

**BENIGNO CABALLERO, COMPLAINANT, VS. WALTER VILLANUEVA,
DEPUTY SHERIFF, COURT OF FIRST INSTANCE, DIPOLOG CITY,
RESPONDENT.**

Adm. Mat. No. P-1722. August 30, 1982

Ponente: MELENCIO-HERRERA, J.

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MELENCIO-HERRERA, J.:

Respondent Deputy Sheriff Walter Villanueva was charged with gross misconduct in office in a sworn letter-complaint, dated September 22, 1977, filed in this Court by complainant Benigno E. Caballero on September 28, 1977.

Complainant alleged that sometime during the first week of November 1976, respondent Deputy Sheriff convinced him (complainant) to buy an allegedly productive parcel of land for only P6,000.00 at a public auction scheduled on November 24, 1976. Having become interested in making the purchase complainant appeared at the Sheriff's office on said date but was informed that the public auction had been postponed to December 24, 1976. On December 24, 1976, complainant return-ed to the Sheriff's office but respondent told him that the sale was moved to January 24, 1977, and at the same time demanded from him the amount of P2,000.00 as advance payment for the land, which amount complainant handed to respondent. Respondent did not issue any receipt reasoning that the receipt can be issued only upon full payment.

On January 14, 1977, respondent went to complainant's house and again asked for an additional amount of P500.00, allegedly for payment of the final deed of sale of the land. On that same date complainant delivered the amount of P500.00 to respondent at the latter's office as evidenced by a private receipt.[1] At the scheduled sale on January 24, 1977, respondent was not in his office. Sensing an anomaly, complainant went to the Development Bank of the Philippines at Dipolog City, the mortgagee of subject parcel of land, and learned that the mortgagor-owner of the land had already settled her account in full and that no more auction sale was going to be held. Complainant's efforts to personally confront respondent failed. Feeling deceived complainant filed a criminal case for estafa against respondent for which a preliminary investigation had been conducted.

The aforesaid letter-complaint was referred to respondent through the Executive Judge of the Court of First Instance of Zamboanga del Norte for comment.

In his Comment, respondent denied the charge stating that complainant had merely accompanied Jose Aguilar, son of Melania Aguilar, who was the one interested in buying the land; that the amount of P2,000.00 was borrowed by respondent from Melania Aguilar on December 24, 1976 in the presence of complainant as evidenced by a receipt signed by him and to which Melania affixed her conformity;[2] while the amount of P500.00 was borrowed by respondent from Jose Aguilar on January 21, 1977, and not from complainant.

In this Court's Resolution of July 9, 1980, the case was referred to the Executive Judge of the Court of First Instance of Zamboanga del Norte for investigation, report and recommendation.

On March 30, 1981, Executive Judge Dimalanes B. Buissan submitted his Report with the following findings and recommendation:

"1. That the termination of the investigation of the above-entitled case has been unnecessarily delayed due to the several postponements, mostly asked by the respondent. We did not summarily terminate the investigation, in spite of the delaying tactics of respondent and his counsel in order to give respondent time enough to present his side of the case. Besides we did not want respondent to feel and believe that we are unduly strict and unsympathetic to him due to our continued enforcement of official morality in service upon our court employees of which he is a part.

"2. As the record shows, the investigation has been set on the following dates:

"(A). September 4, 1980, but the record of the minutes of the proceeding is dated September 5, 1980. Complainant Benigno Caballero testified to the effect that respondent approached and informed him that he could buy a parcel of land which was to be sold at public auction by respondent who asked and got P500.00 from him as down payment; that to secure the amount of P2,000.00 asked for by respondent, complainant asked his aunt, Mrs. Melania Aguilar, to lend him P2,000.00; that Mrs. Aguilar, instead of giving the P2,000.00 to complainant, came to Dipolog to as-certain the truth of her nephew's claim. Having been satisfied, she gave the P2,000.00 to her nephew who in turn gave it to respondent as his bid, together with the P500.00 depo-sited in advance with the respondent, for the parcel of land supposed to be sold at public auction, but which did not materialize.

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"(N). February 27, 1981. Re-spondent and counsel did not appear. Complainant was allowed to present rebuttal witness, Mrs. Melania Aguilar, who testified that contrary to respondent's claim the P2,000.00 was delivered to respondent for the payment of the parcel of land to be sold at public auction and not a loan to respondent whom she saw only for the first time in Negros Oriental a few days before.

"The case was reset for March 4, 1981 to give respondent opportunity to cross-examine re-buttal witness Mrs. Melania Aguilar.

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"(P). March 25, 1981. On March 23, 1981, respondent thru counsel filed a Manifestation with an Annex, stating that respondent having paid complainant the total amount of P2,500.00 was then resting and submit (ting) his case for the consideration of the court.

"3. We regret to mention that we are aware of the activities of our sheriffs, including the respondent, and other court employees, and since we were first designated as Executive Judge we exerted our utmost efforts in instilling morality in the service among our court employees. Our effort has paid off to a certain extent, but there is still much to be desired.

"4. The fact that respondent paid back the complainant is an admission that complainants' charge was true.

"-RECOMMENDATION-

"We are respectfully submitting the result of our investigation without any recommendation because it seems to us that there is only one appropriate measure that should be taken in the instant case."

The findings set forth above are supported by the evidence on record.

Considering respondent's tacit admission of the charge as shown by his having paid back the amount of P2,500.00

to complainant (not to Mrs. Aguilar), but only after the filing of this administrative case, we agree with Deputy Court Administrator Leo D. Medialdea, as concurred in by then Court Administrator Justice Lorenzo Relova, that respondent must be found guilty of dishonesty and conduct prejudicial to the best interest of the service. Such dishonesty and untrustworthiness can not be tolerated in the public service.[3]

WHEREFORE, respondent Deputy Sheriff Walter Villanueva is hereby found guilty of Dishonesty and Serious Misconduct prejudicial to the best interests of the service and is hereby ordered **DISMISSED** effective upon receipt of this Decision, with forfeiture of retirement privileges and with prejudice to re-employment in any national, local office or agency, including government-owned-or controlled corporations or instrumentalities.

SO ORDERED.

Teehankee, (Chairman), Makasiar, Plana, Vasquez, and Gutierrez, Jr., JJ., concur.
Relova, J., no part.

[1] Annex "B", p. 4, Rollo.

[2] Exh. "A", p. 16, *ibid*.

[3] Valencia vs. Pamisaran, Adm. Matter No. P-131, 56 SCRA 235.

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