



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

SPOUSES VIRGINIA AND A.C. No. 12733
RAMON ALDEA,

Complainant,

Present:

- versus -

LEONEN, J., Chairperson*
GESMUNDO,
CARANDANG,
ZALAMEDA, and
GAERLAN, JJ.

ATTY. RENATO C. BAGAY,
Respondent.

Promulgated:

October 14, 2020

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DECISION

ZALAMEDA, J.:

This is a Complaint for Disbarment¹ filed before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD) against respondent Atty. Renato C. Bagay (Atty. Bagay) for violations of the Code of Professional Responsibility (CPR) and the 2004 Rules on Notarial Practice (2004 Notarial Rules).

* On official leave.

¹ *Rollo*, pp. 1-7.

Antecedents

Dominador C. Libang and Maura D. Libang (spouses Libang, collectively) died on 02 June 1996 and 30 September 2000, respectively. They left a parcel of land containing an area of 7,214 square meters with improvements registered under Transfer Certificate of Title (TCT) No. T-5690 located at Limay, Bataan (subject property),² which was in part inherited by their legitimate daughter, complainant Virginia Libang Aldea (Virginia).

Sometime later, Virginia discovered the existence of an Extra-Judicial Settlement of Estate with Sale, purportedly executed by the heirs of spouses Libang, transferring the ownership of the subject property to spouses Enrico and Arlina Datu. It was notarized by Atty. Bagay on 28 May 2010. Consequently, Virginia, assisted by her husband Atty. Ramon Aldea, filed a criminal complaint for estafa through falsification of public documents against respondent and several others before the Office of the City Prosecutor of Balanga City,³ as well as the complaint for disbarment against Atty. Bagay.

According to Virginia, the signature as appearing above her printed name in the Extra-Judicial Settlement of Estate with Sale was forged, simulated and falsified, as she was never a party to the document, and did not participate in the signing and execution thereof. She also assailed the community tax certificate bearing her name. Moreover, she maintained that Atty. Bagay acted with malice in notarizing the spurious document, notwithstanding the absence of the affiants therein. Virginia swore that she did not appear and acknowledge the document before Atty. Bagay on 28 May 2010⁴ while Leonida L. Cabulao (Leonida), another heir, was already dead as early as 22 November 1990.⁵

Atty. Bagay, in response, admitted his notarization on 28 May 2010 of the Extra-Judicial Settlement of Estate with Sale, with Leonida and Virginia, along with a certain Juan D. Libang, as purported affiants. He recorded such document under Doc. No. 75, Page No. 16, Book No. CDCXVI, Series of 2010. He allegedly notarized the document in good faith, and without motive of being a party to the falsity of the document, as he did not know any of the parties therein. He then pointed out that the Office of the City Prosecutor of Balanga City already absolved him as a conspirator in the criminal complaint for estafa through falsification of public documents since

² Id. at 3.

³ Id.

⁴ Id.

⁵ Id.



his only participation was the subscription and swearing in of its signatories.⁶

Report and Recommendation of the IBP-CBD

In its Report and Recommendation, the IBP-CBD found Atty. Bagay administratively liable. It recommended the imposition of the penalties of suspension of six (6) months from the practice of law against respondent, revocation of his present notarial commission, and suspension as a notary public for two (2) years.

The IBP-CBD found that based on the evidence, Atty. Bagay violated Section 12, Rule II and Section 2(b), Rule IV of the 2004 Notarial Rules, as well as the CPR. It did not consider Atty. Bagay's claim of good faith. On the contrary, the IBP-CBD found Atty. Bagay to have seriously neglected his duty as a notary public for failing to verify the identities of the parties to the document he notarized.⁷

Report and Recommendation of the IBP Board of Governors

In its Resolution⁸ dated 22 March 2018, the IBP Board of Governors (IBP Board) adopted the findings of the IBP-CBD but increased the penalty of suspension from the practice of law to one (1) year.

Ruling of the Court

The Court adopts the recommendations of the IBP Board but modifies the penalty imposed.

Notaries public are constantly reminded that notarization is not an empty, meaningless, and routinary act.⁹ A private document is converted into a public document once it has undergone notarization and makes it admissible in evidence. Consequently, a notarized 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.¹⁰

⁶ Id. at 78-79.

⁷ Id. at 372-378; Report and Recommendation, signed by IBP Commissioner Suzette A. Mamon.

⁸ Id. at 370; Notice of IBP Board Resolution, signed by National Secretary Patricia-Ann T. Prodigalidad.

⁹ See *Angeles v. Ibañez*, 596 Phil. 99 (2009); *Dela Cruz-Sillano v. Pangan*, 592 Phil. 219 (2008); *Legaspi v. Landrito*, 590 Phil. 1 (2008); *Pantoja-Mumar v. Flores*, 549 Phil. 261 (2007); *Gonzales v. Ramos*, 499 Phil. 345 (2005); *Dela Cruz v. Zabala*, 485 Phil. 83 (2004); *Follosco v. Mateo*, 466 Phil. 305 (2004); *Aquino v. Manese*, 448 Phil. 555 (2003).

¹⁰ Id.

The responsibility to faithfully observe and respect the legal solemnity of the oath in an acknowledgment or *jurat* is more pronounced when the notary public is a lawyer. A graver responsibility is placed upon him by reason of his solemn oath under the Code of Professional Responsibility to obey the laws and to do no falsehood or consent to the doing of any. He is mandated to the sacred duties appertaining to his office, such duties being dictated by public policy and impressed with public interest. Failing in his duties, he must bear the commensurate consequences.¹¹

In this vein, the 2004 Notarial Rules forbid a notary public to notarize a document unless the signatory thereto is personally present before the notary public at the time of the notarization, and personally known to the notary public or otherwise identified through competent evidence of identity, *viz*:

Rule IV, Section 2. *Prohibitions.* -xxxx

(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 the 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.¹²

If the person appearing before the notary public is not personally known to the latter, Section 2 (b), Rule IV of the 2004 Notarial Rules require the presentation of a competent evidence of identity. Section 12, Rule II of the same Rules defines competent evidence of identity as: (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 a documentary identification. **The purpose of these rules is for the notary to verify the genuineness of the signature of the affiant and to determine that the document is the signatory's free act and deed.**¹³

In this case, Atty. Bagay admits notarizing the Extra-Judicial Settlement of Estate with Sale on 28 May 2010. By affixing his signature and notarial seal on the document, he attested that Virginia and Leonida

¹¹ *Legaspi v. Landrito*, 590 Phil. 1, 6-7 (2008); A.C. No. 7091, 15 October 2008.

¹² 2004 Rules on Notarial Practice, A.M. No. 02-8-13-SC, 06 July 2004.

¹³ See *Dela Cruz-Sillano v. Pangan*, 592 Phil. 219-229 (2008); A.C. No. 5851, 25 November 2008.



personally appeared before him on the day it was notarized and verified the contents thereof. He, however, failed to refute the fact that Virginia and Leonida were not present on the day of notarization. Such negligent act is fraught with dangerous possibilities considering the conclusiveness on the due execution of a document that our courts and the public accord to notarized documents.¹⁴

Furthermore, Atty. Bagay did not personally know the persons who executed the subject document. He merely relied on the community tax certificates of the people who appeared before him, which, however, are not competent evidence of identity under Section 12, Rule II of the 2004 Notarial Rules. As the Court held in the past, reliance on the community tax certificates alone is a punishable indiscretion by the notary public.¹⁵

Based on the established facts, Atty. Bagay was clearly negligent in the discharge of his duties and functions, not only as a notary public, but also as a lawyer.¹⁶ His acts and omissions resulted not only in the damage to those directly affected by the notarized document, but also in undermining the integrity of a notary public and in degrading the function of notarization. He should, thus, be held liable for such negligence not only as a notary public but also as a lawyer.¹⁷ The fact that Atty. Bagay was absolved in the criminal case filed by Virginia is of no moment; it does not exculpate him from the present administrative charge because what is at issue here is his act of notarizing a document, without complying with the 2004 Notarial Rules.

Having established Atty. Bagay's administrative liability, the Court must now determine the proper penalty to be imposed upon him in this case.

Based on existing jurisprudence, when a lawyer commissioned as a notary public fails to discharge his duties as such, he is meted the penalties of revocation of his notarial commission, disqualification from being commissioned as a notary public for a period of two (2) years, and suspension from the practice of law, usually from six (6) months to one (1) year.¹⁸

It is worthy to point out, however, that in *Angeles, Jr. v. Bagay*,¹⁹ decided on 03 December 2014, the Court found Atty. Bagay administratively liable for notarizing (18) documents while he was outside the country and/or were signed by his secretary in his absence. For being grossly negligent in his duty as notary public therein, the Court revoked his notarial commission and disqualified him from being commissioned as a notary public for a

¹⁴ See *Loberes-Pintal v. Baylosis*, 804 Phil. 14, 19 (2017); A.C. No. 11545, 24 January 2017.

¹⁵ See *Japitana v. Parado*, 779 Phil. 182,190 (2016); A.C. No. 10859, 26 January 2016.

¹⁶ See *Angeles, Jr. v. Bagay*, 749 Phil. 114, 122 (2014); A.C. No. 8103, 03 December 2014.

¹⁷ See *Agbulos v. Viray*, 704 Phil. 1, 8-9 (2013); A.C. No. 7350, 18 February 2013.

¹⁸ Id.; see also *Malvar v. Baleros*, 807 Phil. 16, 30 (2017); A.C. No. 11346, 08 March 2017.

¹⁹ Supra at note 16.



period of two (2) years. The Court likewise suspended him from the practice of law for three (3) months, with a warning that a repetition of a similar violation will be dealt with more severely.

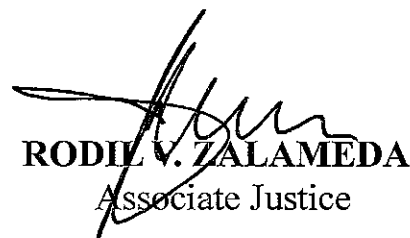
Despite such stern warning, Atty. Bagay was unperturbed, as he is here once again found liable for being negligent in notarizing documents, showing his propensity to brazenly violate or take lightly the 2004 Notarial Rules and Rule 1.01²⁰ of the CPR.

Consequently, the Court holds that the recommended penalties against Atty. Bagay by the IBP Board should be modified accordingly to put premium on the importance of the duties and responsibilities of a notary public. Pursuant to the pronouncement in *Loberes-Pintal v. Baylosis*,²¹ Atty. Bagay is meted the penalty of two (2) years suspension from the practice of law, revocation of his notarial commission, and a permanent ban from becoming a notary public.

WHEREFORE, premises considered, respondent Atty. Renato C. Bagay is hereby found **GUILTY** of violating Rule 1.01, Canon 1 of the Code of Professional Responsibility and the 2004 Rules on Notarial Practice. He is **SUSPENDED** from the practice of law for two (2) years, effective immediately. The Court **REVOKES** his notarial commission, if any, and **PERMANENTLY DISQUALIFIES** him from being commissioned as a notary public, effective immediately, with a **STERN WARNING** that the repetition of a similar violation will be dealt with even more severely. He is **DIRECTED** to **REPORT** the date of his receipt of this Decision to enable this Court to determine when his suspension shall take effect.

Let copies of this Decision be furnished to the Office of the Bar Confidant, to be appended to Atty. Renato C. Bagay's personal record as attorney. Likewise, let copies of this Decision be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for dissemination to all courts in the country for their information and guidance.

SO ORDERED.

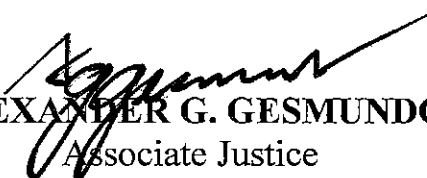

RODIL V. ZALAMEDA
Associate Justice

²⁰ RULE 1.01 A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

²¹ Supra at note 14.

WE CONCUR:

(On official leave)
MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

