

EN BANC

[A.M. No. P-16-3459 [Formerly OCA IPI No. 13-4119-P], June 21, 2016]

**ATTY. JOSELITA C. MALIBAGO-SANTOS, CLERK OF COURT VI,
OFFICE OF THE CLERK OF COURT, REGIONAL TRIAL COURT,
ANTIPOLO CITY, RIZAL, COMPLAINANT, VS. JUANITO B.
FRANCISCO, JR., SHERIFF IV, OFFICE OF THE CLERK OF COURT
[OCC], REGIONAL TRIAL COURT, ANTIPOLO CITY, RIZAL,
RESPONDENT.**

DECISION

LEONEN, J.:

Sheriffs play an important role in the effective and efficient administration of our justice system.^[1] They must, at all times, maintain the high ethical standards expected of those serving in the judiciary. They cannot receive any voluntary monetary considerations from any party in relation to the performance of their duties as officers of the court.^[2]

The Office of the Court Administrator received a Confidential Memorandum^[3] dated January 21, 2013 from Presiding Judge Ma. Consejo Gengos-Ignalaga (Judge Ignalaga) of the Regional Trial Court of Antipolo City, addressed to Executive Judge Ronaldo B. Martin.^[4] It detailed her findings and recommendations after conducting a formal investigation on the letter-complaint of Regional Trial Court Clerk of Court Atty. Joselita Malibago-Santos (Atty. Santos) against Sheriff Juanito B. Francisco, Jr. (Sheriff Francisco).^[5] The facts were summarized as follows.

On March 28, 2012, Atty. Santos received a letter of Intent to Redeem Subject Property^[6] dated March 28, 2012 from Overlook Resort Inc. and its President, Raymond C. Ricardo, in relation to its extrajudicial foreclosure case.^[7]

Planters Development Bank (Plantersbank) was adjudged highest bidder during the auction held earlier on January 10, 2012.^[8] Thus, Atty. Santos wrote the bank's Senior Vice President, Ma. Agnes J. Angeles, to inform her of the mortgagors' intent to redeem the foreclosed property.^[9] In accordance with the rules, she requested the bank to submit a statement of account of all the expenses it incurred relative to the foreclosure sale.^[10]

On April 27, 2012, Atty. Santos received a letter from Atty. Alexander L. Paulino, legal counsel for Plantersbank,^[11] stating the redemption price of P5,053,706.89 for the foreclosed property.^[12] Attached to the letter were statements of accounts and receipts in support of this amount,^[13] including a receipt dated February 24, 2012 for P8,000.00 signed by Sheriff Francisco, who was then Sheriff-in-Charge, thus:

Received from Planters Development Bank Cashier's Check dated January 16, 2012 with Check No. 33826 in the amount of Php8,000.00 representing the Posting Fee and Sheriff's Expenses relative to the EJP Case No. 11-8933 entitled Planters Development Bank versus Raymond C. Ricardo et al..

(sgd.)
JUANITO B. FRANCISCO JR.
Sheriff-In-Charge^[14]

In a memorandum dated May 21, 2012, Atty. Santos required Sheriff Francisco to explain why he did not submit an estimate of expenses and liquidation in relation to the P8,000.00 he received.^[15]

Sheriff Francisco submitted an Explanation dated May 24, 2012 and a Position Paper dated October 12, 2012. He admitted receiving a check for P8,000.00 from Jeson Talbo Ganalongo of Plantersbank.^[16] He explained that he received the check on February 24, 2012, when the auction had already been concluded, as a token of appreciation.^[17] The auction was conducted in the manner provided by law, without any irregularity.^[18] Rule 141, Section 10 of the Rules of Court, which required the submission of estimate expenses, only pertains to execution of writs, and in his honest belief, this provision does not apply to extrajudicial foreclosure proceedings.^[19]

Sheriff Francisco alleged that he did not solicit nor demand any fee, and even initially declined the gratuity.^[20] However, Plantersbank insisted that it regularly gives this standard amount as posting fee and sheriff's expense.^[21] Plantersbank's counsel also later amended the quoted redemption price to exclude the P8,000.00, erroneously included in the list of itemized expenses.^[22]

In her Confidential Memorandum, Judge Ignalaga recommended that Sheriff Francisco be found guilty of simple misconduct and reprimanded as penalty.^[23]

The Office of the Court Administrator directed Sheriff Francisco to comment on the Confidential Memorandum.^[24] Sheriff Francisco filed a Manifestation dated August 12, 2013 adopting his Position Paper dated October 12, 2012 as his Comment.^[25] He mentioned that he has been in government service since 1984, and this was his first time to be charged of an alleged misdeed.^[26]

In its Memorandum dated March 16, 2015, the Office of the Court Administrator recommended that:

1. the instant complaint against respondent Sheriff Juanito B. Francisco, Jr., Sheriff IV, Office of the Clerk of Court, Regional Trial Court, Antipolo City, Rizal, be **RE-DOCKETED** as a regular administrative matter; and
2. respondent Sheriff be found **GUILTY** of gross misconduct and be **SUSPENDED** for three (3) months without pay with a **STERN**

WARNING that a repetition of the same offense shall be dealt with more severely.^[27] (Emphasis in the original)

The Office of the Court Administrator discussed that the act of accepting any gift or gratuity in the course of official duty is considered a grave offense under Rule 10, Section 46(A)(10) of the Revised Rules on Administrative Cases in the Civil Service and is punishable with dismissal for the first offense.^[28] However, as this was Sheriff Francisco's first infraction after over 30 years of service, it recommended a lower penalty of three (3)-month suspension without pay.^[29]

The sole issue for resolution is whether respondent Sheriff Juanito B. Francisco, Jr. is guilty of gross misconduct when he accepted the P8,000.00 check from Plantersbank.

We rule in the affirmative.

Our Constitution states that "[p]ublic office is a public trust."^[30] It provides that "[p]ublic officers and employees must at all times be accountable to the people, serve them with utmost responsibility, integrity, loyalty, and efficiency, act with patriotism and justice, and lead modest lives."^[31]

Sheriffs play a crucial role in our justice system as our front-line representatives tasked with executing final judgments by the courts.^[32] Consequently, a sheriff must always perform his or her duty with integrity for "once he [or she] loses the people's trust, he [or she] diminishes the people's faith in the judiciary."^[33]

Rule 141, Section 10 of the Rules of Court requires sheriffs to submit their expense estimates to the court for approval, thus:

SECTION 10. *Sheriffs, PROCESS SERVERS and other persons serving processes.* —

. . . .

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 kilometre 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 the 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 return on the process. The liquidation 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 his Position Paper, respondent submits that this provision only applies to execution of writs and not to extrajudicial foreclosure proceedings such as this case.

[34] He admits that he accepted the check, but this was done "in an honest belief that [his] official duties as regards the [extrajudicial foreclosure proceedings] ha[ve] already ceased." [35]

Codes of ethics for public employees such as sheriffs prohibit them from accepting any form of remuneration in relation to the performance of their official duties.

Canon I, Section 4 of the Code of Conduct for Court Personnel [36] provides that "[c]ourt personnel shall not accept any fee or remuneration beyond what they receive or are entitled to in their official capacity." [37]

Canon III, Section 2(b) also states that "[c]ourt personnel shall not [r]eceive tips or other remunerations for assisting or attending to parties engaged in transactions or involved in actions or proceedings with the Judiciary." [38]

Relevant are two (2) of our statutes, namely: Presidential Decree No. 46 [39] and Republic Act No. 6713, Section 7(d): [40]

PRESIDENTIAL DECREE NO. 46

MAKING IT PUNISHABLE FOR PUBLIC OFFICIALS AND EMPLOYEES TO RECEIVE, AND FOR PRIVATE PERSONS TO GIVE, GIFTS ON ANY OCCASION, INCLUDING CHRISTMAS

WHEREAS, under existing laws and the civil service rules, it is prohibited to receive, directly or indirectly, any gift, present or any other form of benefit in the course of official duties;

WHEREAS, it is believed necessary to put more teeth to existing laws and regulations to wipe out all conceivable forms of graft and corruption in the public service, the members of which should not only be honest but above suspicion and reproach; and

WHEREAS, the stoppage of the practice of gift-giving to government men is a concrete step in the administration's program of reforms for the development of new moral values in the social structure of the country, one of the main objectives of the New Society;

NOW, THEREFORE, I, FERDINAND E. MARCOS, President of the Philippines, by virtue of the powers vested in me by the Constitution as Commander-in-Chief of all the Armed Forces of the Philippines, and pursuant to Proclamation No. 1081 dated September 21, 1972, and General Order No. 1 dated September 22, 1972, do hereby make it punishable for any public official or employee, whether of the national or local governments, to receive, directly or indirectly, and for private persons to give, or offer to give, any gift, present or other valuable thing on any occasion, including Christmas, when such gift, present or other valuable thing is given by reason of his official position, *regardless of whether or not the same is for past favor or favors or the giver hopes or expects to receive a favor or better treatment in the future from the public official or employee concerned in the discharge of his official*

