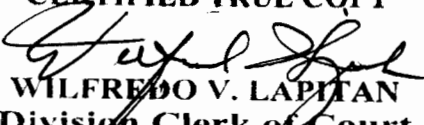




Republic of the Philippines
 Supreme Court
 Manila

CERTIFIED TRUE COPY

 WILFREDO V. LAPITAN
 Division Clerk of Court
 Third Division

MAY 17 2019

THIRD DIVISION

**ENRICA BUCAG, represented by her
 attorney-in-fact LOPE B. TIO,**
 Complainant,

A.C. No. 9218
 [Formerly CBD Case No. 12-3487]

Present:

PERALTA, J., *Chairperson,*
 LEONEN,*
 REYES, A., JR.,
 HERNANDO, and
 CARANDANG,** JJ.

- versus -

Promulgated:

ATTY. BERNARD P. OLALIA,
 Respondent.

March 27, 2019

~~Mis PDC Ball~~

X-----X

DECISION

PERALTA, J.:

For resolution is an Administrative Complaint¹ filed on September 13, 2011 by complainant Enrica Bucag, represented by Lope B. Tio, against Atty. Bernard P. Olalia, for his suspension or disbarment due to alleged falsification of public document, violation of lawyer's oath, dishonesty, obstruction of justice, and gross violation of the notarial law, relative to the notarization of a deed of absolute sale of a parcel of irrigated rice land covered by Transfer Certificate of Title (TCT) No. T-170452.

The Report and Recommendation² dated July 4, 2014 of Commissioner Hector B. Almeyda, Commission on Bar Discipline (CBD), Integrated Bar of the Philippines (IBP), follows:

* On wellness leave.
 ** Designated Additional Member per Special Order No. 2624 dated November 28, 2018.
¹ *Rollo*, pp. 1-3.
² *Id.* at 195-198.

REPORT AND RECOMMENDATION

Respondent stands charged by complainant of “Falsification of Public Document; Violation of the Lawyer’s Oath; Dishonesty; Obstruction of Justice and Gross Violation of the Notarial Law.”

According to the respondent, the same lacks factual basis. The issues thus boil down to the determination of respondent’s administrative liability under the facts established.

Complainant relates:

Respondent is claimed to have prepared and notarized in 2013 a deed of absolute sale of a parcel of irrigated Riceland where the sellers appeared to be one Liboro Garcia and one Virginia “Loreta” Garcia. The buyer was her son Edgardo Roque Garcia. The parcel was indicated to be covered by Tax Declaration No. 05-6271 and described as follows:

Tax Declaration No. 05-6271

“A parcel of land located at the Barrio of Culialaba del Norte, Municipality of Burgos, Province of Isabela, Island of Luzon. Bounded on the NE., by Lot No. 3-B-I, on the S, by Road, on the East by Lot No. 2824 and on the W, Lot No. 3-A. containing an area of 4.1372 square meters more or less.”

Complainant sees the document of sale prepared and notarized by respondent to be defective since the description made on the basis of a tax declaration is irregular because the parcel is actually a titled property. Besides being titled in the name of complainant, the claimed sellers in the document prepared and notarized by the seller is incorrect. That transfer of the titled property is now subject of a complaint before the Regional Trial Court in Ilagan, Isabela, docketed as Civil Case No. 1493 (for recovery of possession and ownership). That case is not the concern of the Commission.

In respondent’s comment, he traced the root of the commencement of the instant administrative complaint to the earlier filing by complainant Enrica Bucag against Loreta Mesa a.k.a. Virginia Mesa and others before the Regional Trial Court in Ilagan, Isabela (Branch 16), docketed as Civil Case No. 1493 of suit “for recovery of possession and ownership with prayer for issuance of preliminary injunction with damages.”

The subject-matter of that case is that parcel of land then covered by TCT No. T-52993 located at Cullabo, Burgos, Isabela, containing a total area of 50,186 (41,372 + 8814) square meters. According to complainant, she learned that her title No. 52993 was cancelled and “transferred” to the defendants named in Civil Case No. 1493. Specifically, complainant claimed that a portion of her property was transferred to Loreta and her husband sometime in 1972. That Deed was inscribed on complainant’s Title No. T-52993.

Later, TCT No. T-170452 was issued in the name of Loreta Mesa and her husband. Subsequently, the said spouses executed a Deed of Sale of the parcel covered by TCT No. T-170452 to Edgardo Garcia (copy of this deed



of transfer does not seem to be part of the records) who obtained TCT No. T-343924. That Deed was notarized by respondent Edgardo Garcia.

Complainant herself sold in 1979 8[,]814 square meters of the 41,372 (50,186 square meter) square meter lot in favor of [the] spouses Renato and Nenita Vidal who obtained Title No. 179412.

In the Comment, respondent phrases the issue to be “(W)hether or not respondent Atty. Olalia is guilty of the alleged acts complained against him.”

Respondent claims membership in the Philippine Bar in 1992 after passing the Bar. This factual assertion was never refuted by complainant. Hence, reference to transactions before 1992 would appear to be irrelevant as far as respondent’s participation in said transactions is concerned.

The initial sale in 1979 of a portion of complainant’s property in favor of Loret[a] Mesa and Liboro Garcia was obviously a transaction that respondent had no participation as a lawyer, not having become one yet, much more a notary public at that time. It was only in 2003 that respondent had a hand in the transaction that involved the property later titled in the name of Loret[a] Mesa and Liboro Garcia. Virginia and Liboro subsequently executed a Deed of Sale in favor of Eduardo Garcia. It was respondent who prepared and thereafter notarized the document of sale.

What appears clear, irrespective of the circuitous route taken by portion of the 50,1186 square meter parcel originally titled in its entirety in the name of complainant, is that in 2013, that 4,173 square meters parcel of land sold by Loret[a] and Liboro Garcia, then described under Tax Declaration No. 056271, was already covered by Title No. T-52293. There is no explanation made by respondent, whether in his comment or position paper, why the deed of sale made by Loret[a] and Liboro Garcia of property not even registered in their names could be transferred to Edgardo Roque Garcia, utilizing the tax declaration alone when the property even that early was already registered and covered by a certificate of title.

Previous to 1992 when respondent became a member of the Bar (and presumably become a notary public circa that period), respondent may not be held responsible on how the property came to be owned by earlier parties. Respondent may possibly be held accountable to the property’s transfer of ownership when he participated in its sale and that would happen only in or after 1992. The 2003 deed of sale of the Garcia couple to Eduardo Roque Garcia was a transaction that respondent may not deny he was not privy to, having prepared the document and thereafter notarized the same.

The 2003 sale from Loret[a] and Liboro Garcia in favor of Eduardo Roque Garcia utilizing a Tax Declaration in describing the property although the subject matter was a titled property that early, resulted in Eduardo Roque obtaining a new Transfer Certificate of Title No. 34929 that indicated TCT No. 170452 as its source. But that TCT No. 170452 was never mentioned in the Deed of Sale that made use of a tax declaration description. But that is not the concern of the Commission and may perhaps be treated in another appropriate proceedings.

Both as a lawyer and a notary public to boot, respondent is expected in extending his legal services, to “use only true, honest, dignified and objective information or statement of fact” (Canon 3, Chapter 1, Code of Professional Responsibility). In the process, the lawyer is enjoined to serve



his client with competence and diligence (Canon 18, Chapter IV, Code of Professional Responsibility), together with zeal within the bounds of the law (Canon 19, Chapter IV, Code of Professional Responsibility).

It comes as a puzzle to the Commission how the respondent, as a notary public, should forget to make use of a certificate of title in preparing documents of transfer of titled property. He should know and realize that tax declarations are merely possible indices of ownership but not proof of the same, especially where the certificate of title exists as a matter of record. Sad to say, in the circumstances, the competence and diligence of respondent appear to be wanting. There is lack of ordinary care, much less zeal, in seeing to it that the documents prepared hew to what may (sic) viewed as correctly done.

WHEREFORE, it is respectfully recommended that apart from possible sanctions for the violation of the notarial law that may be imposed by the court concerned, that respondent be suspended from the practice of law for a period of six (6) months from notice, and for his notarial commission, if he holds one right now, be revoked, with recommendation for respondent to be ineligible for commission as notary public for a period of two (2) years after the period of suspension is served.

RESPECTFULLY SUBMITTED.

Pasig City, July 4, 2014.³


In Resolution No. XXI-2015-016 dated January 20, 2015, the Board of Governors of the IBP adopted and approved the Report and Recommendation of the Investigating Commissioner, finding the case to be fully supported by the evidence on record and the applicable laws, and for violation of the Notarial Law, immediately revoked Atty. Olalia's notarial commission, if presently commissioned, disqualified him from being commissioned as notary public for two (2) years, and suspended him from the practice of law for six (6) months.

Respondent filed a motion for reconsideration, which was denied by the IBP Governors in Resolution No. XXII-2016-621, dated November 29, 2016. Aggrieved, respondent filed a petition for review before the Court on May 26, 2017 essentially reiterating his arguments in his motion for reconsideration. The Court, however, does not find any merit in the same. As shown by the records, the recommendation of the IBP is fully supported by evidence and applicable laws.

WHEREFORE, the Court **RESOLVES** to **DENY** the instant petition and **AFFIRM** the recommendation of the IBP. Respondent Atty. Bernard P. Olalia is hereby **SUSPENDED** from the practice of law for a period of six (6) months from notice, **DISQUALIFIED** from being commissioned as notary public for a period of two (2) years after the service of the period of suspension, and if he is presently commissioned, his notarial commission is immediately revoked.

³ *Id.*

SO ORDERED.




DIOSDADO M. PERALTA
Associate Justice


WE CONCUR:

On wellness leave
MARVIC MARIO VICTOR F. LEONEN
Associate Justice

Reyes
ANDRES B. REYES, JR.
Associate Justice


RAMON PAUL L. HERNANDO
Associate Justice


ROSMARI D. CARANDANG
Associate Justice

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