



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

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

"A.C. No. 13558 – PETER T. YANG, MANUELA L. YANG, and FREDERIC L. YANG, Complainants, v. ATTY. EDUARDO G. CALLANTA, Respondent.

Before this Court is a complaint for disbarment filed by complainants Peter T. Yang (**Peter**), Manuela L. Yang (**Manuela**), and Frederic L. Yang (**Frederic**) (collectively, the **complainants**) against respondent Atty. Eduardo G. Callanta (**Atty. Callanta**) for gross negligence, and improper acknowledgement and notarization of public documents.

The Facts

In their Complaint-Affidavit,¹ the complainants alleged that on 20 December 2013,² Atty. Callanta acknowledged and notarized a Deed of Donation³ (**First Deed of Donation**) executed by Peter in favor of Jeanelyn Dy Yang (**Jeanelyn**) for the property covered by Transfer Certificate of Title (**TCT**) No. 38958. Upon checking with the Notarial Section of the Office of the Clerk of Court and Ex Officio Sheriff, the complainants found that no copy of the said document was submitted to the said office. The notarial register of Atty. Callanta also reflected a different Deed of Donation. In his notarial register, what was entered for the same entry was a Deed of Donation in favor of John Dy Yang (**John**) for the same property and notarized on 20 December 2013.⁴

The complainants also alleged that on another occasion, on 26 December 2014, Atty. Callanta acknowledged and notarized a Deed of Donation⁵ (**Second Deed of Donation**) executed by Peter in favor of John and Jennifer Dy Yang (**Jennifer**), Peter and Manuela's grandchildren from one of their sons, Jeffry Yang (**Jeffry**). The subject of the Second Deed of Donation

¹ *Rollo*, pp. 1-6.

² *Id.* at 14; dated 27 December 2013 on other parts of the *rollo*.

³ *Id.* at 14-17.

⁴ *Id.* at 18-19.

⁵ *Id.* at 25-28.

is the real property covered by TCT No. 38961. By virtue of the donation, TCT No. 38961 was cancelled and TCT No. 003-2015-000287 was issued in favor of John and Jennifer. The complainants pointed out that this was highly irregular considering that John and Jennifer were not in the Philippines on the date of the notarization of the Second Deed of Donation, and that only their Tax Identification Cards were presented. Upon checking with the Notarial Section of the Office of the Clerk of Court and Ex Officio Sheriff, the Second Deed of Donation was entered in the notarial register of Atty. Callanta, but no copy of the document was submitted to the said office.⁶

The complainants then filed a complaint for disbarment before the Integrated Bar of the Philippines – Commission on Bar Discipline (**IBP-CBD**), as well as a criminal charge for Falsification of Public Document before the Prosecutor’s Office of Manila (**Falsification Case**), against Atty. Callanta and Jeffry.⁷

For his defense, Atty. Callanta averred in his Answer⁸ that the present complaint for disbarment stemmed from a family dispute involving Peter and Manuela, and their sons, Frederic and Jeffry. Atty. Callanta claims that he was caught in the middle of a family conflict regarding the distribution and disposition of the properties of Peter and Manuela to their children.⁹

Atty. Callanta admits having acknowledged and notarized the two Deeds of Donation, but averred that he did not conspire with Jeffry in the execution of the Deed of Donation in favor of John and Jennifer, as he had nothing to gain from the said act. In any case, Peter and Manuela executed an Affidavit of Desistance¹⁰ in the Falsification Case wherein they acknowledged that they freely, knowingly, and voluntarily executed the two Deeds of Donation.¹¹

Atty. Callanta also argued that there was no inconsistency between the First Deed of Donation and the Second Deed of Donation, as the Second Deed of Donation was only for a “portion” of the property covered by TCT No. 38961.¹²

The Report and Recommendation of the IBP-CBD

On 15 June 2020, the IBP-CBD promulgated its Report and Recommendation¹³ in the disbarment case, the dispositive portion of which reads:

⁶ Id. at 7.
⁷ Id. at 24.
⁸ Id. at 44-55.
⁹ Id. at 44.
¹⁰ Id. at 60-61.
¹¹ Id. at 46.
¹² Id. at 48-49.
¹³ Id. at 178-187.

WHEREFORE in view thereof, respondent Atty. Eduardo G. bCallanta is **GUILTY** of breach of the 2004 Rules on Notarial Practice and the Code of Professional Responsibility and it is recommended that he be **SUSPENDED** from the practice of law for one (1) year; **REVOCATION** of his incumbent notarial commission, if any; and **PROHIBITION** from being commissioned as a notary public for two (2) years. He is **WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.¹⁴

The IBP-CBD, through its Investigating Commissioner, found that Atty. Callanta violated the 2004 Rules on Notarial Practice (**Notarial Rules**)¹⁵ when he made several unjustified erroneous entries in his notarial register, as well as for his failure to submit copies of the Deeds of Donation to the Office of the Clerk of Court.

As for the allegation that John and Jennifer were not in the Philippines at the time of notarization of the Second Deed of Donation, the same could not be given weight as no proof was presented to establish the said allegation.

***The Resolution of the Integrated Bar of the Philippines -
Board of Governors***

On 26 September 2020, the IBP – Board of Governors (**IBP-BOG**) passed Resolution No. 2020-09-33¹⁶ adopting the Report and Recommendation of the IBP-CBD, but modified the penalty of suspension from the practice from one year to six months. The dispositive portion of the Resolution reads:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commission in the above-entitled case, after finding the report to be fully supported by the evidence on record and the applicable laws and rules, with modification on the recommended penalty for Atty. Eduardo G. Callanta to – (1) SUSPENSION from the practice of law for six (6) months, (2) IMMEDIATE REVOCATION of notarial commission if subsisting, and (3) DISQUALIFICATION from re-appointment as notary public for two (2) years for violation of the notarial law.

RESOLVED FURTHER, that the Commission prepare an EXTENDED RESOLUTION explaining the recommendation of the Board of Governors in this case.¹⁷

The Extended Resolution of the IBP-CBD

In compliance with the Resolution,¹⁸ dated 26 September 2020, of the IBP-BOG, the IBP-CBD issued an Extended Resolution,¹⁹ dated 2 July 2022,

¹⁴ Id. at 187.

¹⁵ A.M. No. 02-8-13-SC, 6 July 2004.

¹⁶ *Rollo*, pp. 176-177.

¹⁷ Id.

¹⁸ Id. at 177.

¹⁹ Id. at 188-191.

where the rationale of the IBP-BOG for modifying the penalty was given. The IBP-CBD stressed that the recommendation that Atty. Callanta be suspended for one year was too harsh for the infractions he committed. In the end, the authenticity and due execution of the First and Second Deeds of Donation were confirmed by the complainants. The complainants explained in their Affidavit of Desistance that these cases, including this complaint for disbarment, arose from a misunderstanding in the family which has since been resolved. Atty. Callanta is only being punished for the unexplainable erroneous entries, as well as his failure to submit a copy of the Deeds of Donation to the Office of the Clerk of Court.²⁰

Upon checking with the Office of the Bar Confidant, both the complainants and Atty. Callanta did not file a motion for reconsideration or a petition for review with the said office.

The Issue

Did the IBP-BOG correctly find the respondent liable for violation of the Notarial Rules?

The Court's Ruling

The Court affirms the findings and adopts the recommendations of the IBP-BOG.

The Court is consistent in its pronouncements that notarization is not a simple routinary act. As aptly put in *Collantes v. Atty. Mabuti*:²¹

“The Court has emphatically stressed that notarization is not an empty, meaningless, routinary act. Notarization by a notary public converts a private document into a public document making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full faith and credit, and as such, notaries public are obligated to observe with utmost care the basic requirements in the performance of their duties.”²² (citations omitted)

As notarization elevates the status of private documents into public documents which require no further proof of authenticity, the process is vested with substantive public interest.²³ 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. A notary public is duty-bound to discharge with fidelity the duties of his office, such duties being dictated by public policy.²⁴ It is then only reasonable for the Court, in the exercise of its disciplinary powers, to be exacting in ensuring that its commissioned notaries properly discharge their functions. To expect any less

²⁰ Id. at 189-190.

²¹ A.C. No. 9917, 14 January 2019.

²² Id.

²³ Id.

²⁴ *Roa-Buenafe v. Lirazan*, A.C. No. 9361, 20 March 2019.

from commissioned notaries would only undermine the dependability and efficacy of notarized documents.

Section 1, Rule XI of the 2004 Rules on Notarial Practice provides for the grounds when a notarial commission may be revoked:

“SECTION 1. *Revocation and Administrative Sanctions.* - (a) The Executive Judge shall revoke a notarial commission for any ground on which an application for a commission may be denied.

(b) In addition, the Executive Judge may revoke the commission of, or impose appropriate administrative sanctions upon, any notary public who:

- (1) fails to keep a notarial register;
- (2) **fails to make the proper entry or entries in his notarial register concerning his notarial acts;**
- (3) fails to send the copy of the entries to the Executive Judge within the first ten (10) days of the month following;
- (4) fails to affix to acknowledgments the date of expiration of his commission;
- (5) fails to submit his notarial register, when filled, to the Executive Judge;
- (6) fails to make his report, within a reasonable time, to the Executive Judge concerning the performance of his duties, as may be required by the judge;
- (7) fails to require the presence of a principal at the time of the notarial act;
- (8) fails to identify a principal on the basis of personal knowledge or competent evidence;
- (9) executes a false or incomplete certificate under Section 5, Rule IV;
- (10) knowingly performs or fails to perform any other act prohibited or mandated by these Rules; and
- (11) commits any other dereliction or act which in the judgment of the Executive Judge constitutes good cause for revocation of commission or imposition of administrative sanction.”
(emphasis supplied)

The failure to make the proper entry or entries in the notary public's notarial register concerning his notarial acts shall give ground for the revocation of his commission or imposition of appropriate administrative sanctions. Such failure also violates his duty under the Code of Professional Responsibility (**CPR**) to uphold and obey the laws of the land and to promote respect for law and legal processes.²⁵

Here, Atty. Callanta failed to properly perform his duties as a notary public. Atty. Callanta failed to make the proper entries in his notarial register with regard to the First Deed of Donation. As discussed, Atty. Callanta acknowledged and notarized a Deed of Donation in favor of Jeanelyn, but a review of the same entry in his notarial register, and as provided in the

²⁵ Id.

Certification²⁶ of the Office of the Clerk of Court and Ex Officio Sheriff, reveals that what was entered was a Deed of Donation in favor of John, not for Jeanelyn. Worse, Atty. Callanta did not even make any attempt to explain this serious error over the course of the proceedings.

Aside from failing to properly make the proper entries in his notarial register, Atty. Callanta also failed to comply with Section 2 (d), Rule VI of the 2004 Rules on Notarial Practice, which provides:

(d) When the instrument or document is a contract, the notary public shall keep an original copy thereof as part of his records and enter in said records a brief description of the substance thereof and shall give to each entry a consecutive number, beginning with number one in each calendar year. He shall also retain a duplicate original copy for the Clerk of Court.

Atty. Callanta should have kept copies of the First and Second Deeds of Donation, as required by the notarial rules. Had Atty. Callanta been more mindful of his duties as a commissioned notary public, then storing and submitting copies of notarized documents to the Office of the Clerk of Court would have been a routinary part of his work, and any question regarding the documents would have been addressed immediately. Clearly, Atty. Callanta brought this action upon himself for failing to perform his duties under the notarial rules.

The fact that the complainants eventually confirmed the authenticity and due execution of the First and Second Deeds of Donation in their Affidavit of Desistance is not a defense. Regardless of this confirmation, the fact remains that Atty. Callanta was remiss in his duties as a notary public, for failing to make the proper entries in his notarial register, and for failure to keep and submit copies of the notarized documents to the proper Office of the Clerk of Court.

For his violation of the notarial rules, Atty. Callanta also violated his duty under the CPR and his oath as a lawyer. In *Re: Atty. Azarraga*,²⁷ the Court ruled that:

“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 Code of Professional Responsibility (CPR), considering that an erring lawyer who is found to be remiss in his functions as a notary public is considered to have violated his oath as a lawyer as well. He does not only fail to fulfill his solemn oath of upholding and obeying the law and its legal processes, but he also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.”²⁸

Atty. Callanta violated his oath when he violated the rules on notarial practice. Atty. Callanta took an oath to uphold and obey the law and its legal

²⁶ *Rollo*, p. 18.

²⁷ A.C. No. 12798, 3 February 2021.

²⁸ *Id.*

processes, which includes notarial acts. For his failure to respect and comply with the requirements of notarization, the Court finds that Atty. Callanta violated Rule 1.01, Canon 1 of the CPR.²⁹ His omissions themselves show his disregard for the law and legal processes which he swore to uphold.

As to the penalty, recent jurisprudence³⁰ provides that a notary public who fails to discharge his duties or fails to comply with the Rules on Notarial Practice may be penalized with revocation of his current notarial commission and disqualification from reappointment as Notary Public. Thus, the Court holds that Atty. Callanta's current notarial commission, if there is any, should be revoked. Further, he should be disqualified from reappointment as Notary Public for a period of two years. For his violation of his duties under the CPR, the Court finds the penalty of suspension from the practice of law for six months commensurate with his infraction.

WHEREFORE, the Court **ADOPTS** the Extended Resolution, dated 2 July 2022, of the Integrated Bar of the Philippines – Board of Governors, finding Atty. Eduardo G. Callanta **GUILTY** of violating the 2004 Rules on Notarial Practice and Rule 1.01, Canon 1 of the Code of Professional Responsibility. Accordingly, the Court **REVOKES** his incumbent notarial commission if there is any; **DISQUALIFIES** him from being commissioned as notary public for two (2) years; and **SUSPENDS** him from the practice of law for a period of six (6) months. 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 of this Resolution. Let a copy of this Resolution be entered in the personal records of Atty. Eduardo G. Callanta as a member of the Philippine Bar, and copies furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for proper dissemination to all courts in the country.

The Notice of Resolution No. 2020-09-33 dated 26 September 2020 and Extended Resolution dated 2 July 2022 of the Integrated Bar of the Philippines – Board of Governors, which resolved to adopt and approve the Report and Recommendation of the Investigating Commissioner, with modification to the recommended penalty for Atty. Callanta, transmitted by the Letter dated 12 July 2022 of Director Avelino V. Sales, Jr., Commission on Bar Discipline, IBP, together with the records of the case and the flash drive file, are **NOTED**.

²⁹ CANON 1 — A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

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

³⁰ *Kiener v. Atty. Amores*, A.C. No. 9417, 18 November 2020.

SO ORDERED.” (Caguioa, J., on official leave; Inting, J., designated as acting Chairperson per Special Order No. 2918-REVISED dated October 12, 2022.)

By authority of the Court:

Misael D.C. Batt
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Division Clerk of Court JB 2/8/23

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