

ALFREDO LLANES, COMPLAINANT, VS. GAUDIOSO BORJA, DEPUTY SHERIFF, RTC, BRANCH 19, NAGA CITY, RESPONDENT.

Adm. Matter No. P-86-32. December 10, 1990

Ponente: GUTIERREZ, JR., J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/c5522e825745/>

GUTIERREZ, JR., J.:

This administrative matter refers to the charges of highly irregular and dishonest acts brought by the complainant, Alfredo Llanes, against Gaudioso Borja, the deputy sheriff of the Regional Trial Court (RTC), Branch 19 of Naga City.

The antecedent facts of the case are as follows:

On April 30, 1986, there appeared an item entitled "Sheriffs Deal Hit" in the local weekly paper "Vox Bicol." As the said article involved the integrity of the sheriff's office, the RTC Clerk of Court and Ex--Oficio Provincial Sheriff, Atty. Rosario Torrecampo, wrote a letter to the editor of the paper requesting the identity of the deputy sheriff alluded to in the article. Jose Obian, the editor of Vox Bicol acceded to the request and identified the respondent as the deputy sheriff involved.

Meanwhile, in a letter-complaint dated May 26, 1986 sent to the Clerk of Court, RTC of Naga City which was subsequently subscribed to under oath on February 1, 1987, the complainant alleged that the respondent offered him help to avoid the levy of his properties in connection with his case entitled "Hidalgo v. Llanes", by transferring them to his children by means of fictitious deeds of sale, and then demanded P3000.00 as bond for Mr. Hidalgo, P3,000 for the expenses in the preparation of necessary documents and pocket money of P275.00. The complainant further alleged that the respondent, together with his wife, in another instance proposed to help the complainant register a mortgage contract executed by one Salvador Motos in favor of the complainant as security for an indebtedness. On the basis of the respondent's representation, the complainant turned over the title and document evidencing the obligation to him. The respondent in turn delivered the said papers to the mortgagor.

On June 16, 1986, Clerk of Court Torrecampo sent a letter to the respondent requiring him to file a written comment which the latter did on June 30, 1986.

In his answer, the respondent strongly denied the allegation of the complainant that he caused the simulated transfer of the properties to avoid the levy of said properties and that he demanded P6,000.00 from the complainant for the said transaction. As for the second charge of the complainant, the respondent contended that he was verbally authorized by the complainant to demand and collect from the mortgagor, Mr. Motos, the indebtedness in the amount of P24,000.00. He added that the complainant even handed him a duplicate copy of the mortgage contract with a promise that he would be rewarded with money if he was able to collect. He admitted that he prepared an application for foreclosure of the real estate mortgage but alleged that it was upon the request of the complainant.

Torrecampo having conducted a preliminary investigation of the charges in the letter-complaint and the

respondent having filed his answer thereto, recommended to the Executive Judge that a formal investigation be conducted wherein both parties would be afforded the opportunity to confront each other.

Executive Judge Juan Llagano, RTC, Naga City asked this Court for instruction on what further action to take.

This Court issued a resolution dated January 5, 1987 referring the matter to the Executive Judge for investigation, report and recommendation, after the letter-complaint was sworn to under oath by the complainant.

Acting on such order, the Executive Judge issued his report and recommendation dated May 2, 1988.

In his report Executive Judge Llagano pinpointed the two issues to be resolved, to wit:

"1. Whether or not the respondent, by taking advantage of his position as the executing sheriff in a case against the complainant, and for the consideration of P6,275.00 received from the complainant, resorted to a fraudulent scheme by instigating the complainant to execute fictitious deeds of sale of his truck and ricemill "kiskisan" to spare them from execution."

"2. Whether or not the respondent, being a deputy sheriff, taking advantage of his position and the confidence reposed in him by the complainant who entrusted to him the certificate of title of a property mortgaged to the complainant by Mr. Salvador Motos, with the promise to return the same to the complainant had, instead, delivered the same to the mortgagor without the consent or authority of the complainant-mortgagee." (Rollo, p. 254)

The findings of the Executive Judge on the two issues are as follows:

As to the first charge:

xxx xxx xxx

"It must be noted that it is officially recorded in the Office of the Provincial Sheriff that the writ of execution issued by the Municipal Court of Camaligan, Camarines Sur, was received by the Office of the Provincial Sheriff of Camarines Sur only on June 4, 1985, (should be June 3, 1985) as evidenced by date of receipt stamped thereon by the Office of the Provincial Sheriff (Exhibit 3-A), and, accordingly, the sheriff's fees were also paid on June 4, 1985, as of the filing thereof (Exhibit 3-B and Exhibit 3-C). Such being the case, the claim of the respondent that he came to know the complainant for the first time only during the first week of June, 1985, is more probable and easier to believe because the writ of execution (Exhibit 3) was received by the Office of the Provincial Sheriff only on June 3, 1985 (Exhibit 3-A) not before. And, evidence is bare to show that the respondent received the writ of execution earlier than June 3, 1985 and tried to implement the writ of execution before it was received by the Office of Provincial Sheriff on June 3, 1985. Such being the case, the version of the complainant that in the month of May 1985 the respondent received from him on different dates the total amount of P6,275.00 of which he recorded them on his May, 1985 calendar (Exhibit A, Exhibits A-1, A-2 and A-3, also marked as Exhibit 4, Exhibits 4-A, 4-B and 4-C, respectively)), aside from being hearsay pieces of evidence, they are also unreliable because in the month of May, 1985, the complainant and the respondent were not yet known to each other. Hence, there was no occasion in May 1985 where the respondent went to the complainant for the purpose of executing a judgment, and made the promise to help the complainant avoid execution insofar as it refers to complainant's truck and ricemill, or that the respondent received from the complainant the total amount of P6,275.00 as recorded in the May 1985 calendar.

"Even the newly discovered evidences presented by the complainant, consisting of the notarial reports of Notary Public Pedro N. Nale, which show that the Deed of Sale of Ricemill 'Kiskisan', dated March 14, 1984, (Exhibit C) were not notarized by said notary public (Exhibit V, Exhibit V-1, Exhibit W, Exhibit W-1, Exhibit W-2 and Exhibit W-3, appearing on Pages 223 to 228 of the records), do not give added weight to the claim of the complainant that it was in the month of May 1985 when the respondent suggested to the complainant that fictitious deeds of sale of said properties be executed by the complainant to spare them from execution

allegedly upon the advise of the respondent. It is too weak and unreliable for the same reason that it was only sometime on June 8, 1985 when the respondent came to know the complainant for the first time. The inevitable conclusion is that the respondent could not have instigated or advised the complainant to execute said fictitious deeds of sale on the month of May 1985, in order that the properties subject thereof may not be subject of execution." (Rollo, pp. 256-258)

As to the second charge:

"The claim of the complainant that the subject certificate of the title was received from him by the respondent, which the latter delivered to the mortgagor, Mr. Motos, without complainant's consent of authority, aside from being vehemently denied by the respondent was easily overturned by the clear and positive testimony of the mortgagor, Mr. Motos, who declared that it was the complainant who returned to him the certificate of title of the mortgaged property when he went to the complainant and borrowed said title in order that he could secure a loan and from the proceeds thereof complainant could be paid his loan, to which the complainant agreed and delivered the title to Mr. Motos contained in a brown envelope together with the location plan of the property, the tax declaration and a Deed of Undertaking. (tsn., pp. 13-14, June 5, 1987)." (Rollo, p. 260)

"The failure of the complainant to deny in his letter-reply dated July 27, 1986 to the answer-comment of the respondent the specific allegation of the respondent that the title to the property was given by complainant to Mr. Motos upon the latter's request, coupled by the fact that he did not also rebut the testimony of Mr. Motos when the latter testified in this case to the same effect, when he had all the opportunity to do so, if the allegations in respondent's answer and the oral testimony of Mr. Motos are not true, give credence to the claim of the respondent and Mr. Motos that it was the complainant himself who delivered the certificate of title to Mr. Motos in order that the latter could make use of the same in securing for a loan and from the proceeds thereof the complainant could be paid.

As the evidence of the parties stand on the second charge in the letter-complaint, we are not persuaded to believe the imputation made by the complainant against the respondent is sufficiently established by his evidence. Hence, the respondent must perforce be also cleared of the second charge in the letter-complaint." (Rollo, p. 261)

The factual findings of the Investigating Judge are accepted by this Court in the absence of a showing that matters of substance were either disregarded or overlooked. Moreover, the Executive Judge, although he recommended the dismissal of the two charges against the respondent in view of insufficiency of the complainant's evidence, found that the respondent had committed irregular acts and conduct prejudicial to the best interest of the service in violation of Section 36(b) sub-par. (27) of PD 807 otherwise known as the Civil Service Decree of the Philippines.

The above conclusion was based on the respondent's own oral testimony, his answer to the letter-complaint of the complainant and the testimony of Mr. Motos, the respondent's own witness. The Executive Judge reported that:

xxx xxx xxx

"The act of the respondent in performing acts of collecting a loan from a mortgagor at the instance of the complainant-mortgagee, is an act that is incompatible with the position and function of the respondent as deputy sheriff of the court, considering that the foreclosure of said mortgage may finally be pursued in the ordinary course of the law and the office of the sheriff would be called upon officially in connection with the foreclosure of the mortgaged property. A more credible and orderly administration of justice cannot countenance this conduct of the respondent, especially considering that in going to the mortgagor, Mr. Motos, to collect the loan, he introduced himself as one among the employees of the Hall of Justice.

The respondent, in introducing himself to the mortgagor as an 'employee of the Hall of Justice' or 'employee of the court,' could not have been resorted to by the respondent except to produce the calculated effect of

impressing upon the mortgagor that he was acting with authority under the law." (Rollo, pp. 262-263)

The Executive Judge stated that while this specific charge was not made by the complainant in his letter-complaint against the respondent, it came out in the course of the investigation and should be acted upon. He then, recommended that the respondent be reprimanded for his conduct.

This Court agrees with the above findings and recommendation of the Executive Judge except for the penalty he meted out for the respondent's acts of collecting a loan from a mortgagor at the instance of the complainant-mortgagee.

This Court has repeatedly stressed that the conduct and behavior of every one connected with an office charged with the dispensation of justice, like the courts below, from the presiding judge to the sheriff and deputy sheriff to the lowest clerk should be circumscribed with the heavy burden of responsibility. His conduct, at all time, must not only be characterized with propriety and decorum but above all else must be above suspicion. (*Jereos, Jr., v. Reblando, Sr.* 71 SCRA 126, 131-132 [1976]).

The actuations of the respondent in collecting from Mr. Motos what the latter owed to the complainant, even if with an alleged verbal authority constitutes a clear case of intervention in a private transaction which would directly or indirectly involve the respondent's official position as his office might eventually be called upon, in case a litigation can no longer be avoided and the execution of judgment is proper. In fact, the respondent stated in his answer that he had already prepared the application for foreclosure of real estate mortgage at the request of the complainant but this was not filed as the complainant's wife said that an arrangement has been reached by the complainant and Mr. Motos. (Rollo, p. 14) Such act is clearly incompatible with the respondent's official functions.

This misconduct is aggravated by the fact that the respondent introduced himself as an employee of the Court (TSN, June 22, 1987, pp. 7-10). This was done by him in order to impress upon the mortgagor that he was acting with authority under the law.

The respondent has abused his position in showing undue personal interest in the transaction raising the question that he might have had hope of pecuniary gain as the respondent himself admitted in his answer that the complainant promised to reward him with some amount if he will be able to collect from Mr. Motos. (Rollo, p. 14)

WHEREFORE, premises considered, the penalty of six (6) months suspension without pay, the period of which should not be charged to his accumulated leave is imposed on respondent Gaudioso Borja, Deputy Sheriff of RTC Branch 19, Naga City for conduct prejudicial to the best interest of the service, with a warning that a repetition of the same or of acts calling for disciplinary action will be dealt with more severely.

SO ORDERED.

Fernan, C.J., (Chairman), and Bidin, JJ., concur.
Feliciano, J., on leave.

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.