were "actually gratuities (sic) and voluntary payments as incidental expenses x x x which as a matter of fact I did not solicit or employ any kind of deception or fraud to extract from Mr. Tan" does not in the least bit justify the acts of the respondent. A sheriff is not supposed to get gratuities and voluntary payments from parties he is ordered to assist in the course of his work.

The Court cannot overstress the need for circumspect and proper behavior on the part of a sheriff, an officer of the court upon whom the execution of a final judgment depends. It is said that execution is the fruit and end of the suit and is very aptly called the life of the law (PAL v. Court of Appeals, 181 SCRA 557 [1990]). The attention of this Court has been called too often to the bad practice of some executing officers of unjustly enriching themselves at the expense of the winning litigants eager to have the judgment executed and the losing parties who seek to delay execution by all means. This is not only unjust enrichment but a blow to the proper administration of justice.

The actuations of the respondent in this case certainly constitute grave misconduct, dishonesty prejudicial to the best interest of the service and acts unbecoming of a court employee.

PREMISES CONSIDERED, the COURT RESOLVED to DISMISS respondent JUAN HERRAS from the service for dishonesty, grave misconduct, and conduct prejudicial to the best interest of the service with forfeiture of all benefits except accrued leaves.

SO ORDERED.

Fernan, C.J., (Chairman), Narvasa, Melencio-Herrera, Gutierrez, Jr., Cruz, Paras, Feliciano, Gancayco, Padilla, Bidin, Sarmiento, Griño-Aquino, Medialdea, Regalado, and Davide, Jr., JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.