



Republic of the Philippines
Supreme Court
Bacolod City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court First Division, issued a Resolution dated November 29, 2022, which reads as follows:

“A.C. No. 12526 (Cherry Marie S. Artais, Honorata R. Sotayco-Flores, Anita S. Sotayco, Domingo R. Sotayco, Celestino R. Sotayco, Eduardo R. Sotayco, and Mario R. Sotayco v. Atty. Conrado P. Sajor).—This is a Complaint¹ for disbarment filed by complainants Cherry Marie S. Artais, Honorata R. Sotayco-Flores, Anita S. Sotayco, Domingo R. Sotayco, Celestino R. Sotayco, Eduardo R. Sotayco, and Mario R. Sotayco against respondent Atty. Conrado P. Sajor for his alleged violation of the 2004 Rules of Notarial Practice² (Notarial Rules) and the Code of Professional Responsibility.

The Antecedents

On April 26, 2019, complainants filed a complaint for disbarment against Atty. Sajor. Complainants averred that on September 23, 2015, Atty. Sajor notarized a *Kasulatan ng Pagkakaloob* (Deed of Donation or Deed)³ allegedly executed by and between Rafaelita R. Sotayco (Rafaelita) and Cesar R. Sotayco (Cesar).⁴ Under the Deed, the Sotaycos’ ancestral home built on the parcel of land with Transfer Certificate of Title No. (TCT) T-129503(M), and two parcels of land covered by TCT T-129503(M) and T-485262(M), were conveyed by Rafaelita to Cesar by way of donation.⁵

Complainants asserted that the notarization of the questioned Deed of Donation was marred by the following irregularities: (a) Rafaelita was

¹ *Rollo*, pp. 1-24.

² A.M. No. 02-8-13-SC, promulgated on July 6, 2004.

³ *Rollo*, pp. 387-388.

⁴ *Id.* at 4.

⁵ *Id.* at 4-5.

physically incapable of executing the questioned Deed and personally subscribing to its authenticity before Atty. Sajor on September 23, 2015 due to her medical condition and the operation (sub occipital craniotomy and tumor excision) she underwent nine months prior to the notarization; (b) Rafaelita's signature is clearly forged to the naked eye, based on a visual comparison of her signature in her Senior Citizen's ID and Philhealth ID; (b) the Deed was notarized despite the lack of presentation of competent evidence of identity of Rafaelita and Cesar, in violation of Rule II, Section 12 of the Notarial Rules; (c) the signature of the two instrumental witnesses were not affixed on the left margin of the first page and the signatures of Rafaelita and Cesar were not affixed on the left margin of the second page, running counter to the Acknowledgment; and (e) the competent evidence of identity of the two instrumental witnesses cannot be found in the questioned Deed.⁶

In sum, complainants alleged that Atty. Sajor deliberately and consciously violated the Rules on Notarial Practice and made untruthful statements in the acknowledgment portion of the questioned Deed by making it appear, among others, that Rafaelita personally appeared before him and affixed her signature on the Deed, thereby aiding and abetting the appropriation of Rafaelita's heirloom jewelries and rental proceeds from commercial stalls constructed on the parcel of land covered by TCT T-129503 (M), and leaving complainants no choice but to litigate to protect their rights.⁷

In his Comment,⁸ respondent adopted his arguments in his Counter-Affidavit and Rejoinder-Affidavit, which he filed in relation to an identical complaint filed against him for *Estafa* through Falsification of a Public Document.⁹ Respondent stated that he is a commissioned notary public for the province of Bulacan from January 21, 2015 to December 31, 2016.¹⁰ He denied complainants' allegations that he failed to comply with his duties as a Notary Public under the Notarial Rules and that he conspired with Grecelda Sotayco (Grecelda) and her sons in the falsification of the Deed of Donation.¹¹ Anent the allegation that Rafaelita was physically incapable to execute the Deed because of her medical condition, Atty. Sajor averred that complainants did not present any medical findings to establish that Rafaelita was incapable of executing the Deed on September 23, 2015, which was more than nine months after her successful surgery.¹²

Respondent narrated that on September 23, 2014, Rafaelita and Cesar, together with Cesar's wife, Grecelda, and the instrumental witnesses Maria

⁶ Id. at 5-8.

⁷ Id. at 8, 11-13.

⁸ Id. at 29-42.

⁹ Id. at 29-73.

¹⁰ Id. at 30, 49-50.

¹¹ Id. at 30-32.

¹² Id. at 32.



Noemi Esmeralda (Esmeralda) and Natalia B. Dizon (Dizon) went to his office and presented five duplicate original copies of the Deed of Donation. Thereafter, he was advised that Rafaelita, as donor, and Cesar, as donee, will subscribe and acknowledge the Deed before him.¹³ Atty. Sajor asked Rafaelita and Cesar if they read and understood the contents of the Deed, which they answered in the affirmative. He also verified that Rafaelita was willing to sign the document without force or intimidation, that Cesar is likewise willing to sign the said document to show his acceptance to the Deed, and that Esmeralda and Dizon were willing to be witnesses to Rafaelita and Cesar's execution of the Deed.¹⁴

Moreover, Atty. Sajor averred that he requested for the identification cards (IDs) of Rafaelita and Cesar. Rafaelita presented her Senior Citizen's ID while Cesar presented his Social Security System (SSS) ID. Thereafter, Atty. Sajor validated Rafaelita's identity by asking her birthdate reflected in the Senior Citizen's ID she presented. Thereafter, Atty. Sajor directed Rafaelita and Cesar to individually sign above their names in the document presented in his presence and in the presence of Esmeralda and Dizon, who later signed on the second page of the document above their printed and hand-written names. Thereafter, respondent requested Cesar to affix his signatures in the page reflecting his photocopied ID, and for Esmeralda to affix her thumbmark in the page reflecting her photocopied ID since her hands were already shaking at the time. Thereafter, respondent notarized the Deed of Donation.¹⁵ Relevantly, Atty. Sajor also submitted a copy of Esmeralda and Dizon's counter-affidavit in the criminal case for *Estafa* thru Falsification of Public Document, which corroborates respondent's version of events.¹⁶

On November 15, 2019, Atty. Sajor filed a Manifestation¹⁷ to the effect that the criminal case against him for *Estafa* Thru Falsification of Public Document in relation to the Deed of Donation had been dismissed by the Office of the Provincial Prosecutor of Malolos, Bulacan.¹⁸ In turn, complainants filed a Comment¹⁹ to the Manifestation, averring that they have filed a petition for review with the Department of Justice assailing the dismissal of the criminal case.²⁰

The Court referred the instant case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.²¹ In its

¹³ Id. at 30-31.

¹⁴ Id. at 31.

¹⁵ Id. at 31-32.

¹⁶ Id. at 408-409.

¹⁷ Id. at 76-78.

¹⁸ Id. at 76-84.

¹⁹ Id. at 86-117.

²⁰ Id. at 84-128.

²¹ Id. at 129.

January 7, 2021 Order, the IBP required the parties to manifest their willingness and ability to conduct mandatory conference through videoconferencing or in the alternative, their willingness to waive such mandatory conference and proceed to the filing of Position Papers.²² Respondent manifested his willingness to waive the mandatory conference, and adopted his Comment to the verified complaint for Disbarment and his November 15, 2019 Manifestation as his Position Paper.²³ Complainants also waived the conduct of a mandatory conference and opted to file a position paper, which substantially reproduced their arguments in their complaint for disbarment.²⁴

Report and Recommendation of the IBP

In a May 10, 2021 Report and Recommendation,²⁵ Commissioner Ernesto A. Altamira (Commissioner Altamira) recommended the dismissal of the disbarment complaint in view of complainants' failure to establish respondent's culpability to the charges.²⁶

Commissioner Altamira observed that: (a) complainants did not present any scientific or expert findings or independently verifiable facts of actual forgery aside from insisting on a visual comparison of Rafaelita's other signatures, and the variance in her signatures does not equate to forgery; (b) the claim that Rafaelita's surgery rendered her physically incapable of personally appearing before respondent and executing the Deed is bereft of any factual or medical evidence, (c) there is sufficient evidence that Rafaelita and Cesar presented competent evidence of their respective identities, and the lack of the witnesses' and parties' signature to the margins of a page of the Deed does not amount to a violation of the Notarial Rules, and does not affect the execution and notarization of the Deed, and (d) the Notarial Rules does not require the documentary identification of the two instrumental witnesses.²⁷

On February 25, 2022, the IBP Board of Governors resolved to adopt the findings and recommendation of the Investigating Commissioner to dismiss the administrative complaint for lack of merit.²⁸

Issue

The Court is called upon to resolve whether Atty. Sajor should be held administratively liable for the acts complained of.

²² Id. at 132-133.

²³ Id. at 134-197.

²⁴ Id. at 199-201, 209-222.

²⁵ Id. at 424-433.

²⁶ Id. at 429, 433.

²⁷ Id. at 429-432.

²⁸ Id. at 422-423.

Our Ruling

The Court concurs in the findings of the IBP and resolves to dismiss the complaint against respondent.

In disbarment and suspension proceedings against members of the Bar, a lawyer enjoys the presumption of innocence. The burden of proof rests upon the complainant to satisfactorily prove the allegations in his or her complaint through substantial evidence.²⁹ Substantial evidence is that amount of relevant evidence that a reasonable mind might accept as adequate to support a conclusion.³⁰ Verily, a complainant's failure to adduce this standard of proof will stay the hand of the Court from meting out a disbarment or suspension order.³¹

Aside from the physical presence of the affiant during the notarization of a document, the Notarial Rules requires the presentation of competent evidence of the affiant's identity if he or she is not personally known to the notary public.³² "Competent evidence of identity" under Section 12, Rule II of the Notarial Rules 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, 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 personally knows the individual and shows to the notary public documentary identification.³³ A notary public is prohibited from notarizing a document if: (a) the signatory of the document is not physically present before the notary at the time of notarization, or (b) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity.³⁴

In essence, complainants aver that Atty. Sajor deliberately notarized the Deed of Donation despite several irregularities in the execution of the Deed, in violation of the Notarial Rules, Sec. 20 (a) and (b), Rule 138, Sec. 1,³⁵ and

²⁹ *Tablizo v. Golangco*, A.C. No. 10636, October 12, 2020, citing *Rico v. Madrazo, Jr.*, A.C. No. 7231, October 1, 2019.

³⁰ *Dillon v. De Quiroz*, A.C. No. 12876, January 12, 2021, citing *Cabas v. Atty. Sususco*, 787 Phil. 167, 174 (2016).

³¹ *Supra* note 29, citing *Rico v. Madrazo, Jr.*, A.C. No. 7231, October 1, 2019.

³² *Leano v. Salatan*, A.C. No. 12551, July 8, 2020. Please substitute if URES.

³³ SECTION 12, RULE II OF THE NOTARIAL RULES.

³⁴ SECTION 2 (B), RULE IV OF THE NOTARIAL RULES.

³⁵ RULES OF COURT, RULE 138, SECTIONS 20(A) AND (B) states:

Section 20. *Duties of attorneys.* — It is the duty of an attorney:

(a) To maintain allegiance to the Republic of the Philippines and to support the Constitution and obey the laws of the Philippines.

(b) To observe and maintain the respect due to the courts of justice and judicial officers;

x x x x

Canons 1³⁶ and 10³⁷ of the Code. However, aside from their bare allegations, the complainants failed to competently prove that respondent committed the said violations or should otherwise be held administratively liable for notarizing the Deed of Donation. Mere allegations, as well as charges based on mere suspicion and speculation, are not evidence and are not equivalent to proof.³⁸

At the outset, We will refrain from resolving complainant's assertion that Rafaelita's signature was forged in the Deed of Donation. We have ruled that allegations of forgery or falsification must first be established and determined in appropriate proceedings, like criminal or civil cases, for it is only by such proceedings that the last word on the falsity or forgery can be uttered by a court of law with the legal competence to do so. A disbarment proceeding is not the occasion to determine the issue of falsification or forgery.³⁹

Moreover, aside from presenting proof that Rafaelita underwent an operation nine months prior to the notarization of the Deed, complainants utterly failed to present any medical or other relevant evidence to support their claim that Rafaelita was indeed incapable of physically appearing before Atty. Sajor on September 23, 2015. In addition, the absence of signatures on the margins of the two-page Deed, and the lack of competent evidence of the identities of the two instrumental witnesses, do not amount to a violation of the Notarial Rules that would merit disciplinary sanction.

In contrast, Atty. Sajor's claim that he ascertained Rafaelita and Cesar's identities before letting them sign the Deed is bolstered by the attachment of a copy of Rafaelita's Senior Citizen ID and Cesar's SSS ID, containing Rafaelita's thumbmarks and Cesar's specimen signatures respectively, to the Deed, as well as the corroborating statements of the instrumental witnesses. Similarly, respondent's claim that he propounded searching questions on Rafaelita and Cesar to verify that they were executing the Deed willingly and without force or intimidation is corroborated by the counter-affidavit

³⁶ RULE 1.01 TO RULE 1.03, CANON 1 OF THE CODE OF PROFESSIONAL RESPONSIBILITY states:
CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

³⁷ RULE 10.01, CANON 1 OF THE CODE OF PROFESSIONAL RESPONSIBILITY states:
CANON 10 - A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

³⁸ *Dillon v. De Quiroz*, supra.

³⁹ *Armilla-Calderon v. Lapore*, A.C. No. 10619, September 2, 2020, citing *Zarcilla v. Atty. Quesada*, 827 Phil. 629, 639 (2018).

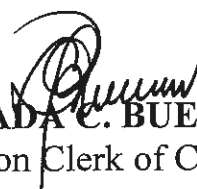
submitted by the instrumental witnesses. Absent clear and convincing evidence to the contrary, a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity.⁴⁰

Verily, complainant's allegations of respondent's purported misconduct cannot prevail over the presumption of regularity accorded to respondent. Thus, the dismissal of the complaint against him is in order. To stress, respondents to a disbarment complaint need only deny the allegations against them, without more, for the respondent is not obliged to prove this negative averment, much less to disprove what has not been proved by the complainant in a disbarment complaint. If the complainant, upon whom rests the burden of proving a cause of action, fails to show in a satisfactory manner the facts upon which a claim is based, the respondent is under no obligation to prove their exception or defense.⁴¹ While courts will not hesitate to mete out proper disciplinary punishment upon lawyers who fail to live up to their sworn duties, they will also protect members of the Bar from unjust accusations of dissatisfied litigants. Private persons, and particularly disgruntled opponents, may not be permitted to use the courts as vehicles through which to vent their rancor on members of the Bar.⁴²

WHEREFORE, the complaint against Atty. Conrado P. Sajor is **DISMISSED** for utter lack of merit.

SO ORDERED.” *Marquez, J., on official business.*

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court *gcm*

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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⁴⁰ See *Spouses Lopez v. Spouses Potoy*, G.R. No. 250846, January 5, 2022, citing *Chua v. Westmont Bank*, 683 Phil. 56, 66 (2012); *Santos, Sr. v. Beltran*, 463 Phil. 372, 381 (2003).

⁴¹ *Spouses Boyboy v. Yabut, Jr.*, 449 Phil. 664, 668 (2003).

⁴² *Angeles v. Figueroa*, 507 Phil. 194, 202 (2005), citing *Spouses Boyboy v. Yabut, Jr.*, *supra* at 675-676.

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