

VIRGILIO HERNANDEZ, COMPLAINANT, VS. GAUDIOSO BORJA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 19, NAGA CITY, RESPONDENT.*A.M. No. P-95-1120. March 07, 1995*Read online (full-text search, related cases, audio case brief): <https://batas.org/library/918999bae471/>**PER CURIAM:**

This case arose from a Letter, dated June 3, 1993, of Atty. Rosario B. Torrecampo, Clerk of Court VI, Regional Trial Court of Naga City, requesting Executive Judge David C. Naval to conduct a formal investigation on Gaudioso Borja, Sheriff IV of the Regional Trial Court (Branch 19), Naga City, for allegedly misappropriating the redemption money paid by the complainant Virgilio Hernandez in relation to an alleged application for extrajudicial foreclosure of chattel mortgage filed by one Rafael Chancoco.

It appears that on June 12, 1992, complainant Virgilio Hernandez contracted a loan in the amount of fourteen thousand five hundred pesos (P14,500.00) from Rafael Chancoco. As security for the loan, complainant executed a chattel mortgage on his properties, viz: a steel welding apparatus with copper winding and a CROWN Post Drill, coupled with 1/8 horse-power motor, in favor of Rafael Chancoco. [1] Complainant failed to settle his obligation. Thereafter, Rafael Chancoco allegedly sought to extrajudicially foreclose the chattel mortgage. [2]

The records reveal that on February 21 and 27, 1993, Deputy Sheriff Gaudioso Borja, herein respondent, received from complainant a total sum of fourteen thousand five hundred pesos (P14,500.00), as payment for complainant's indebtedness, and five hundred pesos (P500.00) as sheriff's fee. Respondent did not issue any official receipt for the money. However, the payment was reflected in a handwritten receipt marked as Exhibit C. [3] Respondent did not deliver the mortgaged properties to complainant despite repeated demands made by the latter.

Complainant thus brought the matter to Atty. Rosario B. Torrecampo, Clerk of Court of the Regional Trial Court of Naga City. [4] The Clerk of Court ordered respondent to comment on the charge against him and settle his obligation with complainant. When respondent did not heed the directive, the Clerk of Court referred the case to Executive Judge David C. Naval for formal investigation.

Accordingly, Executive Judge David C. Naval issued Memorandum-Directive, dated June 14, 1993, charging respondent with misappropriation of the sum of P15,000.00 he received from complainant Virgilio Hernandez. Respondent was directed to submit his answer to the complaint within five (5) days from receipt of said memorandum. Respondent did not file any. Instead, he requested for a fifteen-day extension within which to submit his answer alleging that complainant had agreed to his request to settle the matter and/or return the subject personal properties to complainant on June 30, 1993.

Thereafter, the case was set for hearing for the reception of evidence of the parties. The case dragged. After several postponements, the case was finally heard on April 29, 1994. Respondent was duly informed of the scheduled hearing but did not attend the same. The Executive Judge proceeded with the reception of complainant's evidence. Nonetheless, respondent was given the opportunity to present his evidence, first on May 6, 1994, then on May 20, 1994. Again, respondent did not present any. Consequently, respondent was deemed to

have waived his right to present his evidence and the case was considered submitted for resolution.

On the basis of the evidence collated, the Executive Judge recommended that respondent be held "administratively liable for having misappropriated the sum of P15,000.00 which he received from Virgilio Hernandez and that the penalty of suspension from service for a period of six (6) months without pay be imposed upon him, without prejudice to the filing of the appropriate criminal or civil action against (respondent) Gaudioso Borja by complainant Virgilio Hernandez." [5]

While reviewing this administrative case against respondent, the Court Administrator, through Deputy Court Administrator Reynaldo L. Suarez, found additional facts which would aggravate the degree of respondent's culpability, viz: aside from not returning the amount of P15,000.00 or the chattels to complainant, "there was ... no application far extra-judicial foreclosure of chattel mortgage filed against (complainant) Virgilio Hernandez with the Office of the Clerk of Court and Ex-Officio Provincial Sheriff"; and, in another administrative case, [6] respondent had been similarly charged with dishonesty and found liable for conduct prejudicial to the best interest of the service, and meted "the penalty of six (6) months suspension without pay, with warning that a repetition of the same act or acts calling for disciplinary action will be dealt with more severely."

In view of the above findings, Deputy Administrator Reynaldo L. Suarez recommended respondent's dismissal from the service, with forfeiture of all retirement benefits, and with prejudice to employment in any branch, agency or instrumentality of the government, including government owned or controlled corporation.

We are convinced that respondent had criminal intent in accepting the money intended for the settlement of complainant's indebtedness to Rafael Chancoco. The uncontroverted evidence shows that complainant tendered the amount of P14,500.00 to save his chattels from being extrajudicially foreclosed. As previously mentioned, the foreclosure proceeding was spurious. Hence, respondent had no business collecting the payment for complainant's loan. Neither was he entitled to charge five hundred pesos (P500.00) for his services in the sham foreclosure proceeding.

Indeed, respondent had committed acts prejudicial to the best interest of the service. [7] Quite obviously, respondent collected money from complainant for his personal financial gain. We note that he did not bother to issue any official receipt for said sum of money in violation of the General Auditing and Accounting Rules. Worse, after receipt of the money, he did not return the subject chattels to complainant. His failure to offer any explanation on what happened to the money he received leads to the inescapable conclusion that he misappropriated the same.

Public office is a public trust. Public officers and employees are duty bound to serve with the highest degree of responsibility, integrity, loyalty, and efficiency, and shall remain accountable to the people. [8] We have ruled in *Caña vs. Santos*, [9] that "persons involved in the administration of justice, ought to live up to the strictest standard of honesty and integrity in the public service. The conduct of every personnel connected with the courts should, at all times, be circumspect to preserve the integrity and dignity of our courts of justice."

Considering the circumstances of the case and the unrepentant character displayed by respondent, we agree that respondent deserves the severe penalty of dismissal from the service. His more than thirty-two (32) years in government service would not tilt the balance in his favor.

IN VIEW WHEREOF, respondent GAUDIOSO M. BORJA, Sheriff IV, Regional Trial Court, Branch 19, Naga City, is hereby **DISMISSED** from the service, with forfeiture of all retirement benefits and accrued leave credits and with prejudice to re-employment in any branch or instrumentality of government, including government owned or controlled corporations.

SO ORDERED.

Narvasa, C.J., Feliciano, Padilla, Bidin, Regalado, Davide, Jr., Romero, Bellosillo, Melo, Quiason, Puno Vitug, Kapunan, Mendoza, and Francisco, JJ., concur.

[1] Exhibit "A", Original Records, p. 13.

[2] Exhibit "B", Original Records, p. 14.

[3] Original Records, p. 15.

[4] Letter, dated April 23, 1993, Original Records, p. 42.

[5] Letter, dated May 25, 1994, Original Records, p. 1.

[6] A.M. No. P-86-32, Resolution, December 10, 1990, 192 SCRA 288, entitled "Alfredo Llanes vs. Gaudioso Borja."

[7] Section 36 (b) sub-paragraph (27) of PD 807, otherwise known as the Civil Service Decree of the Philippines.

[8] Section 15 of PD 807.

[9] Caña vs. Santos, A.M. No. 93-10-1269-RTC, July 8, 1994.

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.