

THIRD DIVISION

[G.R. No. 176783, June 27, 2012]

**ELIZABETH DIMAANO, PETITIONER, VS. THE HON.
SANDIGANBAYAN AND REPUBLIC OF THE PHILIPPINES,
RESPONDENTS.**

DECISION

ABAD, J.:

This is a case about the propriety of collecting sheriff's percentage fee on the execution of a court order for return to a party of money that the government illegally confiscated from her.

The Facts and the Case

On March 3, 1986 respondent Republic of the Philippines, acting through the Presidential Commission on Good Government (PCGG), confiscated cash of P2,868,850.00 and US\$50,000.00 and some items from petitioner Elizabeth Dimaano's (Dimaano) house on a belief that they were ill-gotten wealth of an army general who belonged to the martial law regime.^[1] The PCGG subsequently filed a forfeiture action against her and others before the Sandiganbayan.^[2]

On November 18, 1991 the Sandiganbayan dismissed the forfeiture case against Dimaano and ordered the Republic to return the money and items it seized from her.^[3] On July 21, 2003 this Court affirmed the order.^[4] Consequently, Dimaano filed with the Sandiganbayan a motion for the release of the seized cash and items^[5] which that court granted on March 3, 2005^[6] and further affirmed on August 1, 2005.^[7]

Following the issuance of the writ of execution on February 14, 2006,^[8] Dimaano discovered that the PCGG had transferred the money to accounts that needed allocation documents from the Department of Budget and Management (DBM) before it could be withdrawn from the National Treasury. Eventually, however, the mistake was rectified and on April 4, 2006 the Bureau of Treasury released a P4,058,850.00 check to Dimaano in partial satisfaction of the writ.^[9] But the Sandiganbayan assessed Dimaano P163,391.50 as sheriff's percentage collection fee^[10] pursuant to A.M. 04-2-04-SC Re: Revision of Rule 141 of the Rules of Court.

Dimaano filed a motion for reconsideration of the Sandiganbayan's assessment order.^[11] She assailed it as unwarranted since the sheriff's percentage collection fee applied only to actions for money covering collectibles or unsatisfied debts or in actions pertaining to interest-bearing obligations. She also argued that the fee assessment would be iniquitous in her case because a) it penalized her when in fact,

she was the wronged party; and b) it rewarded the police officers' transgressions of her rights.^[12]

On January 5, 2007 the Sandiganbayan denied Dimaano's motion for reconsideration, holding that the assessment of the challenged fee was not dependent on the "nature of the case" but on the fact of collection. And since the rule did not distinguish between "money collected" and "money returned" through the sheriff's effort, neither should petitioner, hence, Dimaano's recourse to this Court.

Issue Presented

The sole issue presented in this case is whether or not the Sandiganbayan rightfully assessed Dimaano a sheriff's percentage collection fee on the money that the Republic returned to her pursuant to the writ of execution that the court issued in the case.

Ruling of the Court

Dimaano attempts to make a distinction between money ordered "collected" from the judgment debtor and paid to the judgment creditor and money ordered "returned" by one party to another from whom such money was unlawfully taken. Dimaano claims that she was already a victim when the government illegally seized her money. It would be unfair that she should still pay the government some fee to get her money back.

But, first, the imposition of the sheriff's fee is not a penalty for some wrong that Dimaano had done. It is an assessment for the cost of the sheriff's service in collecting the judgment amount for her benefit. Its collection is authorized under Rule 141 of the Rules of Court, as amended,^[13] thus:

x x x x

SEC. 3. *Persons authorized to collect legal fees.* – Except as otherwise provided in this rule, the officers and persons hereinafter mentioned, together with their assistants and deputies, may demand, receive, and take the several fees hereinafter mentioned x x x.

x x x x

SEC. 10. *Sheriffs, PROCESS SERVERS and other persons serving processes.* – x x x (l) For money collected by him x x x by order, execution, attachment, or any other process, judicial or extrajudicial which shall immediately be turned over to the Clerk of Court, x x x.

Second, the order to pay a party the money owed him and the order to pay another the money unlawfully taken from him are both awards of actual or compensatory damages. They compensate for the pecuniary loss that the party suffered and proved in court.^[14] The recipients of the award, whether for money owed or taken from him, benefit from the court's intervention and service in collecting the amount.