

**DEVELOPMENT BANK OF THE PHILIPPINES, REPRESENTED BY
ATTY. BENILDA A. TEJADA, PETITIONER, VS. CLERK OF COURT VI
LUNINGNING Y. CENTRON AND SHERIFF IV ALEJANDRO L. TOBILLO,
REGIONA...**

A.M. No. P-10-2825. December 07, 2010*

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PER CURIAM:

This is a complaint against respondents Atty. Luningning Y. Centron (Atty. Centron), Clerk of Court VI, and Alejandro L. Tobillo (Tobillo), Sheriff IV, both of the Regional Trial Court, Branch 39, Calapan City, Oriental Mindoro, for Grave Misconduct, Dereliction of Duty and Conduct Prejudicial to the Best Interest of the Government, filed by the Development Bank of the Philippines (DBP).

It appears that DBP filed a petition for extrajudicial foreclosure against RMC Telecommunications Consultants, Inc. (RMC). Subsequently, a notice of auction sale was issued by Tobillo setting the date of the auction sale on December 23, 2008 with an alternative date of January 23, 2009. Before the scheduled date on December 23, 2008, Tobillo informed the head of DBP Calapan Branch that the auction sale might be postponed if the "two-bidder rule" would not be observed. The DBP's lawyer for Southern Tagalog wrote Tobillo as well as Atty. Centron to remind them that the "two-bidder rule" was no longer being observed following this Court's Resolution of January 30, 2001, amending paragraph 5 of A.M. No. 99-10-05-0.[1]

The DBP Head of Calapan Branch showed up on the first scheduled date for the auction sale. Tobillo refused to proceed. Instead of furnishing DBP with a copy of the Minutes of the Auction stating the reasons for the postponement, he simply verbally informed the DBP Head that DBP's application for foreclosure of real estate and chattel mortgages should be covered by separate petitions.[2]

On January 19, 2009, DBP's lawyer for Southern Tagalog wrote Atty. Centron asking her assistance to ensure that the auction sale would proceed without delay on the alternative date, January 23, 2009. Tobillo, in a letter to DBP's lawyer dated January 21, 2009, insisted on the "two-bidder rule" and on the requirement of two separate petitions for the foreclosure of RMC's real estate mortgage and chattel mortgage.[3]

On January 23, 2009, DBP was represented and ready to bid but no auction sale was conducted because Tobillo failed to appear.[4]

In his Comment, Tobillo admitted that he did inform DBP that he would observe the "two-bidder rule." He added that he asked DBP's lawyer to furnish him a copy of the amendments to A.M. No. 99-10-05-0 so that he could refer the matter to Atty. Centron. Tobillo argued that the postponement of the auction sale set on January 23, 2009 was proper not because of the non-observance of the "two-bidder rule," but on the ground that the foreclosure proceedings involving chattel and real estate should have been covered by separate petitions; that the subject chattel was still not in his custody or control; and that there was no pending civil case on the same subject matters before Branch 39. On his being absent on January 23, 2009 for the auction sale, Tobillo explained that he served summons in another case,[5] since he had already apprised DBP in his January 21, 2009 letter that the

forthcoming auction sale would be cancelled.

In her Comment, Atty. Centron claimed that as soon as she found out about the conflict regarding the subject auction sale, she immediately summoned Tobillo and directed him to perform his duties with dispatch, as evidenced by her letter dated December 22, 2008 and received by Tobillo on the same day. In the said letter, she gave specific instructions to Tobillo to proceed with the auction sale,[6] and reminded him that the "two bidder rule" was no longer observed.

The Office of the Court Administrator (OCA), based on its evaluation and report, offered the following recommendations:

- That the instant administrative complaint be RE DOCKETED as a regular administrative matter;
- That respondent Sheriff IV Alejandro L. Tobillo be found GUILTY of Gross Neglect of Duty and, accordingly, be DISMISSED from the service immediately with FORFEITURE of all benefits except accrued leave benefits; and
- That Clerk of Court VI Luningning Y. Centron be found GUILTY of Simple Neglect of Duty, and, accordingly be SUSPENDED WITHOUT PAY immediately from office for a period of three (3) months, with a STERN WARNING that a repetition of the same or similar offense will be dealt with more severely.[7]

After seriously evaluating the case, the Court finds merit in the complaint and agrees with the findings and recommendations of the OCA except in the case of Atty. Centron.

Regarding the conduct of extrajudicial foreclosures, this Court, as early as January 30, 2001, issued a resolution amending paragraph 5 of A.M. 99-10-05-0 explicitly dispensing with the "two-bidder rule."

Administrative Order No. 3, Series of 1984, which vested sheriffs with the duty to examine if the application for extrajudicial foreclosure of real estate mortgage had complied with the requirements under Act 3135, was amended on January 22, 2002 by Circular No. 7-2002. The amendment made it the specific duty of the Clerk of Court to examine applications for extrajudicial foreclosure of mortgages.[8] In his letter to DBP, dated January 21, 2009, Tobillo categorically stated:

- a) x x x. It is my position that it is our policy and rule based on Paragraph 5 of the Circular A.M. No. 99-10-05-0 provides: No auction sale shall be held unless there are at least two (2) participating bidders otherwise the sale shall be postponed to another date. If on the new date set for the sale there shall not be at least two (2) bidders, the sale shall then proceed. x x x.
- b) x x x. Although it was filed with the Office of the Clerk of Court and Ex-officio sheriff which examined whether the applicant has complied with all requirements, it remains my duty as sheriff to check whether the requirements have been complied with as to application of petition with two (2) different and separate actions. x x x.

From Tobillo's own words, there is no denying that he has not apprised himself of the current developments in the rules concerning his very function and duty as a sheriff with respect to extrajudicial foreclosures. This is unacceptable for it is clearly his responsibility, nay, duty to do so. This is made even more reprehensible when his erroneous stubborn reliance on the old rule resulted in the unwarranted postponement of the auction sale to the prejudice of the DBP.

Previously, in *Legaspi v. Tobillo*,[9] Tobillo was administratively charged with Grave Neglect of Duty for his alleged refusal to implement a duly issued writ of possession despite the winning party's follow-ups and, more importantly, despite the trial court's subsequent order specifically directing the continuance of the implementation of the same writ of possession. In said case, he was found guilty of gross neglect of duty and fined P20,000.00

with a warning that "a commission of the same offense or a similar act in the future will be dealt with more severely." The admonition to him was very clear. Thus:

All employees in the judiciary should be examples of responsibility, competence, and efficiency. As officers of the court and agents of the law, they must discharge their duties with due care and utmost diligence. Any conduct they exhibit tending to diminish the faith of the people in the judiciary will not be condoned.

Time and again we have ruled that high standards are expected of sheriffs who play an important role in the administration of justice. This was further expounded in the case of *Vda. De Abellera v. Dalisay*:

"At the grassroots of our judicial machinery, sheriffs and deputy sheriffs are indispensable in close contact with the 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 mirrored in the conduct, official or otherwise, of the men and women who work thereat, from the judge to the least and lowest of its personnel; hence, it becomes the imperative sacred duty of each and everyone in the court to maintain its good name and standing as a temple of justice."

In serving court writs and processes and in implementing court orders, they cannot afford to procrastinate without affecting the efficiency of court processes and the administration of justice. Given their important functions as frontline representatives of the justice system, they should be imbued with a sense of professionalism in the performance of their duties. When they lose the people's trust, they diminish the people's faith in the judiciary. (previous citations omitted) [10]

After that previous case of his, Tobillo was expected to faithfully observe the rules. As it turned out, however, he ignored the reminders and committed the same infraction. This is clearly reflective of his incorrigible character. In his insistence on an old and obsolete rule, he breached his sworn duty to uphold the majesty of the law and the integrity of the justice system. His actuations amounted to no less than Gross Neglect of Duty.

Neglect of duty is one's failure to give appropriate attention to a task which is expected, signifying a disregard to duty either from carelessness or indifference;[11] while gross neglect is "such neglect from the gravity of the case, or the frequency of instances, becomes so serious in its character as to endanger or threaten the public welfare." [12]

Considering that this is not his first transgression, the Court is constrained to impose upon him the prescribed penalty of dismissal under Rule IV, Section 52 (A) (2) of the Uniform Rules on Administrative Cases in the Civil Service, to assure the people's faith in the judiciary and to ensure the speedy administration of justice.

As to Atty. Centron, she is also charged with "Dereliction of Duty and Conduct Prejudicial to the Best Interests of the Service and the Government." After an evaluation, the OCA found Atty. Centron guilty of Simple Neglect of Duty and recommended that she be suspended for three months without pay.

As earlier mentioned in the decision, the examination of applications for extrajudicial foreclosure of mortgages is now vested with the Clerk of Court by virtue of Circular No. 7-2002. Thus, and as pointed out by the OCA, it was incumbent on Atty. Centron to determine any irregularity in DBP's petition to spare the latter from "speculating too much on the probability of proceeding with the auction sale as originally or alternatively scheduled." [13] On the other hand, the Court takes note of Atty. Centron's submission that she immediately summoned Tobillo and even issued a directive to the latter to perform his duties with dispatch as shown in her letter to Tobillo dated December 22, 2008. In her January 23, 2009 letter, addressed to the lawyer of DBP, Atty. Centron reiterated the actions she took in reeling in the obstinate and unyielding Tobillo.

She (referring to Atty. Centron herself) even advised him to read and study carefully the guidelines/ procedures

in the Extra-judicial Foreclosure of Mortgage as Amended and proceed with the Auction Sale of the questioned petition/ foreclosure if and when he believes that the same is in accordance with the said guidelines without further delay.[14]

The Court agrees that this remained short of that standard of responsibility expected of Atty. Centron. Considering that this is the first time that a complaint of this nature has been filed against her and that no evidence was adduced to show that she participated in, or condoned, Tobillo's procrastinations, the Court absolves her of any liability. She is, however, advised to perform her sworn duty of closely supervising her subordinates in the discharge of their duties.

WHEREFORE, finding respondent Alejandro L. Tobillo, Sheriff IV, guilty of gross neglect of duty, the Court hereby imposes the penalty of DISMISSAL from service with FORFEITURE of all benefits except accrued leave benefits.

Atty. Luningning Y. Centron, Clerk of Court VI, of the Regional Trial Court, Branch 39, Calapan City, Oriental Mindoro, is hereby ADMONISHED to faithfully perform her sworn duty of closely supervising the activities of her subordinates with WARNING that a repetition of the same would be dealt with more severely.

SO ORDERED.

Corona, C.J., Carpio, Carpio Morales, Nachura, Leonardo-De Castro, Brion, Peralta, Bersamin, Del Castillo, Abad, Villarama, Jr., Perez, Mendoza, and Sereno, JJ., concur.
Velasco, Jr., J., on official leave.

[*] Formerly OCA I.P.I. No. 09-3100-P.

[1] Rollo, pp. 4-5 and 215.

[2] Id.

[3] Id. at 5-6 and 216.

[4] Id at 6 and 216.

[5] Id. at 100-101 and 216.

[6] Id. at 91-92.

[7] Id. at 219.

[8] Paguyo v. Gatbunton, A.M. No. P-06-2135, May 25, 2007, 523 SCRA 156, 161-164.

[9] A.M. No. P-05-1978, March 31, 2005, 454 SCRA 228.

[10] Id. at 239.

[11] Escobar Vda. De Lopez v. Luna, A.M. No. P-04-1786, February 13, 2006, 482 SCRA 265, 278.

[12] Report on the alleged Spurious Bailbonds and Release Orders Issued by the RTC, Br. 27, Sta. Cruz, Laguna, A.M. No. 04-6-332-RTC, April 5, 2006, 486 SCRA 500, 518.

[13] Rollo, p. 219.

[14] Atty. Centron's letter to DBP dated January 23, 2009.

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