



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated July 26-B, 2023, which reads as follows:*

**A.C. No 12893 (Jonathan Russel Axt, Complainant, versus Atty. Jason C. Abulon, Respondent).** – Before the Court is a Complaint-Affidavit<sup>1</sup> dated August 11, 2020, filed by Jonathan Russell Axt (complainant) against Atty. Jason C. Abulon (respondent) for alleged violation of A.M. No. 02-08-13-SC, or the 2004 Rules on Notarial Practice (Notarial Rules).

Complainant alleged that on July 31, 2014, respondent notarized two (2) documents, namely: (a) an Irrevocable and Exclusive Power of Attorney (first document) in which a certain Virgilio A. Letran (Virgilio) constituted Jocelyn R. Paduga (Jocelyn) to be his attorney-in-fact and authorized her to sell a parcel of land containing an area of twenty (20) hectares, more or less, situated at Culandanum, Aborlan, Palawan, Philippines (subject property), purportedly belonging to him;<sup>2</sup> and (b) an Exclusive Authority to Sell (second document) wherein Virgilio authorized Kristine Jen Paduga (Kristine), a real estate broker, to sell the same subject property (collectively, subject documents).<sup>3</sup>

However, complainant stressed that both documents did not contain any Original or Transfer Certificate of Title showing that Virgilio is the owner of the subject property. He added that while the first document contained Tax Declaration No. 01-007-0036, a perusal thereof shows that Virgilio did not own any land, building, nor machinery but only the “plants and trees” thereon.<sup>4</sup> Complainant thus surmised that respondent violated Section 4(a), Rule IV of the Notarial Rules which prohibits notaries from performing a notarial act if he or she knows or has a good reason to believe that the notarial act or transaction is unlawful or immoral.<sup>5</sup>

In addition, complainant stated that the subject documents were drafted by Virgilio’s son, Arnold Letran (Arnold), in order to trick him into allowing the latter to delay the repayment of the money that Arnold stole from him. He

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<sup>1</sup> *Rollo*, pp. 2-4.

<sup>2</sup> *Id.* at 5.

<sup>3</sup> *Id.* at 5-6.

<sup>4</sup> *Id.* at 2.

<sup>5</sup> *Id.* at 3.

alleged that Arnold is now incarcerated for the crime of Qualified Theft.<sup>6</sup>

In his Comment,<sup>7</sup> respondent countered that complainant is neither a party to the first and second documents, nor has he been affected, harmed, or injured because of it; hence, he has no legal standing to question the validity of the documents.<sup>8</sup> Respondent pointed out that complainant did not raise, allege, or complain of any irregularities in the execution of the subject documents but only questioned the notarization itself as it involved an unregistered alienable and disposable parcel of land.<sup>9</sup>

Citing Section 113<sup>10</sup> of Presidential Decree (PD) No. 1529, or the Property Registration Decree, respondent argued that the law does not even prohibit a conveyance involving unregistered lands; thus, he posits that the notarization of the subject documents was not unlawful. Furthermore, respondent stressed that there was no contract involving the subject property that was ever consummated using the subject documents.<sup>11</sup>

Anent complainant's allegation that the subject documents were used by Arnold to trick him into delaying the repayment of the money that the latter stole from him, respondent asserted that said allegation had no connection to his notarization of the subject documents.<sup>12</sup>

Lastly, respondent attached, among others, an Affidavit dated April 16, 2015, executed by Teddy G. Herher, then *Barangay* Captain of *Brgy.* Culandanum, Aborlan, to prove that Virgilio is, and has been in continuous, exclusive, and peaceful possession and cultivation over the subject property, since 1967 up to the present.<sup>13</sup>

### *The Issue*

The issue for the Court's resolution is whether respondent's notarization of the subject documents wherein Virgilio authorized Jocelyn and Kristine to sell an unregistered parcel of land constitutes a violation of the Notarial Rules.

### *The Court's Ruling*

After a judicious examination of the Complaint-Affidavit<sup>14</sup> and the

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<sup>6</sup> Id.

<sup>7</sup> Id. at 19-24.

<sup>8</sup> Id. at 19.

<sup>9</sup> Id. at 20.

<sup>10</sup> Section 113. *Recording of Instruments Relating to Unregistered Lands.* – No deed, conveyance, mortgage, lease, or other voluntary instrument affecting land not registered under the Torrens system shall be valid, except as between the parties thereto, unless such instrument shall have been recorded in the manner herein prescribed in the office of the Register of Deeds for the province or city where the land lies.

x x x x.

<sup>11</sup> *Rollo*, p. 21.

<sup>12</sup> Id. at 22.

<sup>13</sup> Id.

<sup>14</sup> Id. at 2-4.

Comment,<sup>15</sup> the Court resolves to **DISMISS** the instant administrative complaint against respondent for lack of a *prima facie* case against him.

Jurisprudence states that in disbarment proceedings, the quantum of proof is substantial evidence and the burden of proof rests upon the complainant to establish the allegations in his complaint.<sup>16</sup> “As a rule, an attorney enjoys the presumption that he [or she] is innocent of the charges against him [or her] until the contrary is proved.”<sup>17</sup> Moreover, as an officer of the Court, it is likewise presumed that a lawyer had performed his or her duties in accordance with the Lawyer’s Oath.<sup>18</sup>

Here, respondent’s act of notarizing the subject documents in which Virgilio, the owner of an unregistered land, authorized Jocelyn and Kristine to sell the property, does not constitute a violation of the Notarial Rules. Simply put, there is nothing illegal or immoral in the act of an owner of selling his unregistered land. It must be stressed that conveyances of unregistered land is indeed *valid* between the parties to the transaction, albeit to be binding upon third persons, the instrument must be duly registered in compliance with the applicable laws.<sup>19</sup> Thus, it follows that the act of an owner of appointing an agent and authorizing him or her to sell his unregistered land is likewise not illegal.

In closing, “while the Court will not hesitate to mete out the proper disciplinary punishment upon lawyers who have failed to live up to their sworn duties, neither will it hesitate to extend its protective arm to them when the accusation against them is not indubitably proven.”<sup>20</sup>

**WHEREFORE**, premises considered, the Complaint-Affidavit against Atty. Jason C. Abulon is hereby **DISMISSED** for utter lack of merit.

**SO ORDERED.** (Inting, J., designated Acting Chairperson, per Special Order No. 3004 dated July 10, 2023, Caguioa, J., on leave and Dimaampao, J., on official business).

By authority of the Court:

*Misael Domingo C. Battung III*  
**MISAEL DOMINGO C. BATTUNG III**  
Division Clerk of Court *July 26, 2023*

<sup>15</sup> Id. at 19-24.

<sup>16</sup> *Arsenio v. Atty. Tabuzo*, A.C. No. 8658, April 24, 2017.

<sup>17</sup> *Atty. Guanzon v. Atty. Dojillo*, A.C. No. 9850, August 6, 2018.

<sup>18</sup> *Gutierrez v. Atty. Maravilla-Ona*, 789 Phil. 619, 626 (2016).

<sup>19</sup> *Spouses Dadizon v. Court of Appeals*, 617 Phil. 139, 155 (2009). See also Presidential Decree No. 1529, Section 113.

<sup>20</sup> *Biliran v. Atty. Bantugan*, A.C. No. 8451, September 30, 2020.

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