



Republic of the Philippines
 Supreme Court
 Baguio City

EN BANC

NENITA DE GUZMAN
 FERGUSON,

A.C. No. 9209

Complainant,

Present:

SERENO, C.J.,
 CARPIO,
 VELASCO, JR.,
 LEONARDO-DE CASTRO,
 PERALTA,
 BERSAMIN,*
 DEL CASTILLO,
 MENDOZA,
 REYES,
 PERLAS-BERNABE,
 LEONEN,
 JARDELEZA,
 CAGUIOA,
 MARTIRES, and
 TIJAM, JJ.

- versus -

ATTY. SALVADOR P. RAMOS,
 Respondent.

Promulgated:

April 18, 2017

X ----- *Salvador P. Ramos* ----- X

DECISION

Per Curiam:

Before the Court is the Complaint-Affidavit,¹ filed by Nenita De Guzman Ferguson (*complainant*), seeking the disbarment of Atty. Salvador P. Ramos (*Atty. Ramos*) for falsification, violation of notarial law and engaging in private practice while employed in the government service.

* No Part.

¹ *Rollo*, pp. 3-11.

The Antecedents

Complainant alleged that on November 25, 2007, she purchased a house and lot located in San Rafael, Bulacan, for the sum of ₱800,000.00; that without her knowledge, the seller obtained a Certificate of Land Ownership Award (CLOA) mainly to transfer the title of the said property to her name; that the seller was unaware that the said CLOA was void *ab initio* as the subject land was not an agricultural land and there existed a 10-year prohibition to transfer the subject land; that in 2009, complainant instituted a petition for the cancellation of the CLOA before the DAR Office; that the defendants were represented by Atty. Ramos, who was the Chief Legal Officer of DAR-Provincial Office in Bulacan; that complainant withdrew the petition before the DAR and filed the case before the Regional Trial Court, Branch 12, Malolos City (RTC); that upon receipt of the Answer, complainant found out that it was strikingly similar to the one filed by the defendants in the DAR, which was prepared by Atty. Ramos; that complainant discovered that the Deed of Sale,² dated April 24, 2009, which became the basis of the transfer of title was fraudulently altered as it only covered the sale of the land, not the house and lot, and the price indicated was only ₱188,340.00,³ not the amount of ₱800,000.00³ that she actually paid; that her signature and that of her husband, Douglas Ferguson (Douglas), were forged; that Atty. Ramos notarized the deed of sale without their presence; and that complainant and her husband neither appeared, executed nor acknowledged any document before Atty. Ramos as they never met him in person.

In his Comment,⁴ Atty. Ramos denied that he represented the defendants in the case before the DAR but he admitted that he notarized their Answer. With respect to the charge of falsification of the April 24, 2009 Deed of Sale and the notarization of the aforementioned deed, Atty. Ramos likewise denied any participation and countered that his signature as a notary public was forged. Atty. Ramos, nonetheless, admitted that he notarized the “genuine” Deed of Sale,⁵ dated May 12, 2009, executed between vendor Alfredo Inosanto, and vendees complainant and her spouse, involving the same property for the amount of ₱300,000.00.⁶ Atty. Ramos surmised that whoever benefited from such dastardly act could be the culprit in the falsification of the document as the forged deed of sale which indicated a lesser purchase price was the one presented in the Registry of Deeds of Bulacan in order to evade payment of a higher capital gains tax.

² Annex “M” for Complainant and Annex “9-A” for the respondent, Id. at 104-105.

³ Id. at 4.

⁴ Id. at 35-50.

⁵ Annex “14”, id. at 129.

⁶ Id. at 45.

Atty. Douglas Ferguson

In its Resolution,⁷ dated February 29, 2012, the Court referred the complaint to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.

The case was then set by the Commission on Bar Discipline (*CBD*) of the *IBP* for mandatory conference. Thereafter, parties were required to submit their respective position papers.

In its Report and Recommendation,⁸ dated November 21, 2014, the *CBD* found Atty. Ramos guilty of violating the law on notarial practice and recommended that he be suspended from the practice of law for a period of one (1) year and, in case he held a commission as a notary public; that it be revoked and that he be disqualified to act as a notary public for a period of two (2) years to be counted after his suspension. The *CBD* stated that the defense of forgery, without any corroborative evidence, was not credible. As to the charge that of engaging in a private practice while employed in the government service against Atty. Ramos, the *CBD* opined that it should be addressed to the Civil Service Commission for the determination of his appropriate administrative liability.

In its Notice of Resolution No. XXI-2015-458,⁹ dated June 6, 2015, the *IBP*-Board of Governors adopted and approved with modification the report and recommendation of the *CBD*, as follows:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", finding the recommendation to be fully supported by the evidence on record and applicable laws and Respondent's notarization of a document in the absence of the parties' in violation of the 2004 Rules on Notarial Practice. Thus, Respondent Atty. Salvador P. Ramos' notarial commission, if presently commissioned, is immediately REVOKED. Furthermore, he is DISQUALIFIED from being commissioned as a Notary Public for two (2) years and is SUSPENDED from the practice of law for six (6) months.

The Court agrees with the findings of the *IBP* but differs on the imposed penalty.

⁷ Id. at 140.

⁸ Id. at 259-264.

⁹ Id. at 257-258.

7/21/15
J. Reyes-Delgado

Section 1, Public Act No. 2103, otherwise known as the Notarial Law states:

The acknowledgment shall be before a notary public or an officer duly authorized by law of the country to take acknowledgements of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgment shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, acknowledged that the same is his free act and deed. The certificate shall be made under the official seal, if he is required by law to keep a seal, and if not, his certificate shall so state.

The importance of the affiant's personal appearance was further emphasized in Section 2 (b), Rule IV of the Rules on Notarial Practice of 2004 which specifically provides that:

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.

The afore-quoted rules clearly mandate that a notary public, before notarizing a document, should require the presence of the very person who executed the same. Thus, he certifies that it was the same person who executed and personally appeared before him to attest to the contents and truth of what were stated therein.¹⁰ The presence of the parties to the deed is necessary to enable the notary public to verify the genuineness of the signature of the affiant.¹¹

In the present case, Atty. Ramos denied having notarized the April 24, 2009 deed of sale and claimed that his signature was forged. He even alluded that the person who benefited from it could be the forger as the capital gains tax liability was reduced. He, nonetheless, admitted notarizing the "genuine" deed of sale, dated May 12, 2009.

¹⁰ *Bautista v. Bernabe*, 517 Phil. 236, 240 (2006).

¹¹ *Cabanilla v. Cristal-Tenorio*, 461 Phil. 1, 11 (2003).

Jepson Lopez-Drane

Regardless of who the culprit was and the motive of such forgery, Atty. Ramos cannot be exonerated from liability. A perusal of the record would reveal that Douglas, one of the parties in the deed of sale, was not in the Philippines on May 12, 2009, the day the "genuine" deed of sale was notarized. Complainant presented a copy of Douglas' passport indicating that he entered the Philippines only on May 26, 2001 and left on June 12, 2001. This substantially established that indeed Douglas could not have personally appeared before Atty. Ramos when he notarized the deed.

Moreover, an examination of the April 24, 2009 and May 12, 2009 deeds of sale disclosed that both documents bore the same document number, page number and book number of the notarial registry of Atty. Ramos. If, indeed, the April 24, 2009 deed of sale, which was issued earlier was forged, how would the purported culprit know the details of Atty. Ramos' notarial registry?

It must be emphasized that notarization is not an empty, meaningless and routinary act. It is imbued with public interest and only those who are qualified and authorized may act as notaries public.¹² In the case of *Gonzales v. Ramos*,¹³ the Court explained the significance of the act of notarization, thus:

By affixing his notarial seal on the instrument, the respondent converted the Deed of Absolute Sale, from a private document into a public document. Such act is no empty gesture. The principal function of a notary public is to authenticate documents. When a notary public certifies to the due execution and delivery of a document under his hand and seal, he gives the document the force of evidence. Indeed, one of the purposes of requiring documents to be acknowledged before a notary public, in addition to the solemnity which should surround the execution and delivery of documents, is to authorize such documents to be given without further proof of their execution and delivery. A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgement executed before a notary public and appended to a private instrument. Hence, a notary public must discharge his powers and duties, which are impressed with public interest, with accuracy and fidelity.

Not only did Atty. Ramos fail to comply with the Rule on Notarial Practice when he notarized the deed of sale without the presence of the parties but he likewise violated Canon 1 of the Code of Professional

¹² *Tan Tiong Bio v. Gonzalez*, 530 Phil. 748, 756 (2007).

¹³ 499 Phil. 345, 350 (2005).

499 Phil. 345, 350 (2005)

Responsibility which obliges a lawyer to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes; and Rule 1.01, Canon 1 of the Code of Professional Responsibility which proscribes a lawyer from engaging in any unlawful, dishonest, immoral and deceitful conduct.¹⁴

As a lawyer commissioned as notary public, Atty. Ramos was mandated to exercise the function of his office and must observe with utmost care the basic formalities of his office and requisites in the performance of his duties.¹⁵ When Atty. Ramos affixed his signature and notarial seal on the deed of sale, he led us to believe that the parties personally appeared before him and attested to the truth and veracity of the contents thereof. His conduct was fraught with dangerous possibilities considering the conclusiveness on the due execution of a document that our courts and the public accord on notarized documents.¹⁶ Certainly, Atty. Ramos failed to exercise the functions of the office and to comply with the mandates of the law.

In the case of *Santuyo v. Atty. Hidalgo*,¹⁷ the respondent lawyer similarly denied having notarized the subject deed of sale. The Court found him negligent not only in the supposed notarization but in allowing the office secretaries to make the necessary entries in his notarial registry which was supposed to be done and kept by him alone. He was suspended from his commission as notary public and was disqualified from being commissioned as notary public for a period of two years.

In the case of *Ocampo-Ingcoco v. Atty. Yrreverre, Jr.*,¹⁸ the respondent lawyer was suspended from the practice of law for a period of six (6) months for notarizing a document without the appearance of the parties. The Court held that a notary public should not notarize a document unless the persons who signed it are the very same persons who executed and personally appeared before him to attest to the truth of the contents therein.

In line with these cases, the Court finds the suspension of Atty. Ramos for six (6) months in order.

With respect to the allegation that Atty. Ramos was engaged in a private practice while employed in the government service, the Court agrees with the CBD that the issue should be brought before the Civil Service

¹⁴ *Ocampo-Ingcoco v. Atty. Yrreverre, Jr.*, 458 Phil. 803, 813 (2003).

¹⁵ *Cabanilla v. Atty. Cristal-Tenorio*, supra note 11.

¹⁶ *Bautista v. Atty. Bernabe*, 517 Phil. 236, 240 (2006).

¹⁷ 489 Phil. 257 (2005).

¹⁸ Supra note 14.

gls for Morgan-Ramos

Commission for the determination of his appropriate administrative liability, if any.

Finally, this Court cannot ignore the averments of Atty. Ramos that there were two (2) deeds of sale covering Transfer Certificate of Title No. CLOA-T-15831. One was the April 24, 2009 Deed of Sale which was presented to the Registry of Deeds of Bulacan, and the other one was the May 12, 2009 Deed of Sale which was kept on file at the Notarial Section of the RTC. Both deeds were registered in the Notarial Registry of Atty. Ramos with document number 354, page number 71 and Book VII series of 2009. Because of this irregularity, the Court deems it proper to refer this matter to the Bureau of Internal Revenue for the assessment of the correct tax and for investigation for possible prosecution of the criminal liability of the culprits under the National Internal Revenue Code.

WHEREFORE, finding Atty. Salvador P. Ramos **GUILTY** of violating the Rule on Notarial Practice and Rule 1.01 and Canon 1 of the Code of Professional Responsibility, the Court hereby **SUSPENDS** him from the practice of law for six (6) months; **REVOKES** his notarial commission, effective immediately; and **PERMANENTLY BARS** him from being commissioned as notary public, with a **STERN WARNING** that a repetition of the same or similar conduct will be dealt with more severely.

Let copies of this decision be furnished the Office of the Bar Confidant to be attached to the personal record of Atty. Salvador P. Ramos; the Office of the Court Administrator for dissemination to all lower courts; and the Integrated Bar of the Philippines, for proper guidance and information.

The Civil Service Commission and the Bureau of Internal Revenue should likewise be given copies of this decision for their appropriate actions.

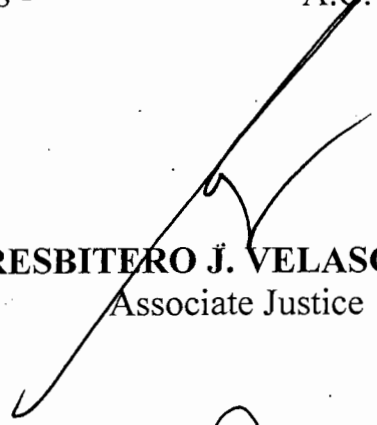
SO ORDERED.



MARIA LOURDES P. A. SERENO
Chief Justice




ANTONIO T. CARPIO
Associate Justice



PRESBITERO J. VELASCO, JR.
Associate Justice

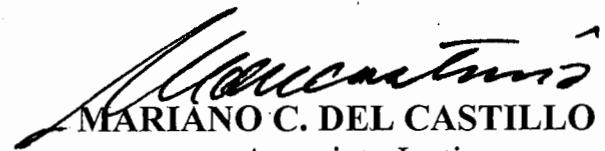


TERESITA J. LEONARDO-DE CASTRO
Associate Justice

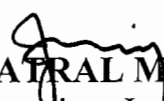


DIOSDADO M. PERALTA
Associate Justice

(No Part)
LUCAS P. BERSAMIN
Associate Justice




MARIANO C. DEL CASTILLO
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice




BIENVENIDO L. REYES
Associate Justice



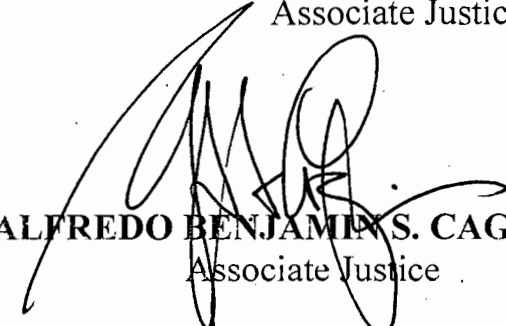
ESTELA M. PERLAS-BERNABE
Associate Justice



MARVIC M.V.F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



SAMUEL R. MARTIRES
Associate Justice



NOEL C. TIJAM
Associate Justice