

## THIRD DIVISION

**[ A.M. No. P-06-2130 (formerly A.M. OCA I.P.I. NO. 04-1946-P), June 13, 2011 ]**

**SUSANA E. FLORES, COMPLAINANT, VS. ARIEL D. PASCASIO, SHERIFF III, MTCC, BRANCH 5, OLONGAPO CITY, RESPONDENT.**

### RESOLUTION

**BRION, J.:**

This is an administrative complaint filed by Susana E. Flores (*complainant*) against Ariel R. Pascasio (*respondent*), Sheriff III in the Municipal Trial Court in Cities (MTCC), Branch 5, Olongapo City, for Grave Misconduct and Grave Abuse of Authority.

In her complaint-affidavit dated June 2, 2004, the complainant narrated that on March 5, 2004, an auction sale of a JVC DVD player and a Sony TV set was conducted by the respondent at the Office of the Clerk of Court, Olongapo City. She submitted a bid of Ten Thousand Two Hundred Pesos (P10,200.00) for the two (2) items. During the public auction, the two items were sold separately, the JVC DVD player for P2,520.00 and the Sony TV set for P2,500.00. The complainant claimed that the respondent manipulated the bidding process to make it appear that she submitted a bid of only One Thousand Two Hundred Pesos (P1,200.00) instead of her bid of Ten Thousand Two Hundred Pesos (P10,200.00). She further alleged that the respondent even scolded her for questioning the conduct of the auction sale. According to her, when she asked the respondent why she lost the bidding, he replied, "*Wala kang magagawa dahil ako ang masusunod dito. Ako ang sheriff dito, kung kanino ko gustong mapunta and items, yun ang masusunod.*" <sup>[1]</sup>

In his comment <sup>[2]</sup> dated August 24, 2004, the respondent denied having discriminated against the complainant. He admitted having received the complainant's bid, but because it was not itemized, he disregarded it on ground of technicality. While he listed the complainant's name in the minutes of the auction sale, no amount was placed opposite her name because her bid was invalid. He explained to the complainant that only itemized bids were considered and that she should have submitted separate bids and not just one bid for the two (2) items.

In an Evaluation Report dated November 30, 2005, <sup>[3]</sup> the Office of the Court Administrator (OCA) submitted its findings:

The respondent stated in his Minutes of the Auction Sale that the complainant submitted a bid only for the DVD in the amount of P1,200.00. But based on the certified photocopies of the bids of all those who participated in the auction sale, complainant's bid of P10,200.00 for the two items was the highest. It must be remembered that this Court

has countless times reiterated that the conduct and behavior of everyone connected with an office charged with the dispensation of justice must not only be characterized by propriety and decorum but above else (sic) must be above suspicion.

The conduct of the respondent in disregarding the highest bid of the complainant and his making a false entry in the minutes of the auction sale is clearly an act of dishonesty which erodes the faith and confidence of our people in the judiciary. [4]

The OCA recommended:

1. That the instant administrative complaint be REDOCKETED as a result administrative matter;
2. That Sheriff Ariel R. Pascasio be found GUILTY of Dishonesty in the performance of his official duties; and
3. That Sheriff Pascasio be SUSPENDED for a period of two (2) months and STERNLY WARNED that a repetition of the same or a similar act in the future shall be dealt with more severely. [5]

Pursuant to the OCA's recommendation, the Court, in a Resolution dated February 15, 2006, directed that the complaint be re-docketed as a regular administrative matter and required the parties to manifest whether they were willing to submit the matter for resolution on the basis of the pleadings filed. [6]

On March 21, 2006, the complainant, through her counsel Atty. Randy B. Escolango, filed a Manifestation with Motion [7] manifesting that she would file a Reply to controvert the respondent's allegations in his comment, at the same time asking for an extension of fifteen (15) days for the filing of her reply. Despite several extensions granted, Atty. Escolango failed to file the complainant's reply. He was required to show cause why he should not be disciplinary dealt with or held in contempt for his failure, [8] and was later imposed a fine of P2,000.00. Finally, on August 22, 2008, Atty. Escolango complied, claiming that he could no longer locate and contact the complainant. He presumed that the complainant was no longer interested in pursuing the case as the respondent had already been dismissed from the service; thus, it was no longer necessary to file a reply. [9]

In a Resolution dated December 3, 2008, [10] the Court "[deemed] as waived the filing of complainant's xxx reply." The case was referred to the Executive Judge of the Regional Trial Court (RTC) of Olongapo City for investigation, report and recommendation in a resolution dated March 4, 2009. [11]

In a memorandum dated September 24, 2009, [12] the OCA reported that the respondent had already been ordered dismissed from the service in the Decision of May 7, 2008 in A.M. No. P-08-2454 entitled "*Virgilio A. Musngi v. Ariel R. Pascasio, etc.*" At the time the present administrative case was referred to the Executive