



Republic of the Philippines  
Supreme Court  
Manila

SUPREME COURT OF THE PHILIPPINES  
PUBLIC INFORMATION OFFICE

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**EN BANC**

**PILAR C. PROSPERO** and  
**CLARINDA P. CASTILLO,**  
Complainants,

**A.C. No. 11583**  
[Formerly CBD Case No. 11-2878]

**Present:**

PERALTA, *C.J.*,  
PERLAS-BERNABE,\*  
LEONEN,  
CAGUIOA,  
REYES, A., JR.,  
GESMUNDO,\*  
REYES, J., JR.,  
HERNANDO,  
CARANDANG,\*  
LAZARO-JAVIER,  
INTING, and  
ZALAMEDA,\*\* *JJ.*

- versus -

**ATTY. JOAQUIN L. DELOS**  
**SANTOS and ATTY. ROBERTO**  
**A. SAN JOSE,**  
Respondents.

**Promulgated:**

December 3, 2019

X-----X

**DECISION**

**PER CURIAM:**

Before the Court is a Complaint-Affidavit<sup>1</sup> filed by complainants, Pilar C. Prospero and Clarinda P. Castillo, on February 1, 2011, seeking the disbarment of respondents, Atty. Joaquin L. Delos Santos and Atty. Roberto A. San Jose, for gross professional misconduct, deceit, malpractice, and violation of the Code of Professional Responsibility (*CPR*) and Lawyer's Oath for their alleged falsification and notarization of documents leading to the fraudulent conveyance of a parcel of land owned by Pilar.

\* On official business.

\*\* On official leave.

<sup>1</sup> *Rollo*, pp. 2-17.

The antecedent facts are as follows:

In the complaint, it was narrated that Pilar and Clarinda are the niece and granddaughter, respectively, of the late Fermina Prospero, the registered owner of a parcel of land situated in Barangays Sala and Marinig, Cabuyao, Laguna, denominated as Lot 2-B of Original Certificate of Title (*OCT*) No. (0-175) 0-116, and consisting of an aggregate area of 20,384 square meters. On April 11, 1972, Fermina sold to Pilar a portion thereof consisting of 10,000 square meters. While the sale was duly annotated in the title, no new Transfer Certificate of Title (*TCT*) was issued in Pilar's name.<sup>2</sup> Subsequently, Fermina died on May 8, 1983. But before she passed, she left a holographic will dated June 5, 1974 bequeathing the remaining 10,384 square meters to Pilar which was presented for probate before the Regional Trial Court (*RTC*) of Manila sometime in 1984. As of the date of Pilar's complaint, however, the provisions of said will have yet to be fully implemented.

Sometime in 2007, respondent Atty. Delos Santos and a certain real estate agent named Marilou Delos Santos were introduced to Pilar to discuss the possible sale of the subject property. Because Atty. Delos Santos was introduced to be a high-ranking official of the Municipality of Cabuyao, Laguna, who was in charge of approving plans for land development, he easily gained the trust of Pilar. As such, Atty. Delos Santos convinced Pilar that she could sell her 10,000 square meter share in the property, but she first needed to execute a Special Power of Attorney (*SPA*) and give him the owner's copy of the *OCT*. But instead of covering only the 10,000 square meter portion, he deliberately included the 10,384 square meter portion that Fermina bequeathed to Pilar. Without understanding the import of the *SPA*, Pilar, who was then already 88 years old, signed the same.<sup>3</sup>

Then, unknown to Pilar, Atty. Delos Santos falsified a Deed of Absolute Sale dated May 20, 2008 counterfeiting the signatures of Pilar and deceased Fermina making it appear that the latter sold to Pilar the entire 20,384 square meter lot. He also notarized the same as if the deceased Fermina appeared before him on said date and acknowledged her "free" participation in the sale when, in fact, Fermina had long been dead at that time. Seemingly realizing that the May 20, 2008 Deed erroneously included the 10,000 square meter portion already owned by Pilar, Atty. Delos Santos falsified and notarized another document entitled Deed of Absolute Sale – Portion of Land also dated May 20, 2008, this time, supposedly conveying to Pilar only the remaining 10,384 square meter portion. Armed with the falsified Deed of Sale, Atty. Delos Santos was, consequently, able to secure

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<sup>2</sup> *Id.* at 2-4.

<sup>3</sup> *Id.* at 5.

the issuance of a new TCT No. T-707979 in the name of Pilar covering the entire 20,384 square meter lot without the knowledge and consent of the latter.<sup>4</sup>

According to Pilar, the falsity of both documents is plainly evident. *First*, Fermina could not have signed the documents as she was already dead as early as May 8, 1983. *Second*, the signatures of Pilar and Fermina affixed on the documents are glaringly different from the appearance and strokes of their original signatures on their Deed of Sale dated April 11, 1972. *Third*, not only are both documents dated May 20, 2008, they were also entered under the same entry in Atty. Delos Santos' notarial register as "Doc. No. 140, Page No. 28, Book No. XXXIV, Series of 2008." But basic is the rule under notarial practice that no two documents may have the same date of notarization and entry number in the notarial register of a notary public. To make matters worse, as certified by the Clerk of Court of the RTC of Biñan, Laguna, the document entered as "Doc. No. 140, Page No. 28, Book No. XXXIV, Series of 2008" in Atty. Delos Santos' notarial register was neither the Deed of Sale dated May 20, 2008, but an unrelated document entitled "*Katunayan sa Pagkakabili*" executed by a certain Carmela Bool on May 28, 2008.<sup>5</sup>

Unfortunately, Atty. Delos Santos did not stop there. Using the new TCT No. T-707979, he was able to facilitate the illegal transfer of the subject property to Hauskon Housing and Construction Products Corporation, again, without the knowledge and consent of Pilar. Particularly, in his supposed capacity as Attorney-in-Fact, Atty. Delos Santos entered into a Deed of Absolute Sale dated June 13, 2008 purporting to convey the parcel of land to Hauskon for a price of ₱8,306,480.00. Said deed was irregularly notarized by respondent Atty. San Jose, the in-house counsel of Hauskon, without competent evidence of identity and despite previous warnings from Clarinda of Atty. Delos Santos' lack of authority.

According to complainants Pilar and Clarinda, not only were they surprised that a new TCT No. T-707979 was already issued in Pilar's name, they were also disgruntled by information they were receiving that Atty. Delos Santos was selling the subject property to Hauskon without Pilar's consent. But again, despite earnest efforts made by Clarinda to warn the officers of Hauskon, the latter nonetheless transacted with Atty. Delos Santos. They insisted that Pilar was fully aware of the transactions and even claimed that they paid her the amount of ₱8,306,480.00 in cold cash and argued that Pilar may have just forgotten of the same. To this, however, complainants assert that Atty. Delos Santos and Hauskon could not even produce any receipt acknowledging their alleged payment. In fact, seemingly pressured with the discovery of his anomalous dealings, Atty.

<sup>4</sup> *Id.* at 5-7.

<sup>5</sup> *Id.* at 6-7.

Delos Santos even returned the owner's copy of OCT No. (0-175) 0-116 to Clarinda. He also surrendered a series of post-dated checks payable to him, each in the amount of ₱646,059.55, representing Hauskon's payment for the sale of the lot.<sup>6</sup>

But in a complete turnaround, Atty. Delos Santos falsified yet another Deed of Absolute Sale dated August 5, 2008 by, again, counterfeiting Pilar's signature, making it appear that she was selling the property to Hauskon for a purchase price of ₱3,669,120.00, and notarizing the same as if Pilar personally appeared before him. It was with the use of this deed that Atty. Delos Santos, in connivance with the representatives of Hauskon, was able to secure the cancellation of the previous TCT No. T-707979 in the name of Pilar and the issuance of a new TCT No. T-723667 in the name of Hauskon.<sup>7</sup> Aggrieved, complainants Pilar and Clarinda filed the instant disbarment complaint against Atty. Delos Santos and Atty. San Jose.

On the one hand, Atty. San Jose, for his part, denied the accusations against him. He claimed that when he notarized the June 13, 2008 Deed of Sale, he was not aware of any defect in Atty. Delos Santos' authority as attorney-in-fact of Pilar.<sup>8</sup> On the other hand, Atty. Delos Santos failed to file his Comment and Position Paper despite his filing of Urgent Motions for Extension to File Answer. First, in his motion<sup>9</sup> dated March 23, 2011, he claimed that he was suffering from flu and bronchitis. Next, in his motion<sup>10</sup> dated April 27, 2011, he reasoned that he fell from his bike and suffered a broken rib. Then, when the case was called for hearing on August 23, 2011, Atty. Delos Santos failed to appear. Thus, for his failure to file his Answer and failure to appear, he was consequently declared in default. In a Motion for Reconsideration dated October 14, 2011, he claimed, first, that he only actually received the order declaring him in default a few days ago due to the mistake of his staff in misplacing said order during inventory, and second, that he be allowed to file his Answer to explain his side.<sup>11</sup>

In a Report and Recommendation<sup>12</sup> dated November 2, 2011, the Investigating Commissioner of the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) recommended first, that the complaint as to Atty. San Jose be dismissed, and second, that Atty. Delos Santos be disbarred. In a Resolution<sup>13</sup> dated September 27, 2014, the Board of Governors (BOG) of the IBP adopted and approved the Report and Recommendation of the Investigating Commissioner. Subsequently, the

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<sup>6</sup> *Id.* at 8-10.

<sup>7</sup> *Id.* at 10.

<sup>8</sup> *Id.* at 255.

<sup>9</sup> *Id.* at 98-99.

<sup>10</sup> *Id.* at 127-128.

<sup>11</sup> *Id.* at 242-243.

<sup>12</sup> *Id.* at 253-258.

<sup>13</sup> *Id.* at 252.

BOG issued another Resolution<sup>14</sup> on February 25, 2016 affirming its previous resolution and denying the Motion for Reconsideration of Atty. Delos Santos.

In a Motion for Reconsideration he filed on April 23, 2015, Atty. Delos Santos reiterated his reasons for failing to file his Answer, specifically, his back pains from his bicycle accident. On the issue of his alleged indiscretions, he explained that it was Pilar and Malou, the real estate agent, who were persistently requesting for his help to sell the subject property as Pilar badly needed the money. Out of pity for the old woman, Atty. Delos Santos acceded. Malou then introduced him to the officers of Hauskon who were very interested in buying the property. After a series of meetings some of which were attended by Pilar, Pilar and Malou brought to him a Deed of Sale and an SPA for his notarization without informing him of the fact that Fermina was already deceased. Atty. Delos Santos further sought the Court's compassion for he only accommodated Pilar's requests out of the goodness of his heart despite the fact that the circumstances were being made more and more complicated by Pilar's quarrels with her relatives. In fact, Pilar specifically requested that he keep the transactions a secret from her family. As such, it is hard for him to accept her accusations against him, especially after all that he has done for her. In the end, Atty. Delos Santos pled for a lesser penalty, if it is found that he, indeed, violated any law or rule along the way.<sup>15</sup>

### *The Court's Ruling*

After a judicious review of the instant case, We sustain the recommendation of the Investigating Commissioner, as affirmed by the BOG, that the case against Atty. San Jose be dismissed but that the actuations of Atty. Delos Santos, however, warrant the penalty of disbarment from the practice of law.

With respect to Atty. San Jose, the Court finds no sufficient basis to impose on him the extreme penalty of disbarment. In discharging his duty as notary public, his good faith is apparent. As duly observed by the Investigating Commissioner, the fact that he notarized the falsified June 13, 2008 Deed of Sale does not indicate a wilful violation of his duty as Notary Public for he had reasonable ground to believe that the SPA granted in favor of Atty. Delos Santos was in force and effect. There is no showing, moreover, that Pilar had revoked said SPA by any of the modes allowed by law.<sup>16</sup> Accordingly, We affirm the dismissal of the complaint against Atty. San Jose.

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<sup>14</sup> *Id.* at 290.

<sup>15</sup> *Id.* at 259-263.

<sup>16</sup> *Id.* at 258.

Against Atty. Delos Santos, however, We find that the allegations in the complaint as well as the evidences presented sufficiently proved his fraudulent infractions. Prefatorily, it must be mentioned that Atty. Delos Santos did not file any Answer to the complaint nor did he appear at the scheduled hearing despite receiving notices thereof. Instead, he merely filed motions to extend the time to file an Answer and motions for reconsideration interposing various excuses such as the flu, back pains, or mistakes on the part of his staff. The Court, however, cannot countenance these unsubstantiated excuses. As far as this case is concerned, Atty. Delos Santos was given more than enough time and opportunity to explain his side.

But even if We consider the belated explanation in his Motion for Reconsideration, the outcome of this case will remain the same. In so many words, Atty. Delos Santos reasoned that it was Pilar, with the help of Malou, who was adamant in selling the subject property to Hauskon and that he merely accommodated her wishes out of the goodness of his heart. The contention, however, is untenable. As aptly found by the Investigating Commissioner, the evidence on record is too overwhelming to ignore.

At the outset, Atty. Delos Santos does not deny the fact that he prepared and notarized documents supposedly signed by Fermina. But it was firmly established by her death certificate that she had already died on May 8, 1983, long before the execution of the deed of sale on May 20, 2008. This fact, alone, is unacceptable and warrants disbarment. In *Fabay v. Atty. Resuena*,<sup>17</sup> the Court disbarred Atty. Resuena for notarizing documents without the personal appearance of the affiants who have long been dead at the time of execution thereof. Thus:

**In the instant case, it is undisputed that Atty. Resuena violated not only the notarial law but also his oath as a lawyer when he notarized the subject SPA without all the affiant's personal appearance. As found by the IBP-CBD, the purpose of the SPA was to authorize a certain Apolo D. Perez to represent the principals "to sue and be sued in any administrative or judicial tribunal in connection with any suit that may arise out of their properties." It is, thus, appalling that Atty. Resuena permitted Remedios Perez to sign on behalf of Amador Perez and Valentino Perez knowing fully well that the two were already dead at that time and more so when he justified that the latter's names were nevertheless not included in the acknowledgment albeit they are signatories of the SPA. Equally deplorable is the fact that Remedios was likewise allowed to sign on behalf of Gracia Perez and Gloria Perez, who were said to be residing abroad. Worse, he deliberately allowed the use of the subject SPA in an ejectment case that was filed in court. In effect, Atty. Resuena, in notarizing the SPA, contented himself with Remedios' representation of four of the six principals of the SPA, doing away with the actual physical appearance of all the**

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<sup>17</sup> 779 Phil. 151 (2016).

**parties.** There is no question then that Atty. Resuena ignored the basics of notarial procedure and actually displayed his clear ignorance of the importance of the office of a notary public. Not only did he violate the notarial law, he also did so without thinking of the possible damage that might result from its non-observance.<sup>18</sup>

Time and again, the Court has stressed that a notary public should not notarize a document unless the person who signed the same is the very same person who executed and personally appeared before him to attest to the contents and the truth of what are stated therein. Without the appearance of the person who actually executed the document in question, the notary public would be unable to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act or deed.<sup>19</sup> As correctly noted by the Investigating Commissioner, for his knowledge or at least for his being placed in a position to reasonably know the death of Fermina, Atty. Delos Santos had knowingly taken part in a false and simulated transaction by making it appear that a vendor, long dead, executed a document of sale in favor of Pilar.<sup>20</sup>

This propensity to deceive is further bolstered by the fact that Atty. Delos Santos made it appear that the subject documents supposedly executed by the deceased Fermina were entered in his notarial register as "Doc. No. 140, Page No. 28, Book No. XXXIV, Series of 2008." But as certified by the Clerk of Court of the RTC of Biñan, Laguna, the document entered as such is not said deeds of sale but an unrelated document entitled "*Katunayan sa Pagkakabili*" executed by a certain Carmela Bool. It was through these fraudulent deeds of sale that Atty. Delos Santos was able to register the subject property in Pilar's name, which further propelled him to commit subsequent falsities that ultimately resulted in the registration of the land in the name of Hauskon. While he may insist on his honest intentions to "help and serve" people such as the "very old" Pilar, he failed to explain the fact that the checks issued as payment for the parcel of land were all made in his name. In the face of these glaring infractions, the Court cannot simply uphold an indifference lest a grave and irreversible injustice might prevail.

Indeed, it cannot be overemphasized that notarization of a document is not an empty act or routine. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document thus making that document admissible in evidence without further proof of its authenticity. 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 acknowledgment executed by a notary public

<sup>18</sup> *Id.* at 159. (Emphases ours)

<sup>19</sup> *Id.* at 158.


<sup>20</sup> *Rollo*, p. 257.

and appended to a private instrument.<sup>21</sup> Atty. Delos Santos' failure to perform his duty as a notary public resulted not only in damage to those directly affected by the notarized document, but also in a mockery of the integrity of a notary public and a degradation of the function of notarization.

**WHEREFORE**, premises considered, the Court hereby **DISMISSES** the case against respondent Atty. Roberto A. San Jose, but **DECLARES** respondent Atty. Joaquin L. Delos Santos guilty of gross professional misconduct, deceit, malpractice as a notary public, and violation of the Code of Professional Responsibility and Lawyer's Oath. Accordingly, Atty. Delos Santos is **DISBARRED** from the practice of law, his name stricken off from the Roll of Attorneys, and is, likewise, **PERPETUALLY DISQUALIFIED** from being commissioned as a notary public.


Let a copy of this Decision be furnished the Office of the Bar Confidant, to be appended to Atty. Delos Santos' personal record. Further, let copies of this Decision be furnished 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.**

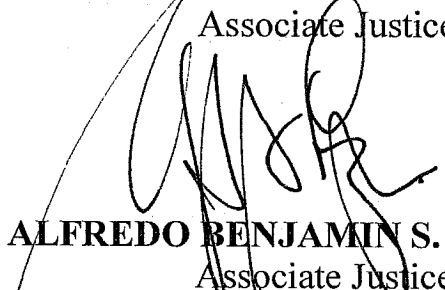


**DIOSDADO M. PERALTA**  
Chief Justice


On official business  
**ESTELA M. PERLAS-BERNABE**  
Associate Justice



**MARVIC M.V.F. LEONEN**  
Associate Justice

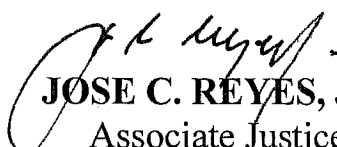


**ALFREDO BENJAMIN S. CAGUIOA**  
Associate Justice



**ANDRES B. REYES, JR.**  
Associate Justice

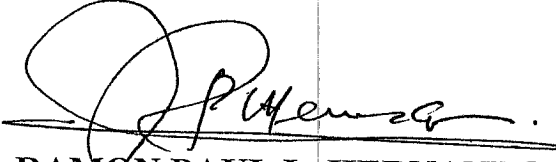
On official business  
**ALEXANDER G. GESMUNDO**  
Associate Justice



**JOSE C. REYES, JR.**  
Associate Justice


<sup>21</sup> *Fabay v. Atty. Resuena, supra*, note 15, at 158.






**RAMON PAUL L. HERNANDO**  
Associate Justice

On official business  
**ROSMARI D. CARANDANG**  
Associate Justice



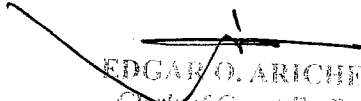
**AMY C. LAZARO-JAVIER**  
Associate Justice



**HENRI JEAN PAUL B. INTING**  
Associate Justice

On official leave  
**RODIL V. ZALAMEDA**  
Associate Justice

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**EDGAR O. ARICHETA**  
Chief of Court En Banc  
Supreme Court