

SECOND DIVISION

[A.M. No. P-94-1106, March 10, 1999]

**ADALIA B. FRANCISCO, COMPLAINANT, VS. ROLANDO G. LEYVA,
DEPUTY SHERIFF, REGIONAL TRIAL COURT, BRANCH 74,
ANTIPOLO, RIZAL, RESPONDENT.**

RESOLUTION

QUISUMBING, J.:

Before us is an administrative case filed against Rolando G. Leyva, deputy sheriff of the Regional Trial Court, Branch 74, Antipolo, Rizal for attempted extortion, serious misconduct, premeditated delay of the administration of justice, and dishonesty.

The facts of the case on record,^[1] are as follows:

A. Francisco Realty and Development Corp. (hereinafter A. Francisco Realty) caused the judicial foreclosure of a real estate mortgage in Sp. Civil Case No. 93-2800, lodged before Branch 74 of the Regional Trial Court of Antipolo, Rizal. Respondent Deputy Sheriff Rolando C. Leyva was tasked to conduct the auction sale of the property.

The auction sale was conducted on September 28, 1994.^[2] A. Francisco Realty was the only and, thus, the highest bidder. According to complainant Adalia B. Francisco, president of A. Francisco Realty, she asked for the corresponding Certificate of Sale from respondent a week after the sale. The latter allegedly refused to issue the document unless complainant paid him the sheriff's fee equivalent to two percent of the amount of the bid. When the latter protested that the amount was too high, respondent allegedly proposed that complainant pay him P100,000.00 instead, but he will not issue a receipt therefor. Because she needed the Certificate of Sale immediately, complainant offered respondent P20,000.00 as "gratitude" money. However, respondent still refused to issue the certificate.^[3]

Aggrieved, complainant filed her complaint with the Supreme Court on October 25, 1994. On January 18, 1995, the Court issued a Resolution requiring respondent to comment thereon.^[4]

In his Comment dated February 6, 1995, respondent denied complainant's allegations. He claimed that on September 29, 1994, the day following the auction sale, he immediately issued the required certificate and served a copy thereof to the representative of the complainant. Attached to his Comment was a photocopy of the Certificate of Sale which was received by a representative of A. Francisco Realty.^[5]

The matter was referred to Executive Judge Felix S. Caballes for investigation, report, and recommendation.