



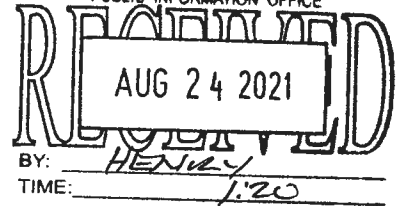
Republic of the Philippines

Supreme Court

Manila

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SUPREME COURT OF THE PHILIPPINES
PUBLIC INFORMATION OFFICE



BRYAN T. MALABANAN,
Complainant,

A.M. No. P-20-4090
[FORMERLY OCA IPI NO. 18-4826-P]

Present:

PERALTA, *C.J.*,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GISMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN,
ROSARIO, and
LOPEZ, *JJ.*

- versus -

REUEL P. RUIZ, SHERIFF IV,
BRANCH 84, REGIONAL TRIAL
COURT, MALOLOS CITY,
BULACAN,

Respondent.

Promulgated: *June 16, 2021*

March 16, 2021

X-----X

DECISION

PER CURIAM:

This administrative case stemmed from an Affidavit-Complaint¹ dated May 18, 2018 filed by complainant Bryan T. Malabanan (Malabanan), Paralegal Officer of UCPB Savings Bank (UCPB), against respondent Reuel P. Ruiz, Sheriff IV of the Regional Trial Court (RTC) of Malolos City, Bulacan, Branch 84, before the Office of the Court Administrator (OCA) for grave

¹ *Rollo*, pp. 2-5.

misconduct and violation of Republic Act No. (R.A.) 6713 or the Code of Conduct and Ethical Standards for Public Officials and Employees.

Facts of the Case

In his Affidavit-Complaint, Malabanan said that on February 22, 2018 he filed a petition for extra-judicial foreclosure of mortgage, in behalf of UCPB, before the RTC of Malolos City, Bulacan, against the properties of Francisco Allarilla and the members of the latter's family, consisting of 98 titles. The case was entitled *UCPB Savings Bank v. Allarilla, et al., represented by Francisco J. Alarilla, Attorney-in-Fact*, docketed as EJM No. 28-2018,² and was raffled to respondent for the conduct of the auction sale on the mortgaged properties. On April 12, 2018, the auction sale proceeded and UCPB was declared as the highest bidder.³ Subsequently, respondent gave complainant a Billing for Sheriff's Fee,⁴ which provides:

BILLING FOR SHERIFF'S FEE

UCPB SAVINGS BANK

vs.

ALARILLA ET.AL. represented by
FRANCISCO J. ALARILLA
(Attorney-In-Fact)

EXTRA JUDICIAL FORECLOSURE NO. 28-2018

Sir,

In connection with the Auction Sale of the above captioned cases, undersigned Sheriff, hereby tenders his billing as hereunder itemized.

ninety-eight (98) Titles
Five thousand (P5,000.00) per
Title

Note: The subject amount is based on the prevailing amount being paid by any Petitioner."

Malolos City, Bulacan. 12 April 2018.

(Sgd.)
Reuel P. Ruiz
Sheriff – In Charge⁵



² Id. at 7.

³ Id. at 2.

⁴ Id. at 7.

⁵ Id.

Complainant said that UCPB is willing to pay the mandated and authorized fees and expenses incidental to the petition for extra-judicial foreclosure of mortgage, but the sum of ₱490,000.00, which respondent seeks to collect is so unconscionable to be considered as expenses for the posting and service of the petition and conduct of the auction sale. He further said that respondent's billing was without any basis and approval from the court as mandated by Rule 141 of the Rules of Court. Hence, it is a form of solicitation of money punishable by dismissal from the service.⁶

In his Comment⁷ dated August 9, 2018, respondent denied the accusation that he is attempting to collect money from complainant. Respondent admitted that he gave the questioned billing to the complainant but explained that the same is only a guide for UCPB in estimating the amount to be paid. To support his claim of innocence, respondent averred that:

- (a) there was no amount indicated in the billing because, as agreed upon, such fee shall depend upon the sole discretion of the bank, as practiced. He said that:

If indeed I demanded a huge amount, I would have conveniently stated the same in the Billing itself as what I did and still doing in my executions, but such was not my intention.⁸

- (b) he made the wrong choice of words and his billing is only a guide to payor bank in forming their estimates regarding the fees payable to sheriffs. He then stated that:

This same amount is being paid by most Banks, with or without the required estimate of expenses, in fact, even the Land Bank of the Philippines pays only the amount of ONE THOUSAND PESOS per title, meaning per transaction. A common practice by Banks being tolerated and this same practice is what I expected and presumed to happen in this transaction with sir-Malaban.⁹

- (c) he was expecting that complainant will agree to the same tolerated practice among bank in terms of sheriff's fees. He said that he and complainant agreed that the latter will communicate to him the bank's approval or denial thereof and only then that the proper and required estimate of the expenses will be made for its eventual approval by the authorities concerned;¹⁰

- (d) the instant complaint is premature because the complainant could have availed of certain remedies, such as notifying him

⁶ Id. at 3.

⁷ Id. at 20-25.

⁸ Id. at 21.

⁹ Id. at 21-22.

¹⁰ Id. at 22.

of the denial of the bank and submitting counter proposals or notifying and seeking the intervention of the Ex-Officio Sheriff or bringing the matter to the attention of the Executive Judge;¹¹

- (e) he has not received any amount which will only happen when the billing is approved.¹²

Report and Recommendation of the OCA

In its Memorandum¹³ dated August 19, 2020, the OCA found respondent guilty of soliciting money which is a violation of Section 50(A)(10)¹⁴ of the 2017 Rules on Administrative Cases in the Civil Service (2017 RACCS). The OCA recommended that the instant administrative case be re-docketed as a regular administrative matter, and that respondent be dismissed from service with forfeiture of all his retirement benefits, excluding accrued leave credits, and with prejudice to re-employment in the government, including government-owned or controlled corporations.¹⁵

The OCA held that respondent's Billing for Sheriff's Fee is an attempt to solicit money from UCPB. The said billing statement is complete in all the necessary details for complainant to conclude that he has to pay respondent. It need not indicate the specific amount sought to be collected since it can easily be computed by multiplying 98 titles by ₱5,000.00.¹⁶

The OCA elucidated that respondent's billing is not authorized by any law since Section 6 of A.M. No. 99-10-05-0 (Re: Procedure in the Extra-Judicial Foreclosure Mortgages) provides only one fee which can be collected after an auction sale, to wit:

After the sale, the Sheriff shall collect the appropriate fees pursuant to Section 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 shall not exceed P100,000.00 (A.M. No. 99-10- 05-0, March 1, 2001, 2[d]). The amount shall not be subject to a refund even if the foreclosed property is subsequently redeemed.¹⁷

Section 9(1) has already been transposed to Section 10(1) of Rule 141, as amended by A.M. No. 04-2-04-SC (Proposed Revision of Rule 141, Revised Rules of Court Legal Fees) which provides that:

¹¹ Id. at 23.

¹² Id.

¹³ Id. at 48-53.

¹⁴ 10. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of one's office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing monetary value is one which is evidently or manifestly excessive by its very nature;

¹⁵ *Rollo*, p. 53.

¹⁶ Id. at 49-50.

¹⁷ Id. at 50-51.

Section 10. Sheriffs, Process Servers and other persons serving processes. –

x x x x

(l) 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

Contrary to respondent's argument that his billing statement was merely a suggestion or a guide for complainant in estimating the fee which shall depend upon the sole discretion of UCPB, the OCA emphasized that the payee or the payor is never allowed to exercise any discretion in determining the amount to be paid because all the fees authorized to be collected under A.M. No. 99-10-05-0 or in Rule 141 are based on a fixed base amount and rate.¹⁸

The OCA further said that even if the complainant did not agree to respondent's suggestion and did not give any money to him, it will not exempt respondent from punishment¹⁹ because Section 50(A)(10), Rule 10 of the 2017 RACCS provides that:

10. Soliciting or accepting directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value in the course of one's official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of one's office. The propriety or impropriety of the foregoing shall be determined by its value, kinship, or relationship between giver and receiver and the motivation. A thing of monetary value is one which is evidently or manifestly excessive by its very nature;

Lastly, the OCA said that respondent's 24 years in the service will not be considered a mitigating circumstance in his favor since it appears that his offense is not an isolated case. Respondent's Billing for Sheriff's Fee is proof enough of this as it states the subject amount is based on the prevailing rate being paid by any petitioner.²⁰ The OCA noted that paragraph 5 of respondent's Comment is replete with statements pointing to a customary practice, to wit:

¹⁸ Id. at 51.

¹⁹ Id. at 52.

²⁰ Id.

my

[N]o amount was computed or reflected thereon because as agreed upon such fee shall depend upon the sole discretion of the Bank, **as practiced**. If indeed I demanded such huge amount, I would have conveniently stated the same in the Billing itself **as what I did and still doing in my executions** but such was not my intention

This same amount is being paid by most Banks, with or without the required estimate of expenses, in fact even the Land Bank of the Philippines pays only the amount of ONE THOUSAND PESOS per title, meaning per transaction. **A common practice by Banks being tolerated and this same practice is what I expected and presumed to happen in this transaction with sir-Malabanan.**

The word 'per Title' only meant per transaction as it is a **tolerated practice** x x x

Being UCPB's Paralegal, my expectation aside from our agreement, is he will assent to the same **tolerated practice** x x x (Emphasis supplied).²¹

Issue

The only issue in this case is whether respondent committed improper solicitation in violation of Section 50(A)(10) of the 2017 RACCS.

Ruling of the Court

The Court agrees and adopts the findings and recommendations of the OCA.

A sheriff is expected to know the rules of procedure pertaining to his functions as an officer of the court.²² Section 10 of Rule 141 of the Rules of Court precisely enumerates the fees sheriffs, process servers and other persons serving processes are entitled to pursuant to the performance of their official duties, to wit:

Section 10. Sheriffs, Process Servers, and other persons serving processes.

x x x x

With regard to sheriff's expenses in executing writs issued pursuant to court orders or decisions or safeguarding the property levied upon, attached or seized, including kilometrage for each kilometer of travel, guards' fees, warehousing and similar charges, the interested party shall pay said expenses in an amount estimated by the sheriff, subject to the approval of the court. Upon approval of said estimated expenses, the interested party shall deposit such amount with the clerk of court and ex-officio sheriff, who shall disburse the same to the deputy sheriff assigned to effect the process, subject to liquidation within the same period for rendering a return on the process. The liquidation

²¹ Id. at 53.

²² *Guerrero-Boylon v. Boyles*, 674 Phil. 565, 573 (2011).

shall be approved by the court. Any unspent amount shall be refunded to the party making the deposit. A full report shall be submitted by the deputy sheriff assigned with his return, and the sheriff's expenses shall be taxed as costs against the judgment debtor.

In this case, the Billings for Sheriff's Fees is not disputed by respondent. He admitted that he issued the said billing and the only excuse he proffered was that the same was merely given as a guide for UCPB in estimating the amount to be paid.

Evidently, respondent's explanation does not merit any consideration. The OCA correctly pointed out that respondent's Billing for Sheriff's Fee has no legal basis. A.M. No. 99-10-05-0 and Rule 141 is very clear that all the fees authorized to be collected are specified or the means by which these are to be computed are fixed. Moreover, Section 10 of Rule 141 provides the specific amount of fee for a particular service or duty performed by the sheriff. It can never be based on the sole discretion of the payor. Neither can it be based on the customary practice of banks paying a specific fee per title in extrajudicial foreclosure proceedings, or as in this case the number of titles at the rate of ₱5,000.00 for each title.

The Court have consistently held that the rules on sheriff's expenses are clear-cut and do not provide procedural shortcuts. A sheriff cannot just unilaterally demand sums of money from a party-litigant without observing the proper procedural steps otherwise, it would amount to dishonesty and extortion. And any amount received in violation of Section 10, Rule 141 of the Rules of Court constitutes unauthorized fees.²³ Besides, even if the party was amenable to the amount requested or that the money was given voluntarily and applied for lawful purposes, such would not absolve respondent from administrative liability because of his failure to secure the court's prior approval.²⁴

Respondent's assertion that he has not received any amount from complainant will not excuse him from incurring liability because mere demand is already sufficient. In *Security and Sheriff Division, Sandiganbayan v. Gole*,²⁵ where the respondent was dismissed from the service for improper solicitation, the Court held that respondent's assertion that there is no evidence that he received the money is of no moment, because its receipt is not necessary in establishing improper solicitation, mere demand being sufficient.²⁶

From the foregoing, it has been sufficiently established that respondent solicited money from complainant. It is evident that the respondent showed carelessness or indifference in the performance of his duties. The record showed that aside from his lame excuses, he offered no veritable explanation

²³ *Francia v. Esguerra*, 746 Phil. 423, 429 (2014).

²⁴ *Id.* at 428-429.

²⁵ 813 Phil. 555 (2017).

²⁶ *Id.* at 564-565.

nor satisfactory reason to support his actions. His failure to comply with the aforementioned rules designed to promote full accountability for public funds, clearly undermines the public's faith in courts and in the administration of justice as a whole, and render him unfit for the position of sheriff.

Under Section 7(d)²⁷ of R.A. 6713, solicitation is considered a prohibited act. Moreover, Section 2²⁸ of the Code of Conduct for Court Personnel²⁹ also provides that court personnel shall not solicit or accept any gift, favor, or benefit based on any explicit or implicit understanding that such gift, favor, or benefit shall influence their official actions.

Accordingly, respondent is guilty of improper solicitation. Following Rule 10, Section 50(A)(10) of the 2017 RACCS, improper solicitation is classified as a grave offense punishable by dismissal from the service.

Respondent's 24 years in the service cannot be considered a mitigating circumstance in his favor because Section 53³⁰ of the 2017 RACCS provides that mitigating circumstances cannot be appreciated when the offense committed is punishable by dismissal from the service.

Obviously, the Court cannot consider length of service in favor of the respondent because of the gravity of the offense he committed and the fact that it was his length of service in the judiciary which helped him in the commission of the offense. The OCA clearly pointed out in its report that the comment of respondent revealed a customary practice. Respondent cannot escape administrative sanction by justifying his act as a common practice by banks in execution proceedings that is being tolerated. The Court noted the fact that respondent is fully aware that this is merely a "tolerated practice," hence, it is without any legal basis.

Respondent having been in the government service for a long period of time should have had a clear understanding of his official duties under the law. Even if, indeed, it became an established practice, it cannot ripen into a legal act since it is not sanctioned by any law.

²⁷ Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x x

(d) Solicitation or acceptance of gifts. - Public officials and employees shall not solicit or accept, directly or indirectly, any gift, gratuity, favor, entertainment, loan or anything of monetary value from any person in the course of their official duties or in connection with any operation being regulated by, or any transaction which may be affected by the functions of their office.

²⁸ Section 2. Court personnel shall not solicit or accept any gift, favor or benefit based on any or explicit understanding that such gift, favor or benefit shall influence their official actions.

²⁹ AM No. 03-06-13-SC, April 23, 2004.

³⁰ Section 53. Mitigating and Aggravating Circumstances. Except for offenses punishable by dismissal from the service, the following may be appreciated as either mitigating or aggravating circumstances in the determination of the penalties to be imposed. x x x x

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We reiterate that sheriffs are ranking officers of the court. They play an important part in the administration of justice – execution being the fruit and end of the suit, and the life of the law. In view of their exalted position as keepers of the faith, their conduct should be geared towards maintaining the prestige and integrity of the court.³¹ Any conduct, act or omission, violative of the norms of public accountability and that may diminish the faith of the people in the Judiciary should not be allowed. Clearly, in this case, respondent failed to live up to such standard.

WHEREFORE, the Court finds respondent Reuel P. Ruiz, Sheriff IV of the Regional Trial Court, Malolos City, Bulacan, Branch 84 **GUILTY** of improper solicitation in violation of Section 50(A)(10) of the 2017 Rules on Administrative Cases. He is hereby **DISMISSED** from service with **FORFEITURE** of all retirement benefits, excluding accrued leave credits, and with prejudice to re-employment in the government, including government-owned or controlled corporations.

SO ORDERED.



³¹ Supra note 24.

DIOSDADO M. PERALTA
Chief Justice



ESTELA M. PERLAS-BERNABE
Associate Justice



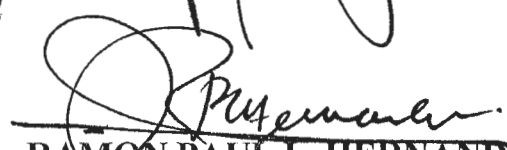
MARVIC MARIO VICTOR F. LEONEN
Associate Justice



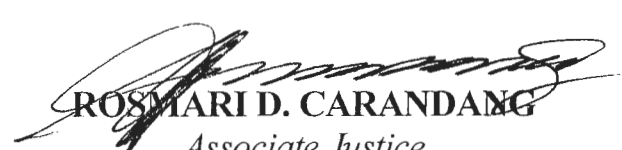
ALFREDO BENJAMINS S. CAGUIOA
Associate Justice



ALEXANDER G. GESMUNDO
Associate Justice



RAMON PAUL L. HERNANDO
Associate Justice



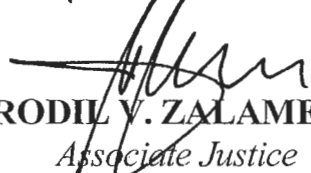
ROSMARI D. CARANDANG
Associate Justice



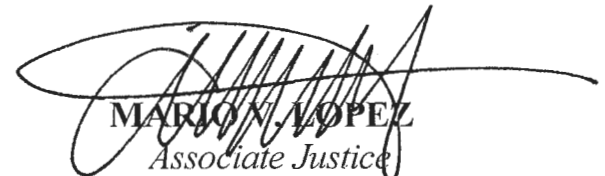
AMY C. LAZARO-JAVIER
Associate Justice



HENRI JEAN PAUL B. INTING
Associate Justice



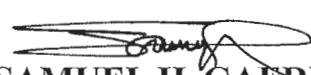
RODIL V. ZALAMEDA
Associate Justice



MARIO N. LOPEZ
Associate Justice



EDGARDO L. DELOS SANTOS
Associate Justice



SAMUEL H. GAERLAN
Associate Justice

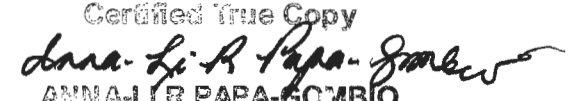


RICARDO E. ROSARIO
Associate Justice



JHOSEP V. LOPEZ
Associate Justice

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ANNA-LI R. PAPA-GOMBIO
Deputy Clerk of Court En Banc
CCC En Banc, Supreme Court