



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated August 10, 2022, which reads as follows:

“A.C. No. 8400 (*Belen M. Tumbali v. Atty. Ferdinand N. Talabong*). – A complaint affidavit¹ was filed by Belen M. Tumbali (complainant) seeking for the disbarment of Atty. Ferdinand N. Talabong (respondent). Complainant alleged that respondent notarized two forged documents:

1. A Deed of Donation² dated June 27, 2008 executed by spouses Porferio³ de Ocampo Maaño (Porferio) and Esperanza Obcemea Maaño (Esperanza), who are complainant’s parents, in favor of their children, complainant and her siblings, when on the said date both Porferio and Esperanza were already dead. Complainant’s signature was also forged in this document as she was not present on the said day of notarization.
2. An Affidavit of Cancellation of Adverse Claim⁴ dated July 24, 2008, which complainant did not sign as well.

The aforementioned acts are violations of Canon 1 and Rule 1.01 of the Code of Professional Responsibility (CPR), the Notarial Law (Republic Act No. 2103), and the 2004 Rules on Notarial Practice to the prejudice of the complainant.

For his defense, as reflected in his Comment,⁵ respondent claims good faith and that he was merely a victim of the deception and misrepresentations made by the Maaño siblings. He alleged that when he was presented with the Deed of Donation dated June 27, 2008, the following persons were present: Porferio, Esperanza, Eduardo Maaño, Jaime Maaño, Cipriana Maaño Merluza, Eleanor Maaño, and Belen Maaño Tumbali. He asked them about their identity and discussed with them the legal consequences of the Deed of Donation. They all brought and presented their community tax certificates,

¹ *Rollo* (Vol. I), pp. 3-9.

² *Id.* at 114-116.

³ “Porpirio” or “Porfirio” in some parts of the *rollo*.

⁴ *Rollo* (Vol. I), p. 118.

⁵ *Id.* at 92-113.

which respondent deemed to be sufficient proof of their identities, since he was able to interview them. He then notarized the said document.

In another instance, on July 24, 2009, respondent alleged that a certain Belen Maaño Tumbali went to his office and asked him to notarize the Affidavit of Cancellation of Adverse Claim. As proof of identity and signature, Belen Maaño Tumbali presented a copy of her Marriage Certificate.⁶ After verifying the signatures appearing in both the Marriage Certificate and the Affidavit of Cancellation of Adverse Claim and explaining the legal consequences of such, respondent notarized the document.⁷

However, on November 19, 2008, a certain Corazon Maaño Estorillo came to respondent's office and introduced herself as the daughter of Porferio and Esperanza and that Eduardo Maaño, Jaime Maaño, Cipriana Maaño Merluza, Eleanor Maaño, and Belen Maaño Tumbali are her siblings. Corazon also informed respondent that their parents were already dead. At this point, respondent realized that he was deceived by the people who appeared before him on June 27, 2008 and made him notarized the Deed of Donation. Thus, on the same date, respondent sent a Letter⁸ to Eduardo Maaño, Jaime Maaño, Cipriana Maaño Merluza, Eleanor Maaño, and Belen Maaño Tumbali to correct his mistake and to inform them that what they did was wrong and illegal. Thereafter, respondent advised Corazon to file an Adverse Claim⁹ on the Transfer Certificates of Title, which were subjects of the falsified Deed of Donation.¹⁰

Respondent also held a conference with the Maaño siblings in his law office where he learned of their family disputes. He advised them to settle their differences. He further alleged that he was even blackmailed by the Maaño siblings to buy or find a buyer for the subject properties of the Deed of Donation for at least ₱7,000,000.00 or else he would face a complaint for notarizing the falsified documents.¹¹

After filing of the necessary pleadings by the parties, the Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation.

On March 31, 2011, in the IBP Report and Recommendation,¹² IBP Commissioner Ramon S. Esguerra found respondent grossly negligent in notarizing the subject Deed of Donation and Affidavit of Cancellation of Adverse Claim without ascertaining the identity of the parties who appeared before him. He then recommended for respondent's notarial commission to be revoked and that he be disqualified from the reappointment as Notary Public

⁶ Id. at 117.

⁷ Id. at 93-94.

⁸ Id. at 119.

⁹ Id. at 120.

¹⁰ Id. at 95-96.

¹¹ Id. at 98-100.

¹² *Rollo* (Vol. II), pp. 2-6.

for a period of two (2) years. Further, it was recommended that he be suspended from the practice of law for two (2) years and be fined in the amount of ₱50,000.00.¹³

In the Resolution¹⁴ dated January 3, 2013, the IBP Board of Governors adopted and approved the Report and Recommendation of the Investigating Commissioner. However, the penalties to be imposed were modified because respondent has shown that he acted in good faith and that there was no proof of damage to the complainant. Thus, it was resolved that respondent be admonished and warned that the repetition of the same offense shall be dealt with more severely.

The case was thereafter assigned for preparation of the Extended Resolution. However, upon review by the Director of the Commission on Bar Discipline, it was recommended that the case be revisited and reviewed again by the Board of Governors for the proper penalty to be imposed.

In the Memorandum¹⁵ dated November 22, 2016 prepared by the Director for Bar Discipline and submitted to the President and Board of Governors of the IBP, it was found that the subject falsified documents were not signed in the presence of respondent. The supposed affiants to the said documents were not able to present competent evidence to prove their identities. Lastly, respondent did not personally know the persons who appeared before him, neither were the said persons properly identified under Section 12(b), Rule II of the 2004 Rules on Notarial Practice. Thus, it was recommended that: (1) respondent's notarial commission be revoked, if existing; (2) he be suspended from the practice of law for one (1) year; and (3) he be disqualified from being commissioned as a notary public for one (1) year, as his penalties.

In a Resolution¹⁶ dated November 29, 2016, the IBP Board of Governors resolved to adopt the aforementioned memorandum finding respondent guilty of violation of the 2004 Rules on Notarial Practice and the findings of fact and recommendation of the Investigating Commissioner with modification to reduce the imposed penalty to six (6) months suspension from the practice of law, immediate revocation of respondent's notarial commission, and disqualification from being appointed as notary public for two (2) years.

In the Extended Resolution¹⁷ dated January 28, 2019, the IBP Board of Governors resolved to adopt the findings of fact and recommendation of the Investigating Commissioner but modified to reduce the imposed penalty to suspension from practice of law for a period of six (6) months, immediate

¹³ Id.

¹⁴ Id. at 1.

¹⁵ Id. at 7-15.

¹⁶ Id. at 16.

¹⁷ Id. at 17-25.

revocation of notarial and disqualification from being approved as notary public for two (2) years.

On March 21, 2019, a Motion for Reconsideration¹⁸ was filed by respondent and it was prayed that respondent's penalty be reverted to admonishment. In the Motion to Deny Motion for Reconsideration¹⁹ filed by complainant, she prayed that respondent's MR be denied and that the penalty of disbarment be imposed upon respondent.

On June 13, 2020, the IBP Board of Governors issued a Resolution²⁰ denying the Motion for Reconsideration. Thus:

RESOLVED to DENY, as it is hereby DENIED, the Motion for Reconsideration filed by complainant [sic], there being no new reason and/or new argument adduced to reverse the Resolution dated January 3, 2013 of the Board of Governors.

Issue

The issue in this case is whether respondent is guilty of violating the 2004 Rules on Notarial Practice

The Court's Ruling

We agree with the findings and recommendations of the Extended Resolution dated January 28, 2019. It should be noted that a notary public's function should not be trivialized; a notary public must always discharge his powers and duties, which are impressed with public interest, with accuracy and fidelity, and with carefulness and faithfulness.²¹

A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein. The presence of the parties to the deed will enable the notary public to verify the genuineness of the signature of the affiant.²² It was clear in the facts of the complaint that respondent violated the 2004 Rules on Notarial Practice, specifically, its rules on acknowledgement of the document and ascertaining the identities of the people requesting for document notarization.

Section 1, Rule II of the 2004 Rules on Notarial Practice provides:

SECTION 1. *Acknowledgment*. – "Acknowledgment" refers to an act in which an individual on a single occasion:

¹⁸ Id. at 26-30.

¹⁹ Id. at 32-42.

²⁰ Temporary *rollo*, unpaginated.

²¹ *Gonzales v. Atty. Bañares*, 833 Phil. 578, 583 (2018).

²² *Bautista v. Atty. Bernabe*, 517 Phil. 236, 240 (2006).

(a) appears in person before the notary public and presents an integrally complete instrument or document;

(b) is attested to be personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and

(c) represents to the notary public that the signature on the instrument or document was voluntarily affixed by him for the purposes stated in the instrument or document, declares that he has executed the instrument or document as his free and voluntary act and deed, and, if he acts in a particular representative capacity, that he has the authority to sign in that capacity.

On the other hand, Section 12, Rule II of the 2004 Rules on Notarial Practice 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; 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.

This rule regarding competent evidence of identity was further amended in A.M. No. 02-8-13-SC²³ wherein Section 12(a), Rule II already enumerated the specific identification documents which shall be presented during notarization, to wit:

(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 Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or

x x x x

²³ Re: 2004 Rules on Notarial Practice (Additional Guidelines for the Implementation of the MOA Between OCA and OSG on Notarial Registers).

Clearly, the above rules were not strictly followed by respondent in the notarization of the subject documents. The documents were not executed in the presence of respondent. These falsified documents could not have been signed in his presence because of the physical impossibility of such.

In the case of the Deed of Donation, the parents were already dead at the time of execution. On the other hand, in the case of complainant, the Affidavit of Cancellation of Adverse Claim could not have been signed by her in respondent's presence because she was in Tuguegarao while the notarization happened in Cagayan de Oro. Even assuming that there were persons who appeared before respondent and pretended to be the complainant or the deceased parents of the complainant, such could have been easily discovered by asking for the identification documents bearing the photograph and signature of the executors. However, respondent became too complacent to the point of being negligent because he deemed it sufficient for the parties to present their community tax certificates and marriage contract to establish their identities when these documents do not bear any photograph as specifically required by the rules. Also, the interview conducted by respondent to establish identity, even though immaterial as nowhere in the rules requires such, could have helped if strict scrutiny was done by respondent. He could have easily spotted the deception done by his clients had he exercised the necessary diligence required of him.

Respondent's gross negligence in notarizing the subject falsified documents negates his claim that he acted in good faith. It is the responsibility of the lawyer to the society that he or she upholds and obeys the laws of the land and promotes respect for law and legal process. He or she is, thus, enjoined to engage in unlawful, dishonest, or deceitful conduct.²⁴

A lawyer owes candor, fairness, and good faith to the court.²⁵ Thus, 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.²⁶ It must be noted that by notarizing private documents, it becomes a public document, which is admissible in courts without further proof of authenticity. By carelessly notarizing documents, falsified documents would proliferate, which is dangerous to our legal system. That is why utmost diligence must be exercised by the notaries public. In *Heirs of Pedro Alilano v. Atty. Examen*,²⁷ citing *Nunga v. Atty. Viray*,²⁸ the Court held that:

x x x [N]otarization 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. The protection of that interest necessarily requires that those not qualified or authorized to act must be prevented from imposing upon the public, the courts, and the

²⁴ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 1.01, Canon 1, Chapter I.

²⁵ CODE OF PROFESSIONAL RESPONSIBILITY, Canon 10, Chapter III.

²⁶ CODE OF PROFESSIONAL RESPONSIBILITY, Rule 10.01, Canon 10, Chapter III.

²⁷ *Heirs of Pedro Alilano v. Atty. Examen*, 756 Phil. 608 (2015).

²⁸ 366 Phil. 155 (1999).

administrative offices in general. It must be underscored that the notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of the authenticity thereof. A notarial document is by law entitled to full faith and credit upon its face. For this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties.²⁹ (Emphases omitted)

Based on the foregoing, We agree with the penalty imposed in the Resolution dated November 29, 2016 and the Extended Resolution dated January 28, 2019 of the IBP Board of Governors. In the case of *Heir of Unite v. Guzman*,³⁰ wherein the notary public committed the same violation as in the present case, the penalty imposed was suspension from the practice of law for a period of six (6) months, revocation of notary commission, if existing, and prohibition from being commissioned as a notary public for two (2) years.

Thus, the denial of the Motion for Reconsideration dated March 21, 2019 of respondent, as stated in the Resolution dated June 13, 2020, is proper. For clarity and consistency of the said resolution, it must be noted that it was respondent who filed the motion for reconsideration and not the complainant. There is nowhere in the records of the case wherein complainant moved for reconsideration. To be clear, a motion to deny the motion for reconsideration was filed by complainant in response to the motion for reconsideration of respondent. Thus, the resolution issued, as this court understands, was a denial of respondent's motion for reconsideration.

Also, We note that the attached resolution was dated January 3, 2013, which is not the latest resolution of the IBP. As the antecedents of the present case would show, the Resolution dated January 3, 2013 was modified to reduce the recommended penalty to merely admonishing respondent. This resolution was already reviewed and superseded by the Resolution dated November 29, 2016 and the Extended Resolution dated January 28, 2019. Also, there is nowhere in the records of the case which would show and explain that the IBP was reverting or reducing the penalty to admonishment. In fact, this was the main prayer of the motion for reconsideration of respondent, which to reiterate, was denied.

Notwithstanding the foregoing, the Court, upon taking cognizance of this administrative case, could revoke, shorten, extend the suspension, or impose additional disciplinary sanctions as the facts may warrant. This finds support in the settled rule that in the realm of legal ethics, a breach of the 2004 Rules on Notarial Practice would also constitute a violation of the CPR, considering that an erring lawyer who is found to be remiss in his or her functions as a notary public is considered to have violated his or her oath as a lawyer as well. He or she does not only fail to fulfill his or her solemn oath of upholding and obeying the law and its legal processes, but he or she

²⁹ *Heirs of Pedro Alilano v. Atty. Examen*, supra at 618.

³⁰ 834 Phil. 724 (2018).

also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.³¹

We reiterate that what was committed by respondent was a serious violation of the notarial rules. Thus, We find that not only is the penalty of admonishment too light and unfitting penalty to the acts committed by respondent but also runs counter to the established principles of the CPR and jurisprudence.

WHEREFORE, premises considered, the Court finds respondent Atty. Ferdinand N. Talabong **GUILTY** of violating the 2004 Rules on Notarial Practice, Canon 1, Rule 1.01 and Canon 10, Rule 10.01 of the Code of Professional Responsibility. Accordingly, the Court **REVOKES** respondent Atty. Ferdinand N. Talabong's incumbent commission as notary public; **DISQUALIFIES** him from being commissioned as a notary public for a period of two (2) years; and **SUSPENDS** him from the practice of law for a period of six (6) months from notice of this Resolution. He is **STERNLY WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

The foregoing penalties shall take effect immediately upon receipt by respondent Atty. Ferdinand N. Talabong of this Resolution. Let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to the records of respondent Atty. Ferdinand N. Talabong, and to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation and dissemination to all courts concerned.

Finally, respondent Atty. Ferdinand N. Talabong is **DIRECTED** to file a manifestation before the Court upon serving his suspension and to furnish all courts and quasi-judicial bodies where he has entered an appearance a copy of this Resolution.

SO ORDERED.”

By authority of the Court:

Misael D C Batt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court

14/10/22

Ms. Belen M. Tumbali
Complainant
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³¹ *Re: Ely F. Azarraga, A.C. No. 12798, February 3, 2021.*

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