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Republic of the Philippines
Supreme Court
Manila

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Mis-DCBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court
Third Division

FEB 04 2021

THIRD DIVISION

FATIMA S. INGRAM,
Petitioner,

A.C. No. 10306

Present:

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

- versus -

ATTY. JOSE Q. LORICA IV,
Respondent.

Promulgated:
September 9, 2020

MIS-DCBATT

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DECISION

GAERLAN, J.:

Before Us is an administrative complaint¹ for disbarment filed by Fatima S. Ingram (complainant) against Atty. Jose Q. Lorica IV (respondent).

Facts

The records show that on August 4, 2004, the spouses Victor Ferdinand B. Blanco and Rizza O. Blanco (spouses Blanco) executed a promissory note² in favor of the spouses John Ingram and complainant (collectively, spouses Ingram). The promissory note was notarized by respondent.³

When the spouses Blanco defaulted in payment, the spouses Ingram instituted the following actions:

- a) Criminal Case No. 13757 for Estafa, which was dismissed for want of probable cause, the case being purely civil in nature and not criminal;

¹ *Rollo*, pp. 13-22.

² *Id.* at 28-29, 35-36.

³ *Id.* at 36.

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- b) Criminal Case Nos. 21381 and 21382 for violation of *Batas Pambansa Bilang 22*; and,
- c) Civil Case No. U-8268 for collection of sum of money with damages.⁴

The spouses Blanco then engaged the legal services of respondent to represent them in the foregoing cases.⁵

The instant controversy arose when respondent, as counsel of the spouses Blanco, filed an Answer⁶ to the civil complaint, wherein the validity of the promissory note was raised as an issue. Paragraph 3 thereof alleged that the execution of the subject promissory note was attended with coercion, threats, intimidation and the like, *viz.*:

3. That paragraphs 3 and 4 are DENIED, the truth of the matter being that there should be an accounting to be made by both parties to arrive at an actual obligation of herein defendants. The rest of the allegations are likewise DENIED for lack of knowledge and information sufficient to form a belief thereon. **The execution of the alleged promissory note was without due regard to the defendants' pleas at the time as they were subjected to coercion, threats, intimidation and the like, thus defendant Victor Ferdinand Blanco was forced to sign the same[.] x x x**⁷

Along the same line, the pre-trial brief⁸ filed by respondent in behalf of the spouses Blanco stated, among others:

5. Whether or not plaintiffs were made aware of the financial situation [of] herein defendants and requested the restructuring of their agreement so as for them to be able to settle their obligation unto the plaintiffs but the latter denied such request and instead, **sent coercive and threatening communications unto the defendants, who were forced to execute the subject promissory note[.]**⁹

The spouses Ingram were thus prompted to move for the disqualification of the respondent to act as counsel for the spouses Blanco in Civil Case No. U-8268.¹⁰

⁴ Id. at 23-26.

⁵ Id. at 10.

⁶ Id. at 39-46.

⁷ Id. at 39.

⁸ Id. at 44-46.

⁹ Id. at 44.

¹⁰ Id. at 47-50.

Thereafter, complainant filed the instant complaint for disbarment,¹¹ docketed as CBD Case No 06-1863. Complainant posits that respondent, as the person who notarized the promissory note, is estopped from assailing the validity thereof inasmuch as he certified that the maker thereof acknowledged before him that the instrument is the latter's own free will and voluntary act and deed. Complainant also filed an administrative case, docketed as Administrative Case No. U-22.1, for the revocation of respondent's notarial appointment before the office of the Executive Judge of the Regional Trial Court, Urdaneta City.¹²

Later, in her position paper¹³ in this disbarment case, complainant likewise accused respondent of committing acts of dishonesty and deceit. According to the complainant, paragraph 2(d) of the promissory note provides:

- d) Any and all payments should be made in Australian Currency as described in paragraphs 1 and 2 and as such, the exchange rate will not affect the aforesaid payment. Should it become necessary to bank any of the cheques for collection, we shall be held liable for any difference between the current rate at the time of banking and the current rate of P38.00 per Australian Dollar as used in the drawing of cheques.¹⁴

To assail the above stipulation, respondent cited Article 1250 of the Civil Code in his clients' Answer in Civil Case No. U-8268 in the following manner:

14. That relative to the stipulation on the exchange rate on the subject promissory note, it is but imperative that the pertinent provisions of Article 1250 of the Civil Code of the Philippines be noted herein, to wit:

In case of an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of [the] payment[.]¹⁵

Similarly, in the Pre-Trial Brief he prepared for the spouses Blanco, he stated:

II. STATEMENT OF ISSUES

x x x x

¹¹ Id. at 9-12.

¹² Id. at 75-76.

¹³ Id. at 90-103.

¹⁴ Id. at 28.

¹⁵ Id. at 41.

6. Whether or not it is but imperative that the pertinent provisions of Article 1250 of the Civil Code of the Philippines be noted relative to the stipulation on the exchange rate on the subject promissory note, that is, “In case of an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of [the] payment[.]”¹⁶

Meanwhile, Article 1250 of the Civil Code in its entirety reads:

Article 1250. In case an extraordinary inflation or deflation of the currency stipulated should supervene, the value of the currency at the time of the establishment of the obligation shall be the basis of the payment, unless there is an agreement to the contrary.

According to the complainant, respondent intentionally and deliberately omitted the phrase “*unless there is an agreement to the contrary,*” in an attempt to put in issue the stipulated exchange rate in the promissory note and to mislead the complainant as to the complete thought provided in Article 1250 of the Civil Code.

On the other hand, in his Verified Answer¹⁷ to the disbarment complaint, the respondent claims that it was only at the time when he prepared the Answer in Civil Case No. U-8268 that he learned that the spouses Ingram employed coercion, threats and intimidation upon his clients before, during and after the execution of the promissory note. He attached copies of: the Police Blotter¹⁸ dated March 1, 2005, stating that the spouses Ingram “*allegedly threatened [Mr. Blanco] to be killed, putting him into great fear and mental anguish;*” the document denominated as “*Chronological Events of Grave Threats issued by Sps. John and Fatima Ingram against Victor Blanco,*”¹⁹ listing the alleged incidents from November 21, 2004 to February 28, 2005, when the spouses Ingram threatened the lives of the spouses Blanco; and, the Police Blotter²⁰ dated August 13, 2005, stating that the complainant allegedly threatened to drive his business bankrupt and remarked in an angry voice “*umalis kayudtan ta awan ti kuarta da ditan.*” According to respondent, he committed no dishonesty in the preparation of the answer in the civil case and simply relied in good faith on the narration of facts of his clients. As a lawyer, he deemed it imperative to raise the foregoing defenses in order to protect his clients’ interest. He likewise asserts that, in any case, he had already withdrawn his appearance from the civil case with the conformity of the spouses Blanco.

¹⁶ Id. at 44.

¹⁷ Id. at 73-78.

¹⁸ Id. at 84.

¹⁹ Id. at 86.

²⁰ Id. at 85.

Findings and Recommendation

In a Report and Recommendation²¹ dated 3 August 2009, the Integrated Bar of the Philippines (IBP) Investigating Commissioner found that respondent did not commit a violation when he represented the spouses Blanco in Civil Case No. U-8268 and assailed the validity of the promissory note that he himself notarized. He opined that complainant cannot validly invoke the doctrine of estoppel against respondent, since the latter had no knowledge of the alleged threat, coercion and intimidation when he notarized the promissory note, and since complainant failed to show that she relied on the respondent's notarial acknowledgment before dealing with the spouses Blanco.²²

Nonetheless, the Investigating Commissioner found that respondent violated Rule 10.02, Canon 10 of the Code of Professional Responsibility (CPR) when he omitted the phrase "*unless there is an agreement to the contrary,*" in citing Article 1250 of the Civil Code because the phrase would weaken his clients' case.²³ Thus, Commissioner recommended as follows:

PREMISES CONSIDERED, in view of the foregoing facts and circumstances, there being substantial evidence to show that respondent Jose Q. Lorica IV knowingly misrepresented Article 1250 of the Civil Code, it is recommended that he be warned that the commission of the same act in the future [will] be dealt with more severely.

Respectfully submitted.²⁴

In Resolution No. XX-2011-300²⁵ dated December 10, 2011, the IBP Board of Governors found respondent guilty of glaring conflict of interest and thus, resolved to reverse the Report and Recommendation of the Investigating Commissioner, *viz.*:

RESOLVED to REVERSE as it is hereby unanimously REVERSED the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A" and finding Respondent's [sic] guilty of glaring conflict of interest, Atty. Jose Q. Lorica IV is hereby SUSPENDED from the practice of law for a period of two (2) years and Revocation of his Notarial Commission if presently existing and SUSPENDED from being commissioned as a notary public for a period of five (5) years.²⁶

²¹ Id. at 187-194.

²² Id. at 90-91.

²³ Id. at 192-193.

²⁴ Id. at 194.

²⁵ Id. at 186.

²⁶ Id.

Feeling aggrieved, respondent filed a motion for reconsideration.²⁷

On June 21, 2013, the IBP Board of Governors issued Resolution No. XX-2013-736,²⁸ denying respondent's motion for reconsideration, but modifying the penalty imposed, *viz.*:

RESOLVED to unanimously DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XX-2011-300 dated December 10, 2011 is hereby AFFIRMED, with modification, instead Atty. Jose Q. Lorica IV is hereby SUSPENDED from the practice of law for one (1) year, and his Notarial Commission REVOKED immediately. Further, he is DISQUALIFIED from re-appointment as Notary Public for two (2) years.

Ruling

The Court deviates with the finding of the IBP Board of Governors.

Rule 15.03 of the CPR reads:

Canon 15 - A lawyer shall observe candor, fairness and loyalty in all his dealings and transactions with his clients.

Rule 15.03 - A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

Jurisprudence has provided three tests in determining whether a violation of the above rule is present in a given case. One test is whether a lawyer is duty-bound to fight for an issue or claim in behalf of one client and, at the same time, to oppose that claim for the other client. Thus, if a lawyer's argument for one client has to be opposed by that same lawyer in arguing for the other client, there is a violation of the rule. Another test of inconsistency of interests is whether the acceptance of a new relation would prevent the full discharge of the lawyer's duty of undivided fidelity and loyalty to the client or invite suspicion of unfaithfulness or double-dealing in the performance of that duty. Still another test is whether the lawyer would be called upon in the new relation to use against a former client any confidential information acquired through their connection or previous employment.²⁹

²⁷ Id. at 195-202.

²⁸ Id. at 276-277.

²⁹ *Aniñon v. Atty. Sabitsana, Jr.*, 685 Phil. 322, 327 (2012).

At first glance, it would indeed appear that respondent is guilty of glaring conflict of interest under the first test. By handling the defense of the spouses Blanco in Civil Case No. U-8268 and raising for them the defense that the execution of the promissory note that he himself notarized was attended by coercion, threats and intimidation, respondent clearly took up a position that was inconsistent with his own attestation in the notarial acknowledgment thereof that the instrument was Mr. Blanco's own free will and voluntary act and deed.

However, the rule on conflict of interests presupposes a lawyer-client relationship. This is because the purpose of the rule is precisely to protect the fiduciary nature of the ties between an attorney and his client.³⁰ The relationship between a lawyer and his/her client should ideally be imbued with the highest level of trust and confidence. This is the standard of confidentiality that must prevail to promote a full disclosure of the client's most confidential information to his/her lawyer for an unhampered exchange of information between them. Needless to state, a client can only entrust confidential information to his/her lawyer based on an expectation from the lawyer of utmost secrecy and discretion; the lawyer, for his part, is duty-bound to observe candor, fairness and loyalty in all his dealings and transactions with the client. Part of the lawyer's duty in this regard is to avoid representing conflicting interests.³¹

Conversely, a lawyer may not be precluded from accepting and representing other clients on the ground of conflict of interests, if the lawyer-client relationship does not exist in favor of a party in the first place.³² Suffice it to state, the proscription against representing conflicting interests finds no application, unless it serves the foregoing purpose.

In this case, the record is devoid of any allegation, much less proof, that a lawyer-client relationship exists between respondent and the spouses Ingram. An attorney-client relationship is said to exist when a lawyer acquiesces or voluntarily permits the consultation of a person, who in respect to a business or trouble of any kind, consults a lawyer with a view of obtaining professional advice or assistance.³³ Here, respondent's mere act of notarizing the subject promissory note and nothing more, hardly gave rise to an attorney-client relationship between the notary public and the payees of the said note, the spouses Ingram. There is, in fact, no showing that respondent and the spouses Ingram ever dealt with each other, as it was only the spouses Blanco, as the makers and signatories of the instrument, who appeared before him to

³⁰ *Jimenez v. Atty. Francisco*, 749 Phil. 551, 570 (2014).

³¹ *Id.* at 572-573.

³² *Id.* at 570.

³³ *Virgo v. Atty. Amorin*, 597 Phil. 182, 191 (2009).

acknowledge their execution thereof. For this reason, We hold that the respondent did not violate the rule on conflict of interests.

The foregoing notwithstanding, respondent is far from being scot-free. There is definitely something amiss with his actuation, such that while it may not come within the purview of “conflict of interest” as contemplated in this jurisdiction, a “conflict” in the general sense of the word, is extant. To reiterate, respondent clearly took up inconsistent positions when, on one hand, he attested in the notarial acknowledgment of the promissory note that the instrument was Mr. Blanco’s own free will and voluntary act and deed, while on the other hand, he assailed the due execution thereof by putting up the defenses of coercion, threats and intimidation allegedly employed by the spouses Ingram that forced the spouses Blanco to execute the same.

It must be underscored that notarization by a notary public converts a private document into a public document, making that document admissible in evidence without further proof of its authenticity.³⁴ Thus, respondent’s attempt to nullify the promissory note on the ground that it was not duly executed, defeated the very purpose of his own notarial act. By his conduct, he made a clear mockery of the integrity of a notary public and degraded the function of notarization.

Time and again, We have held that notarization of a document is not an empty act or routine. It is invested with substantive public interest for its function is to convert a private document into a public document, thus rendering a notarial document entitled to full faith and credit upon its face. 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.³⁵ Hence, a notary public cannot simply disavow the contents of his notarial acknowledgment, otherwise, the confidence of the public in the integrity of public instruments and the integrity of the notarial practice and the legal profession, in general, would be undermined.

In this light, respondent should be held liable for his indiscretion not only as a notary public but also as a lawyer. His disavowal of the contents of his notarial acknowledgment—which, in good taste, he is called upon to honor and uphold; and which the public should be able to rely upon—constitutes a violation of his obligation under Canon 7 of the CPR, which directs every lawyer to uphold at all times the integrity and dignity of the legal profession.

³⁴ *Atty. Angeles, Jr. v. Atty. Bagay*, 749 Phil. 114, 123 (2014).

³⁵ *Fabay v. Atty. Resuena*, 779 Phil. 151, 158 (2016).

Considering, however, that respondent's infraction does not amount to representation of conflicting interests, which deserves a more severe penalty, and considering, furthermore, that respondent eventually withdrew as counsel of the spouses Blanco, We deem the penalty of suspension for a period of six months from the practice of law to be commensurate with the extent of respondent's violation. Nonetheless, We sustain the IBP Board of Governor's imposition of the penalties of immediate revocation of his Notarial Commission and disqualification from being commissioned as a notary public for a period of two years.

Finally, We adopt the finding of the Investigating Commissioner that respondent is guilty of misquoting Article 1250 of the Civil Code when he omitted the phrase "*unless there is an agreement to the contrary,*" in citing the said provision. Indeed, while the evidence on record fell short in establishing that the omission was an "act of lying or cheating" that would constitute a "dishonest act," it clearly contravened Rule 10.02 of the CPR, which provides:

Rule 10.02. A lawyer shall not knowingly misquote or misrepresent the contents of a paper, the language or the argument of opposing counsel, or the text of a decision or authority, or knowingly cite as law a provision already rendered inoperative by repeal or amendment, or assert as a fact that which has not been proved.

For this infraction, respondent deserves to be admonished.


WHEREFORE, premises considered, Atty. Jose Q. Lorica IV is hereby found **GUILTY** of violation of Canon 7 of the Code of Professional Responsibility for which he is hereby **SUSPENDED** from the practice of law for a period of six (6) months. He is likewise meted the penalties of immediate **REVOCATION** of his Notarial Commission if presently existing and **DISQUALIFICATION** from being commissioned as a Notary Public for a period of two (2) years. He is likewise hereby found **GUILTY** of violation of Rule 10.02 of the Code of Professional Responsibility for which he is hereby **ADMONISHED**. The penalties herein imposed come with a **STERN WARNING** that the repetition of similar violations will be dealt with even more severely.

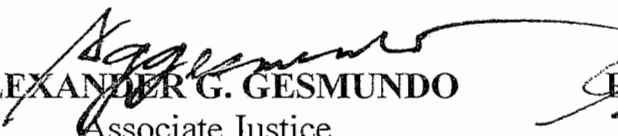
Let copies of this Decision be attached to the personal records of respondent as attorney, and be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for proper dissemination to all courts throughout the country.

SO ORDERED.



SAMUEL H. GAERLAN
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Associate Justice
Chairperson


ALEXANDER G. GESMUNDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice


RODIL V. ZALAMEDA
Associate Justice

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