OFFICE OF THE COURT ADMINISTRATOR, COMPLAINANT, VS. ROGER D. COREA, SHERIFF IV, REGIONAL TRIAL COURT, BRANCH 39, POLOMOLOK, SOUTH COTOBATO, RESPONDENT.

A.M. No. P-11-2992 (Formerly A.M. No. 11-8-156-RTC). November 09, 2015

Ponente: LEONARDO-DE CASTRO,* J.

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LEONARDO-DE CASTRO,[*] J.:

The instant administrative complaint arose from a Letter[1] dated July 15, 2009 of Elsie D. Lansang (Elsie), General Manager of the Rural Bank of Polomolok, bringing to the attention of the Supreme Court that Sheriff Roger D. Corea (Sheriff Corea) of the Regional Trial Court, Polomolok, South Cotabato, Branch 39 (RTC-Branch 39), issued to the Bank a Billing Statement[2] dated June 30, 2009 which reads:

> Respectfully submitting the herein billing of Sheriff service fee and other incidental expenses incurable in your application of foreclosure in EJF Case No. 11-09 & 12-09, in the amount of SIX THOUSAND PESOS (P6,000.00), chargeable to the account of the mortgagors, copy of the Notices are hereto attached for your perusal, to wit;
>
> EJF CASE NO. 11-09
>
> P3.000.00
>
> EJF CASE NO. 12-09
>
> 3,000.00
>
> P6,000.00
>
> Your kind consideration and immediate approval upon receipt is highly appreciated.

Elsie inquired whether the said charges were proper, legal, and in accordance with law.

Through 1[st] Indorsement[3] dated October 19, 2009, then Court Administrator, now Justice of this Court, Jose P. Perez referred Elsie's Letter to Executive Judge Eddie Rojas (Judge Rojas) of the RTC-Branch 39 for appropriate action.

Upon receipt of the 1[st] Indorsement, Judge Rojas required Sheriff Corea to file his comment or answer to Elsie's Letter.

In his Answer/Comment[4] dated November 25, 2009, Sheriff Corea denied Elsie's imputations against him. Sheriff Corea narrated that: (a) The former General Manager of the Rural Bank of Polomolok was Engineer Jose R. Lansang (Jose), Elsie's late husband; (b) Sheriff Corea had submitted to Jose, as General Manager of the Bank, two or three Billing Statements all with the sentence, "[y]our kind consideration and immediate approval is highly appreciated," which constituted a "rider" allowing Jose to determine the proper amounts of service fee and other incidental expenses to be paid to Sheriff Corea in connection with extrajudicial foreclosures the said Sheriff

conducted for the Bank; (c) There had been no problem between Jose and Sheriff Corea as regards the Sheriffs service fee and incidental expenses and a misunderstanding as to such amounts only arose when Elsie assumed the post as General Manager of the Rural Bank of Polomolok upon Jose's death; (d) Sheriff Corea's Billing Statement dated June 30, 2009 to Elsie contained the same rider as those previously sent to Jose; (e) In connection with EJF Cases No. 11-09 and 12-09, Sheriff Corea had the Notices to Parties of Sheriffs Public Auction Sale posted on the bulletin boards at the lobby of RTC-Branch 39 and personally served at the mortgagee's residence; (f) The foreclosure and public auction sale of the properties in EJF Cases No. 11-09 and 12-09 had already been completed and the Rural Bank of Polomolok already received the Certificate of Sale in EJF Case No. 12-09; (g) Sheriff Corea was not in the practice of billing a standard fee of P3,000.00 per EJF case as Elsie could approve or deny whatever billing the Sheriff sent her, Sheriff Corea had billed Elsie only once, and Sheriff Corea had no discretion to standardize any fee or expense that might arise from his services; (h) No complaint had ever been filed against Sheriff Corea since he served as a Sheriff of RTC-Branch 39, Municipal Trial Court (MTC) of Polomolok, and MTC-Tupi; and (i) There was only a misunderstanding that needed enlightenment between Sheriff Corea and Elsie. All told, Sheriff Corea requested that the complaint against him be dismissed outright for lack of merit.

Elsie filed a Comment/Reply dated December 2009, alleging that even during the time when Jose was the General Manager of the Rural Bank of Polomolok and Elsie was a member of the Board of Directors, the said Board members were always arguing about Sheriff Corea's Billing Statements which were high, unjustifiable, unsupported by receipts, and not based on any Supreme Court Circular. The Bank merely tolerated and paid Sheriff Corea's Billing Statements even when its Board of Directors did not deem the amounts stated therein as proper because the Board was afraid that the Sheriff would delay or ignore the applications for foreclosure of the Bank. The Board finally came to agree to inquire, through Elsie, with the Court Administrator on whether it was proper for Sheriff Corea to charge and bill fees in the amount of P3,000.00 for posting and serving notices of foreclosure when the property and landowner-mortgagor were situated within the Poblacion, only about three kilometers away from RTC-Branch 39.

The Office of the Court Administrator (OCA) submitted an agenda report dated July 29, 2011. In a Resolution[5] dated September 26, 2011, the Court treated the agenda report as an administrative complaint against Sheriff Corea, docketed the said complaint as a regular administrative matter, and directed Sheriff Corea to comment on the complaint against him.

Sheriff Corea submitted his Comment/Answer[6] dated November 18, 2011, substantially reiterating the contents in his Answer/Comment submitted to Judge Rojas.

In its Resolution[7] dated August 13, 2012, the Court referred the administrative matter to Executive Judge Oscar P. Noel, Jr. (Judge Noel) of the RTC, General Santos City, South Cotobato, for investigation, report and recommendation within 60 days from receipt of the records.

Judge Noel submitted a partial report[8] dated March 14, 2013 in which he stated that:

> In compliance with the Resolution of the Honorable First Division of the Supreme Court dated 13 August 2012, the undersigned tried to conduct an investigation by contacting [Elsie] thru her stepson for her to clarify the complaint particularly the counter allegation by [Sheriff Corea] found in the records of the case that the amount of THREE THOUSAND (P3,000.00) PESOS billed for each case is subject to the approval of the bank thru its officers particularly [Elsie]. Several invitations were made but [Elsie] failed to appear allegedly due to very tight schedule brought about by the almost daily brown-outs in addition to [Elsie's] slow phase brought about by her advance age.
>
> On the other hand, undersigned also had difficulty scheduling a meeting with both parties due to brown-outs

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> experienced not only by the City of General Santos but also the Provinces of South Cotobato and Sarangani, hence, the need to prioritize the cases of the Regional Trial Court, Branch 35 and those being handled by the Sarangani Justice on Wheels which is also presided by yours truly.
>
> However, a talk with some of the sheriffs in General Santos City reveals that they do not normally bill the parties. All that they do when it is necessary to make a budget like in cases of demolition is to prepare an estimate but leaves it to the party/representative to handle the funds and make the necessary disbursements. With respect to Extra-Judicial Foreclosure, they normally receive at the instance of the client like the "Balikatan" a fixed amount of EIGHT HUNDRED (P800.00) PESOS regardless of distance. Allegedly, they do not ask from the parties but it had been the habit of the parties thru counsels to give the above-said amount.
>
> To the mind of the undersigned, it is not proper for a sheriff to bill a party an amount which is more than what is necessary to perform his duties and responsibilities. Even granting that the bill is subject to the approval of the party, no party will ever deny it at the risk of the sheriff delaying the implementation of the Extra-Judicial Foreclosure proceedings.
>
> A bill might be proper only after completing the task but only for the reimbursement of reasonable actual expenses duly supported with official receipts.
>
> For billing the party a fixed/standard amount, Sheriff Corea should be, at least, admonished or reprimanded since based on his claims as contained in the records of the case, he was not able to satisfactorily justify why he billed [Elsie] for his services at a standard rate. The reasoning that it is subject to the approval of [Elsie] is, to the undersigned, not acceptable.
>
> To avoid similar situations, undersigned hereby recommends that a petty cash fund be maintained and Sheriffs shall be allowed to make cash advances from the Office of the Clerk of Court for expenses necessary in the performance of their duties and responsibilities in such an amount deemed reasonable by the Clerk of Court or the Executive Judge subject to liquidation. Failure to liquidate a prior cash advance will disqualify the sheriff to request for another cash advance. The party shall then be required to pay for the actual expenses directly to the court's cashier/cash clerk and accordingly issued a receipt. As an alternative, the party shall be required to make a deposit to the Office of the Clerk of Court to be released as cash advance to be immediately liquidated by the sheriff. Any excess amount shall be returned by the sheriff to the cashier who in turn shall return the same to the party making the deposit subject to regular accounting and auditing procedures. Of course, sheriffs who fail to immediately liquidate and return any excess amount shall be subject to disciplinary action.[9]

Judge Noel then requested for an additional 70 days to complete his investigation.

The Court, in a Resolution dated July 1, 2013, noted Judge Noel's partial report and granted his prayer for extension of time to submit his report and recommendation.

Judge Noel submitted his Report[10] dated August 20, 2013 in which he recommended the dismissal of the administrative matter against Sheriff Corea considering that Elsie failed to appear for the hearings scheduled on April 24, April 25, May 2, May 8, and June 25, 2013. Judge Noel likewise prayed that his partial report dated March 14, 2013 be duly considered.

The OCA submitted to the Court its Memorandum dated August 11, 2014 with the finding that under Circular No. 7-2002 or the "Guidelines for the Enforcement of Supreme Court Resolution of December 14, 1999 in Administrative Matter No. 99-10-05-0 (Re: Procedure in Extrajudicial Foreclosure of Mortgage), as amended by the Resolutions dated January 30, 2001 and August 7, 2001," only the Clerk of Court may collect the fees prior to the extrajudicial foreclosure, subject only to the exception under Section 6 of the same Circular, in relation to Rule 141, Section 10(1) of the Rules of Court. The OCA recommended thus:

> IN VIEW OF THE FOREGOING, it is respectfully recommended for the consideration of the Court that Roger

> D. Corea, Sheriff IV, Regional Trial Court, Branch 39, Polomolok, South Cotabato be found GUILTY of conduct prejudicial to the best interest of the service and be FINED in the amount of Five Thousand Pesos (P5,000.00), payable within a NON-EXTENDIBLE period of thirty (30) days from notice.[11]

In a Resolution[12] dated November 26, 2014, the Court required the respondent to manifest within 10 days from notice if he was willing to submit the administrative matter for resolution based on the pleadings filed.

Sheriff Corea complied with the foregoing Resolution of the Court and submitted his Manifestation[13] dated March 3, 2015, praying that his attached Judicial Affidavit be admitted and included in the records of the case and manifesting his willingness to submit the matter for resolution based on the records and pleadings filed.

The Court agrees with the factual and legal conclusions of the OCA, except the recommended penalty.

Section 2 of Circular No. 7-2002[14] authorizes the Clerk of Court to collect filing fees for the conduct of extrajudicial foreclosure of real estate or chattel mortgage under the direction of the sheriff in the following amounts[15]:

> Sec. 2. Upon receipt of the application, the Clerk of Court shall:
>
> x x x x
>
> - For the conduct of extra-judicial foreclosure of real estate or chattel mortgage under the direction of the sheriff, collect the appropriate filing fees and issue the corresponding official receipt pursuant to the following schedule:
>
> If the amount of the indebtedness or the mortgagee's claim is:
>
> (1) Less than P50.000.00.....
>
> P550.00
>
> (2) P50,000.00 or more but less than P100.000.00.....
>
> 800.00
>
> (3) P100,000.00 or more but less than P150,000.00.....
>
> 1,000.00
>
> (4) P150,000.00 or more but less than P200,000.00.....
>
> 1,300.00
>
> (5) P200,000.00 or more but less than P250,000.00.....
>
> 2,000.00
>
> (6) P250.000.00 or more but less than P300.000.00.....

2,500.00

(7) P300,000.00 or more but less than P400,000.00.....

3,000.00

(8) P400.000.00 or more but less than P500,000.00.....

3,500.00

(9) P500,000.00 or more but not more than P1,000,000.000.00.....

4,000.00

(10) For each P1,000.00 in excess of P1,000,000.00.....

20.00

x x x x

Cooperatives, thrift banks, and rural banks are not exempt from the payment of filing fees and other fees under these guidelines (A.M. No. 98-9-280-RTC, September 29, 1998; A.M. No. 99-3-93-RTC, April 20, 1999; and A.M. No. 92-9-408-0).[16] (Emphasis supplied.)

Circular No. 7-2002 further provides:

Sec. 6. After the sale, the Clerk of Court shall collect the appropriate fees pursuant to Sec. 9(1), Rule 141, as amended by A.M. No. 00-2-01-SC, computed on the basis of the amount actually collected by him, which fee shall not exceed P100,000.00 (A.M. No. 99-10-05-0, March 1, 2001 2[d]). The amount paid shall not be subject to a refund even if the foreclosed property is subsequently redeemed.

x x x x

Sec. 9. Upon presentation of the appropriate receipts, the Clerk of Court shall issue and sign the Certificate of Sale, subject to the approval of the Executive Judge or, in the latter's absence, the Vice-Executive Judge. Prior to the issuance of the Certificate of Sale, the Clerk of Court shall, in extra-judicial foreclosure conducted under the direction of the sheriff, collect P300.00 as provided in Section 20(d), Rule 141, as amended, and in extra-judicial foreclosure sales conducted under the direction of a notary public, collect the appropriate fees pursuant to Rule 141, §20(e), which amount shall not exceed PI00,000.00 (Minute Res., A.M. No. 99-10-05-0, August 7, 2001).[17] (Emphases supplied.)

However, the provisions of the Rules of Court referred to in the afore-quoted Sections 6 and 9 of Circular No. 7-2002 have been revised by A.M. No. 04-2-04-SC, which took effect on August 16, 2004 (Revised Rules of Court). Sections 9(1),[18] 20(d),[19] and 20(e)[20] of Rule 141 of the previous Rules of Court are now covered by Sections 10(h), 10(1), and 21 (d) of Rule 141 of the Revised Rules of Court, reproduced below:

Sec. 10. Sheriffs, PROCESS SERVERS and other persons serving processes. -

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> x x x x
>
> (h) For SERVICES RELATING TO THE POSTING AND PUBLICATION REQUIREMENTS UNDER RULE 39 (EXECUTION, SATISFACTION AND EFFECT OF JUDGMENTS) AND IN EXTRAJUDICIAL FORECLOSURE OF MORTGAGE BY SHERIFF OR NOTARY PUBLIC besides the cost of publication, ONE HUNDRED AND FIFTY (P150.00) PESOS;
>
> x x x x
>
> (1) For money collected by him ACTUAL OR CONSTRUCTIVE (WHEN HIGHEST BIDDER IS THE MORTGAGEE AND THERE IS NO ACTUAL COLLECTION OF MONEY) by order, execution, attachment, or any other process, judicial or extrajudicial which shall immediately be turned over to the Clerk of Court, the following sums shall be paid to the clerk of court to wit:
>
> (1) On the first FOUR THOUSAND (P4,000.00) PESOS, FIVE AND A HALF (5.5%) per centum;
>
> (2) On all sums in excess of FOUR THOUSAND (P4,000.00) PESOS, THREE (3%) per centum;
>
> x x x x
>
> Sec. 21. Other fees. - The following fees shall also be collected by the clerks of the Regional Trial Courts or courts of the first level, as the case may be:
>
> x x x x
>
> (d) For entries of certificates of sale and final deeds of sale in extra judicial foreclosures of mortgages, FIVE HUNDRED (P500.00) PESOS[.]

The Revised Rules of Court only amended the amounts of fees that may be collected for extrajudicial foreclosures of real estate and chattel mortgages conducted under the direction of the sheriff, but the guidelines under Circular No. 7-2002 still apply. Under the said guidelines, it is clear that only the Clerk of Court is authorized to collect payment for such fees.

Sheriff Corea does not deny at all sending the Billing Statement dated June 30, 2009 to Elsie as the General Manager of the Rural Bank of Polomolok, only insisting that the amounts stated therein were not fixed and still subject to adjustment as Elsie saw proper and that he never had any problem with the previous Billing Statements he sent to the previous General Manager. Not only is Sheriff Corea devoid of any authority to bill and collect from the Rural Bank of Polomolok Sheriffs service fees and incidental expenses for the extrajudicial foreclosure of mortgages conducted by him, but the amount of P3,000.00 which he sought to collect per extrajudicial foreclosure case is clearly baseless and arbitrary given that Circular No. 7-2002, in relation to the Revised Rules of Court, precisely fixed the amount of collectible fees. Sheriff Corea's willingness to adjust the amounts of the fees/expenses only further raises doubts as to the propriety and veracity of the same. Sheriff Corea also made no claim that he was billing and collecting for and turning over the amounts collected to the Clerk of Court. Moreover, it is completely believable that the Bank previously paid Sheriff Corea's Billing Statements simply out of fear that if it did not, then Sheriff Corea shall delay or not conduct the extrajudicial foreclosure at all.

The Court emphasized in Spouses Villa v. Judge Ayco[21] the important role of sheriffs in the administration of justice:

> The Court recognizes the fact that sheriffs play a vital role in the administration of justice. In view of their important position, their conduct should always be geared towards maintaining the prestige and integrity of the court. In Escobar Vda. de Lopez v. Luna, the Court explained that sheriffs have the obligation to perform the duties of their office honestly, faithfully and to the best of their abilities. They must always hold inviolate and

> revitalize the principle that a public office is a public trust. As court personnel, their conduct must be beyond reproach and free from any doubt that may infect the judiciary. They must be careful and proper in their behavior. They must use reasonable skill and diligence in performing their official duties, especially when the rights of individuals may be jeopardized by neglect. They are ranking officers of the court entrusted with a fiduciary role. They perform an important piece in the administration of justice and they are required to discharge their duties with integrity, reasonable dispatch, due care, and circumspection. Anything below the standard is unacceptable. This is because in serving the court's writs and processes and in implementing the orders of the court, sheriffs cannot afford to err without affecting the efficiency of the process of the administration of justice. Sheriffs are at the grassroots of our judicial machinery and are indispensably in close contact with litigants, hence their conduct should be geared towards maintaining the prestige and integrity of the court, for the image of a court of justice is necessarily echoed in the conduct, official or otherwise, of the people who work thereat, from the judge to the least and lowest of the ranks.

In Judge Tan v. Paredes,[22] the Court pronounced that a sheriff, in implementing a writ of execution, "cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps, otherwise, it would amount to dishonesty or extortion." Said pronouncement is just as relevant in this case where Sheriff Corea, in billing and collecting from the Rural Bank of Polomolok service fees and incidental expenses for the conduct of extrajudicial foreclosure of property, not only failed to follow the proper procedural steps, but acted without authority. Even if done completely in good faith, it cannot be helped that Sheriff Corea's actuations would be in the eyes of the public tainted with suspicions of dishonesty or extortion.

Sheriff Corea's conduct herein falls short of the exacting standards for his position, constitutive of conduct prejudicial to the best interest of the service. The word "prejudicial" means "detrimental or derogatory to a party; naturally, probably or actually bringing about a wrong result." Sheriff Corea's conduct placed not only his office, but the entire Judiciary, in a bad light. He deported himself in a manner not deserving of the public's respect -prejudicial to the best interest of the service.[23]

Conduct prejudicial to the best interest of the service is classified as a grave offense under Rule 10, Section 46(B)(8) of the Revised Rules on Administrative Cases in the Civil Service (RRACCS), punishable by suspension of six (6) months and one (1) day to one year for the first offense, and dismissal for the second offense. However, Section 48 of RRACCS also allows, in the determination of the penalties to be imposed, attendant mitigating and/or aggravating circumstances. Considering that Sheriff Corea has been in the service for almost 22 years, the Court deems that a suspension of two months is already sufficient penalty.

WHEREFORE, Sheriff Roger D. Corea of the Regional Trial Court, Polomolok, South Cotabato, Branch 39, is hereby SUSPENDED without pay for two (2) months and STERNLY WARNED that a repetition of the same or similar act will be dealt with more severely.

SO ORDERED

Carpio,[**] (Acting C.J.), Bersamin, Reyes,[***] and Bernabe, JJ., concur.

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[*] Per Special Order No. 2260 dated October 28, 2015.

[**] Per Special Order No. 2261 dated October 28, 2015.

[***] Per Raffle dated November 9, 2015.

[1] Rollo, p. 5.

[2] Id. at 6.

[3] Id. at 7.

[4] Id. at 14-16.

[5] Id. at 44.

[6] Id. at 61-65.

[7] Id. at 69.

[8] Id. at 79-81.

[9] Id. at 79-80.

[10] Id. at 85.

[11] Id. at 91.

[12] Id. at 92.

[13] Id. at 93.

[14] Guidelines for the Enforcement of Supreme Court Resolution of December 14, 1999 in Administrative Matter No. 99-10-05-0 (Re: Procedure in Extrajudicial Foreclosure of Mortgages), as Amended by the Resolutions dated January 30, 2001 and August 7, 2001.

[15]The schedule of filing fees is in accordance with Rule 141, Section 7(c) of the Rules of Court, as revised by A.M. No. 04-2-04-SC, which took effect on August 16, 2004.

[16] Circular No. 7-2002, Section 2, p. 2.

[17] Id. at 4.

[18] Sec. 9. Sheriffs and Other Persons Serving Processes. —
x x x x

(1) For money collected by him by order, execution, attachment, or any other process, judicial or extra-judicial, the following sums, to wit:

- On the first four thousand (P4,000.00) pesos, five (5%) per centum;

- On all sums in excess of four thousand (P4,000.00) pesos, two and one-half (2.5%) per centum.

[19] Sec. 20. Other Fees. - The following fees shall also be collected by the clerks of Regional Trial Courts or courts of the first level, as the case may be:

x x x x

(d) For applications for and entries of certificates of sale and final deeds of sale in extra-judicial foreclosures of mortgages, three hundred (P300.00) pesos;

[20] Sec. 20. Other Fees. - The following fees shall also be collected by the clerks of Regional Trial Courts or courts of the first level, as the case may be: xxxx (e) For applications for and certificates of sale in notarial foreclosures:

1. On the first four thousand (P4,000) pesos, five (5%) percent;

2. On all sums in excess of four thousand (P4,000) pesos, two and one-half (2.5%) percent.

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[21] 669 Phil. 148, 157-158(2011).

[22] 502 Phil. 305, 313(2005).

[23] Juguela v. Estacio, 486 Phil. 206, 215-216 (2004).

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