



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **December 7, 2022** which reads as follows:*

“A.C. No. 12389 [Formerly CBD Case No. 19-6198] (MAXITA L. RODRIGUEZ, Complainant, v. ATTY. MA. LIGAYA G. AUSTRIA, Respondent). — A lawyer commissioned as a notary public is mandated to subscribe to the sacred duties appertaining to the office as it is dictated by public policy and impressed with the public interest.¹ This resolves the Verified Complaint-Affidavit² filed by the complainant Maxita L. Rodriguez against respondent Atty. Ma. Ligaya G. Austria for violating her oath as a lawyer and as a notary public.

Complainant is the widow of Felix C. Rodriguez (Felix). Felix’s parents, Spouses Florentina C. Rodriguez and Vicente M. Rodriguez (Spouses Rodriguez), died intestate and left a parcel of land in El Nido, Palawan, consisting of 7,910 square meters. On April 14, 2000, Felix and his siblings executed an Extrajudicial Settlement of Estate,³ adjudicating the property among themselves in equal parts. In April 2009, Felix’s co-heirs authorized him to negotiate the sale of the property in a Special Power of Attorney⁴ (SPA). In the meantime, Felix and his wife lived in the United States of America (USA). Upon their return to the Philippines in 2012, they discovered that the property was already sold to Somersault Holdings El Nido, Inc. on December 14, 2011, through an “Extrajudicial Settlement of the Estate of [Spouses] Florentina C. Rodriguez and Vicente M. Rodriguez with Simultaneous Sale”⁵ (EJSESS), signed by Oscar C. Rodriguez (Oscar), Felix’s

¹ *Maligsa v. Cabanting*, 338 Phil. 912, 917 (1997) [*Per Curiam, En Banc*].

² *Rollo*, pp. 2-4.

³ *Id.* at 10-12.

⁴ *Id.* at 13-15.

⁵ *Id.* at 17-20.

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brother, as well as some of Felix's siblings/co-heirs on their own. Oscar also signed for Felix and some other siblings/co-heirs.⁶

The EJSESS was drafted and notarized by respondent. However, complainant imputes irregularity upon respondent's discharge of duty as notary public since the notarial certificate affirmed that Felix personally appeared before the notary public on December 14, 2011, when he was in the USA on that date. Complainant also points out that the signature appearing on top of Felix's name in the EJSESS was not his but Oscar's. Oscar also signed for some other siblings and/or heirs.⁷

Respondent did not deny notarizing the EJSESS without Felix's personal appearance. She, however, explained that such appearance was unnecessary because Felix, like the other siblings/heirs, was being represented by Oscar, who personally appeared in her office, duly authorized by two SPAs. Respondent claims that she never intended to misrepresent that Felix personally appeared in her office to have the deed notarized. In fact, when she drafted the EJSESS, she clearly stated that Felix was being "represented by his attorney-in-fact OSCAR C. RODRIGUEZ[.]"⁸ relying on the presumption of regularity of the notarized SPAs that Oscar presented to her. Respondent avers that it was her secretary who inadvertently typed "personally appeared" in the Acknowledgment portion of the document as she assumed that the parties will personally appear and sign the deed.⁹

In its Report and Recommendation,¹⁰ the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) observed that respondent acknowledged the EJSESS based merely on the parties' community tax certificates (CTC). Hence, respondent was found to have been negligent when she notarized the EJSESS without requiring any competent proof of identity from the parties. The IBP-CBD noted that, as early as 2008, the Court has already ruled on the unreliability of a CTC as a proof of identification. In the same vein, respondent was negligent in relying upon Oscar's SPAs, which were also notarized by another notary public based on CTCs. Putting the blame upon the inadvertence of respondent's secretary was unacceptable for the IBP-CBD. It was recommended then that respondent be suspended from the practice of law for one month; that her notarial commission, if any, be revoked; and that she be warned that any similar act or infraction in the future shall be dealt with more severely.¹¹

Upon review, the IBP Board of Governors issued Resolution No. CBD-XXV-2022-02-50, which modified the IBP-CBD's recommended penalty to (1) suspension from the practice of law for three months; (2) immediate revocation of her notarial commission, if subsisting; and (3) disqualification

⁶ *Id.*

⁷ *Id.* at 3.

⁸ *Id.* at 34.

⁹ *Id.* at 23-29.

¹⁰ *Id.* at 216-220.

¹¹ *Id.* at 218-220.

from being commissioned as a notary public for two years.¹²

Should respondent be held administratively liable? We answer in the affirmative.

The importance of a notarial act has been underscored *ad nauseam*:

Notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document thus making that document admissible in evidence without further proof of its authenticity. A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.¹³ (Citations omitted)

Hence, notaries public are consistently reminded to assume the office with solemnity, discharging every notarial act with utmost circumspection. Basic requirements in the performance of notarial duties must be complied with to avoid the erosion of the public's confidence in the integrity of a notarized document.¹⁴ Slipshod methods in the performance of notarial duties are never to be countenanced.¹⁵ In other words, it is incumbent upon notaries public to faithfully observe and accord great respect to the oath in an acknowledgment or jurat; professional indiscretion in this regard entails commensurate consequences.¹⁶

Rule IV, Section 2(b) of the 2004 Rules on Notarial Practice (Notarial Rules) expressly states:

SECTION. 2. *Prohibitions.* — x x x

x x x x

(b) A person **shall not perform a notarial act** if the person involved as signatory to the instrument or document

- (1) is **not in the notary's presence personally** at the time of notarization; and
- (2) is **not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity** as defined by these Rules. (Emphasis supplied)

Relevant to the foregoing is Rule II, Section 12 of the Notarial Rules,

¹² *Id.* at 214-215.

¹³ *Yda. de Rosales v. Ramos*, 433 Phil. 8, 15-16 (2002) [Per J. Bellosillo, Second Division].

¹⁴ *Heirs of Odyon Unite Torrices v. Atty. Galano* (Resolution), A.C. No. 11870, July 7, 2020 [Per J. Gaerlan, *En Banc*].

¹⁵ *Santiago v. Atty. Rafanan*, 483 Phil. 94, 104 (2004) [Per J. Panganiban, Third Division].

¹⁶ *Maligsa v. Atty. Cabanting*, *supra* note 1.

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as amended,¹⁷ which provides:

SECTION. 12. *Competent Evidence of Identity*. — The phrase “competent evidence of identity” refers to the identification of an individual based on:

- (a) at least one current identification document issued by an official agency **bearing the photograph and signature of the individual**, such as but not limited to, passport, driver’s license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter’s ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman’s book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disable[d] Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or
- (b) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification. (Emphasis supplied)

In this case, as correctly observed by the IBP, respondent notarized the EJSESS without the personal appearance of the signatories who are not personally known to her, and without requiring any competent proof of their identities. Records show that it was only Oscar who came to respondent’s office to have the EJSESS notarized. Oscar and the rest of the parties in the deed were identified only through CTCs, which have long been ruled out as competent evidence to ascertain identity since they do not bear the photograph and signature of the concerned individual and no competent and relevant proof of identity is required for their issuance.¹⁸

In a similar vein, being a notary public herself, respondent fell short of prudence and circumspection expected of her when she uncritically relied upon the SPAs presented by Oscar which were likewise notarized by another notary public based on CTCs. Mindful of the import of a notarial act and the nature of SPA, which in this case authorized Oscar to dispose of a real property, respondent should have exercised utmost diligence in ascertaining the identities of the parties in the SPAs. But respondent proceeded to notarize the EJSESS without any competent basis of the identities of the persons who purportedly authorized Oscar to sign the EJSESS on their behalf.

The serious consequence of respondent’s blunder becomes apparent

¹⁷ A.M. No. 02-8-13-SC, Re: 2004 Rules on Notarial Practice, dated February 19, 2008.

¹⁸ *Ong v. Atty. Bijis*, A.C. No. 13054, November 23, 2021 [Per J. Caguioa, First Division]. See also *Baylon v. Atty. Almo*, 578 Phil. 238, 241- 242 (2008) [Per J. Quisumbing, Second Division].

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now that Oscar's authority to represent Felix in the EJSESS is being questioned. Respondent's indiscretion caused the courts, administrative agencies, and the public at large to cast uncertainty on the validity and genuineness of public documents. As a lawyer, respondent is expected to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might diminish, to any degree, the trust and confidence reposed by the public in the profession.¹⁹ Clearly, she failed in this regard.

Plainly, for violating the provisions of the Notarial Rules, respondent also failed to adhere to Canon 1 of the Code of Professional Responsibility, which requires every lawyer to uphold the Constitution, obey the laws of the land, and promote respect for the law and legal processes.²⁰

In a long line of cases, we had penalized notaries public who fail to discharge the sacred duties of their office with utmost care and diligence with suspension from the practice of law, revocation of the notarial commission, and disqualification from being commissioned as notary public.²¹ Considering the attendant circumstances in this case, we find the penalty recommended by the IBP Board of Governors commensurate to respondent's infraction.

FOR THESE REASONS, the notarial commission of Atty. Ma. Ligaya G. Austria is ordered to be **REVOKED**, if subsisting. She is further **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years, and **SUSPENDED** from the practice of law for three (3) months.

Atty. Ma. Ligaya G. Austria is **DIRECTED** to immediately file a Manifestation to the Court that her suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered his appearance as counsel.

Let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to Atty. Ma. Ligaya G. Austria's personal record as attorney; the Integrated Bar of the Philippines for their information and guidance; and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED."

¹⁹ *Heirs of Herminigildo A. Unite v. Atty. Guzman*, A.C. No. 12062, July 2, 2018 [Per J. Perlas-Bernabe, Second Division].

²⁰ *Salazar v. Atty. Siccuan*, A.C. No. 11640, July 19, 2017 [Notice, Third Division].

²¹ *Ong v. Atty. Bijiis*, A.C. No. 13054, November 23, 2021 [Per J. Caguioa, First Division]; *Heirs of Odylon Unite Torrices v. Atty. Galano* (Resolution), A.C. No. 11870, July 7, 2020 [Per J. Gaerlan, *En Banc*]; *Heirs of Herminigildo A. Unite v. Atty. Guzman* (Notice), *supra* note 19; and *Baylon v. Atty. Almo*, *supra* note 18.

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By:



MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court ^{mm}_{8/3}

03 AUG 2023

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