

## **FIRST DIVISION**

**[ A.M. No. P-02-1631, August 28, 2003 ]**

**RENATO C. BALIBAG, COMPLAINANT, VS. HERMITO C. MONICA,  
DEPUTY SHERIFF III, METROPOLITAN TRIAL COURT, BRANCH  
56, MALABON, METRO MANILA, RESPONDENT.**

### **D E C I S I O N**

**VITUG, J.:**

In a verified letter-complaint, dated 23 November 2000, filed with the Office of the Court Administrator, Banco Filipino Savings Mortgage Bank (Banco Filipino), through its 2<sup>nd</sup> Assistant Vice President Renato C. Balibag, has charged Deputy Sheriff Hermito C. Monica with "serious negligence and refusal to perform official duties" averred to be in violation of the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019) and the Code of Conduct and Ethical Standards for Public Officials and Employees (Republic Act No. 6713).

Banco Filipino was the defendant in an ejectment case, entitled "Tala Realty Services, Inc., vs. Banco Filipino Savings and Mortgage Bank," filed and docketed Civil Case No. 438-94 before Branch 26 of the Metropolitan Trial Court (MeTC) of Malabon. Banco Filipino eventually lost in the Court of Appeals in the latter's 30<sup>th</sup> April 1996 decision and 17<sup>th</sup> December 1996 resolution. Following the finality of the appellate court's decision and resolution, the MeTC issued an order, upon motion filed by the plaintiff, allowing the issuance of a writ of execution and the release to Banco Filipino of the rental deposits and supersedeas bond deposited by the latter with the Clerk of Court of the Regional Trial Court (RTC) of Malabon. On 10 November 1998, the MeTC, in a supplemental order, directed that the rental deposits and supersedeas bond be released in accordance with the agreement reached by and between the plaintiff and Banco Filipino. The Deputy Sheriff was ordered to dispose of the funds upon surrender of the original receipts in satisfaction of the final judgment of the Court of Appeals. On 28 December 1998, Deputy Sheriff Monica remitted to the plaintiff all the unpaid rentals on the leased premises out of the rental deposits and the supersedeas bond withdrawn by him from the Office of the Clerk of Court of the Malabon RTC. He released to Banco Filipino the excess in the rental deposits amounting to P630,076.94.

On 28 May 1999, Banco Filipino, realizing that the amount it had received from the Deputy Sheriff was short by P151,470.00, filed with the MeTC of Malabon, Branch 56, a "Motion for Withdrawal of the Balance of Rental Deposits," and that Deputy Sheriff Monica be thus ordered to withdraw from the Office of the Clerk of Court of the Malabon RTC the remaining balance of the rental deposits. The motion was granted by the MeTC in its order of 16 July 1999. The Deputy Sheriff, however, refused to have the amount released to Banco Filipino unless he would have first been paid the sheriff's fees.

Banco Filipino, feeling impatient about its inability to obtain the balance of rental deposits filed, on 10 January 2000, a motion asking that the money be directly paid to it. The MeTC of Malabon issued on the same day an order directing the Clerk of Court of the RTC of Malabon to release directly to Banco Filipino the amount of P151,470.00. The Clerk of Court, however, informed the bank that the sum had already been withdrawn by Deputy Sheriff Monica. On 29 June 2000, Banco Filipino communicated with Deputy Sheriff Monica advising him that the release to him of the balance in the rental deposits/supersedeas bond was an error because, as early as 28 December 1998, Banco Filipino had already satisfied in full the decision of the Court of Appeals out of the proceeds of the rental deposits withdrawn by the Deputy Sheriff and from which amount, he had so collected his fees that rendered unnecessary his further intervention for the withdrawal of the remaining balance. Deputy Sheriff Monica refused to heed the demand.

In his Comment, dated 9 February 2001, Deputy Sheriff Hermito C. Monica sought the dismissal of the complaint. He explained that on 10 September 1999, he withdrew from the drawee bank the excess balance of Banco Filipino's rental deposit in the amount of P151,470.00, pursuant to the MeTC order of 16 July 1999, and thereupon called up complainant to inform it that he had in his custody the amount of P136,470.00 (P151,470.00 less P15,000.00 representing sheriff's fees and other expenses). He inquired from complainant if he could personally deliver the money to Banco Filipino but he was instructed to just wait for the bank's company lawyer who would receive the amount from him. After four months of waiting and still without any word from Banco Filipino, respondent Sheriff finally decided to entrust the money to the Branch Clerk of Court of the Malabon MeTC. On 13 July 2000, he turned over to Banco Filipino the amount of P136,470.00.

In a resolution, dated 28 August 2002, the Court ordered that the case be so docketed as a regular administrative matter and required the parties to manifest their willingness to submit the case for resolution based on the pleadings and the records on file. The parties both agreed to submit the case for resolution.

The Court agrees with the Office of the Court Administrator in its findings, pertinent portions of which are hereunder quoted with approval, viz:

"The respondent Sheriff stands charged for unreasonably withholding the amount of P151,470.00, the balance of the rental deposits/supersedeas cash bond deposited by the defendant bank and for improper deduction of ten percent (10%) sheriff's fees on the said amount.

"After carefully reviewing the records of this case, it is evident that the respondent is guilty as charged. The respondent, in his COMMENT, admitted that as early as September 10, 1999 he had already withdrawn from the bank the excess rental deposit yet he was able to turn the same over to the complainant only on July 13, 2000. His defense that the complainant did not pick-up the money despite being informed that he has already in his custody the said amount on September 10, 1999, will not absolve him. The court's order dated July 16, 1999 is very specific. It clearly directed him (respondent) 'x x x to dispose of and/or release the said balance of rental deposits to [herein] defendant.'

"Also, respondent's argument to justify his withholding of the money that