



Republic of the Philippines
 Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

**JOHAIDA GARINA ROA-
 BUENAFE,**

Complainant,

A.C. No. 9361

Present:

BERSAMIN,* C.J.,
 DEL CASTILLO, J.,
*Acting Chairperson,***
 JARDELEZA,
 GESMUNDO, and
 CARANDANG, JJ.

- versus -

ATTY. AARON R. LIRAZAN,
 Respondent.

Promulgated:

MAR 26 2019

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DECISION

GESMUNDO, J.:

This Complaint,¹ dated January 30, 2012, filed by Johaida Garina Roa-Buenafe (*complainant*) before the Integrated Bar of the Philippines Commission on Bar Discipline (*IBP Commission*), seeks to disbar Atty. Aaron R. Lirazan (*respondent*) for grave misconduct in allegedly notarizing and falsifying a public document.

* On Official Leave.

* Per Special Order No. 2645 dated March 15, 2019.

¹ *Rollo* (Vol. 1), pp. 1-5.

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Complainant alleged that she is the owner of Lot No. 3507 (*the property*), covered by Tax Declaration No. 1447, with an area of 11,530 square meters. She acquired the property on the basis of a document denominated as Declaration of Heirship with Extrajudicial Settlement of Estate with Waiver and/or Quitclaim of Rights,² dated February 15, 2005, executed by her siblings, which effectively relinquished their inheritance claims over the property in favor of complainant. Since then, complainant has religiously paid the real estate taxes for the property.

In 2008, complainant was surprised that a certain Serena Garaygay (*Serena*) had paid the real estate tax for the property. Upon verification, complainant discovered an undated but notarized document denominated as Conformity (*document*),³ signed by complainant's brother, Jose G. Roa (*Jose*), and notarized by respondent with the following notarial details: Document No. 469, Page No. 94, Book I, Series of 2002. Meanwhile, Transfer Certificate of Title No. 269034 was issued by the Registry of Deeds of Negros Occidental, in favor of Serena, on the basis of the document allegedly signed by Jose.

According to complainant, the signature of Jose in the document was forged as it did not match his specimen signatures in another document⁴ and in his voter's ID.⁵ Upon further verification with the National Archives of the Philippines (*National Archives*), complainant found out that no such document exists in their records. The National Archives, however, disclosed that the notarial details appearing in the document pertained to a Certification, dated December 1, 2002, executed by a certain SPO1 Edmundo S. Acosido.⁶

In his Comment,⁷ respondent denied the allegations against him and claimed that he did not falsify the document. He asserted that Jose, whom he had known since childhood, personally appeared before him when he notarized the document. According to respondent, Jose even manifested that the document merely affirmed the contents and execution of the missing deed of absolute sale concerning the subject property he had previously executed in favor of Serena. Thus, due to its notarization, the document

² Id. at 15-16.

³ Id. at 24.

⁴ Id. at 27.

⁵ Id. at 31.

⁶ Id. at 34-36.

⁷ Id. at 114-119.

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signed by Jose enjoys the presumption of validity as to its authenticity and due execution.⁸

On the issue of error in the recording of the document in respondent's notarial book, respondent asserted that the error of his secretary in encoding the document was made in good faith and, as such, did not affect the validity and authenticity of the document.⁹

Respondent also argued that the issue on the authenticity and validity of the document was pending before the Regional Trial Court of Kabankalan City, Negros Occidental, Branch 61, docketed as Civil Case No. 1694.¹⁰

IBP Report and Recommendation

In its Report and Recommendation,¹¹ dated September 7, 2016, the IBP Commission recommended the revocation of respondent's notarial commission and his disqualification from reappointment as notary public for a period of two (2) years. While it categorically ruled that respondent did not falsify the document, the IBP Commission noted the discrepancy and error in the notarial book of respondent which violated his responsibilities as a notary public under Section 2, Rule VI¹² of the Rules on Notarial Practice. It

⁸ Id. at 114-115.

⁹ Id. at 115.

¹⁰ Id.

¹¹ *Rollo* (Volume 11), pp. 296-301.

¹² SECTION 2. *Entries in the Notarial Register*. — (a) For every notarial act, the notary shall record in the notarial register at the time of notarization the following:

- (1) the entry number and page number;
 - (2) the date and time of day of the notarial act;
 - (3) the type of notarial act;
 - (4) the title or description of the instrument, document or proceeding;
 - (5) the name and address of each principal;
 - (6) the competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;
 - (7) the name and address of each credible witness swearing to or affirming the person's identity;
 - (8) the fee charged for the notarial act;
 - (9) the address where the notarization was performed if not in the notary's regular place of work or business; and
 - (10) any other circumstance the notary public may deem of significance or relevance.
- (b) A notary public shall record in the notarial register the reasons and circumstances for not completing a notarial act.

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opined that as a notary public, respondent is mandated to maintain his books in proper order. His failure to do so violated his oath, which merits the penalty of disbarment or suspension under Section 27, Rule 138¹³ of the Revised Rules of Court.

In its December 7, 2017 Resolution,¹⁴ the IBP Board of Governors (*IBP Board*) adopted the findings of fact and recommendation of the IBP Commission.

THE COURT'S RULING

The Court adopts the findings of the IBP Commission but modifies the recommendation of the IBP Board.

(c) A notary public shall record in the notarial register the circumstances of any request to inspect or copy an entry in the notarial register, including the requester's name, address, signature, thumbmark or other recognized identifier, and evidence of identity. The reasons for refusal to allow inspection or copying of a journal entry shall also be recorded.

(d) When the instrument or document is a contract, the notary public shall keep an original copy thereof as part of his records and enter in said records a brief description of the substance thereof and shall give to each entry a consecutive number, beginning with number one in each calendar year. He shall also retain a duplicate original copy for the Clerk of Court. TCASIH

(e) The notary public shall give to each instrument or document executed, sworn to, or acknowledged before him a number corresponding to the one in his register, and shall also state on the instrument or document the page/s of his register on which the same is recorded. No blank line shall be left between entries.

(f) In case of a protest of any draft, bill of exchange or promissory note, the notary public shall make a full and true record of all proceedings in relation thereto and shall note therein whether the demand for the sum of money was made, by whom, when, and where; whether he presented such draft, bill or note; whether notices were given, to whom and in what manner; where the same was made, when and to whom and where directed; and of every other fact touching the same.

(g) At the end of each week, the notary public shall certify in his notarial register the number of instruments or documents executed, sworn to, acknowledged, or protested before him; or if none, this certificate shall show this fact.

(h) A certified copy of each month's entries and a duplicate original copy of any instrument acknowledged before the notary public shall, within the first ten (10) days of the month following, be forwarded to the Clerk of Court and shall be under the responsibility of such officer. If there is no entry to certify for the month, the notary shall forward a statement to this effect in lieu of certified copies herein required.

¹³ **Section 27.** *Attorneys removed or suspended by Supreme Court on what grounds.* — A member of the bar may be removed or suspended from his office as attorney by the Supreme Court for any deceit, malpractice, or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before the admission to practice, or for a wilfull disobedience of any lawful order of a superior court, or for corruptly or willful appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid agents or brokers, constitutes malpractice.

¹⁴ *Rollo* (Volume II), pp. 294-295.

The act of notarization is impressed with public interest. A notary public is mandated to discharge with fidelity the duties of his office, such duties being dictated by public policy.¹⁵ Moreover, a lawyer commissioned as a notary public has a responsibility to faithfully observe the rules governing notarial practice, having taken a solemn oath under the Code of Professional Responsibility (*Code*) to obey the laws and to do no falsehood or consent to the doing of any.¹⁶

It is settled that notarization is not an empty, meaningless or routinary act, but rather an act invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.¹⁷

Sec. 2, Rule VI of the 2004 Rules on Notarial Practice enumerates the details required to be written in the notarial register of a notary public:

SECTION 2. *Entries in the Notarial Register.* — (a)

For every notarial act, the notary shall record in the notarial register at the time of notarization the following:

- (1) the entry number and page number;
- (2) the date and time of day of the notarial act;
- (3) the type of notarial act;
- (4) the title or description of the instrument, document or proceeding;
- (5) the name and address of each principal;
- (6) the competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;
- (7) the name and address of each credible witness swearing to or affirming the person's identity;
- (8) the fee charged for the notarial act;
- (9) the address where the notarization was performed if not in the notary's regular place of work or business; and
- (10) any other circumstance the notary public may deem of significance or relevance.

¹⁵ *Agbulos v. Viray*, 704 Phil 1, 9 (2013).

¹⁶ *Id.*

¹⁷ *Triol v. Agcaoili, Jr.*, A.C. No. 12011, June 26, 2018.

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Failure to make the proper entry or entries in the notary public's notarial register concerning his notarial acts shall give ground for the revocation of his commission or imposition of appropriate administrative sanctions.¹⁸ Such failure also violates his duty under the Code to uphold and obey the laws of the land and to promote respect for law and legal processes.¹⁹

Here, respondent failed to properly discharge his duties as a notary public. While the conformity document appears to have respondent's notarial details and was registered in respondent's notarial book with specific document and page numbers, such document does not appear in the records of the National Archives, the final repository for notarized documents of the Philippines. Worse, the National Archives found in their records another document which bore the same notarial registration details as that in the conformity. Since the document or instrument does not appear in the notarial records, doubt is engendered that it has not really been notarized.²⁰

Notably, respondent did not deny notarizing the document and even admitted that Jose appeared before him for the said notarization of the document. However, respondent failed to record the assailed document in his notarial book and even used the same notarial details in notarizing another document. Such failure by respondent is inexcusable and constitutes gross negligence in carefully discharging his duties as a notary public.

Respondent cannot simply impute the error to his secretary because he is the one charged by law with the recording in his notarial register of the necessary information regarding documents or instruments he has notarized. Notaries public must observe the highest degree of compliance with the basic requirements of notarial practice in order to preserve public confidence in the integrity of the notarial system.²¹ Respondent cannot simply evade liability and invoke good faith. Failure to enter the notarial acts in one's notarial register constitutes dereliction of a notary public's duties, which warrants the revocation of a lawyer's commission as a notary public.²²

¹⁸ Section 1(b2), Rule XI of the 2004 Rules on Notarial Practice.

¹⁹ Canon 1 of the Code of Professional Responsibility.

²⁰ *Bernardo Vda. De Rosales v. Ramos*, 433 Phil. 8, 16 (2002).

²¹ *Heirs of Alilano v. Examen*, 756 Phil. 608, 618 (2015).

²² *Malvar v. Baleros*, 807 Phil. 16, 30 (2017).

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Respondent's delegation of his notarial function of recording entries in his notarial register to his secretary is a clear contravention of the explicit provision of the notarial rules that such duty should be fulfilled by him and not by anyone else. This is a direct violation of Canon 9, Rule 9.01 of the Code, which provides that:

A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Respondent's failure to properly perform his duty as a notary public resulted in damage to those directly affected by the notarized document. In fact, a new and questionable certificate of title was issued in favor of a certain Serena on the basis of such document. Such title unduly prejudiced complainant's right over her property. Respondent's negligence degrades the function of notarization and diminishes public confidence on notarial documents. Canon 1 of the Code clearly mandates the obedience of every lawyer to laws and legal processes.²³ In *Agagon v. Bustamante*,²⁴ the Court ruled:

Canon 1 of the Code of Professional Responsibility requires every lawyer to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes. Moreover, the Notarial Law and the 2004 Rules on Notarial Practice require a duly commissioned notary public to make the proper entries in his Notarial Register and to refrain from committing any dereliction or act which constitutes good cause for the revocation of commission or imposition of administrative sanction. Unfortunately, respondent failed in both respects.²⁵ (citation omitted)

The notarization of public documents is vested with substantive public interest. 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.²⁶ Respondent's failure to strictly comply with the rules on notarial practice seriously undermines the dependability and efficacy of notarized documents.

²³ *Gonzales v. Bañares*, A.C. No. 11396, June 20, 2018.

²⁴ 565 Phil. 581 (2007).

²⁵ *Id.* at 587.

²⁶ *Uy v. Apuhin*, A.C. No. 11826, September 5, 2018.

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Proper Penalty

Jurisprudence provides that a notary public who fails to discharge his duties as such is meted out the following penalties: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law — the terms of which vary based on the circumstances of each case.²⁷

In *Malvar v. Baleros*,²⁸ the lawyer delegated her notarial function of recording entries in her notarial register to one of her staff. The assailed document therein was likewise missing from the notarial records of the lawyer. The Court ruled that this is a defiance of the notarial rules as well as a breach of the Code. The lawyer was suspended from the practice of law for six (6) months and disqualified from reappointment as notary public for a period of two (2) years. Her notarial commission was also revoked.

In *Spouses Chambon v. Ruiz*,²⁹ the lawyer therein failed to make the proper entries in his notarial book and even admitted that he delegated such duty to his secretary. The Court found him doubly negligent in the performance of his duties as a notary public and ruled that his acts constitute dishonesty. The lawyer was meted out the penalty of perpetual disqualification from being a notary public, suspension from the practice of law for one (1) year, and revocation of his notarial commission.

In this case, respondent inexcusably delegated the task of notarization to his secretary who supposedly entered the notarial details in his notarial book. He also failed to explain why there was no copy in his notarial records of the conformity he had admittedly notarized. His acts not only violate his duties as a duly commissioned notary public but also Canons 1 and 9 of the Code.

Thus, the Court modifies the recommended penalty of the IBP Board that respondent's notarial commission be revoked and he further be disqualified from reappointment as notary public for a period of two (2) years. In addition, and in keeping with recent jurisprudence, the Court deems it proper to impose upon respondent the penalty of suspension from the practice of law for one (1) year for his utter disregard of the integrity and dignity due the legal profession.

²⁷ *Sappayani v. Gasmien*, 768 Phil. 1, 9 (2015).

²⁸ *Supra* note 22.

²⁹ A.C. No. 11478, September 5, 2017, 838 SCRA 526.

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The Court must reiterate that membership in the legal profession is a privilege that is bestowed upon individuals who are not only learned in law, but are also known to possess good moral character. Lawyers should act and comport themselves with honesty and integrity in a manner beyond reproach, in order to promote the public's faith in the legal profession. To declare that lawyers must at all times uphold and respect the law is to state the obvious, but such statement can never be over-emphasized. Since, of all classes and professions, lawyers are most sacredly bound to uphold the law, it is then imperative that they live by the law.³⁰

WHEREFORE, Atty. Aaron R. Lirazan is found **GUILTY** of violating Canons 1 and 9 of the Code of Professional Responsibility and Section 2, Rule VI of the 2004 Rules on Notarial Practice. He is hereby **SUSPENDED** from the practice of law for one (1) year; his notarial commission is **REVOKED** if presently commissioned; and he is **DISQUALIFIED** from reappointment as notary public for a period of two (2) years. Atty. Lirazan is **STERNLY WARNED** that a repetition of the same or similar conduct in the future shall be dealt with 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 a copy of this Decision be attached to the personal records of Atty. Aaron R. Lirazan in the Office of the Bar Confidant and copies thereof be furnished the courts and the Integrated Bar of the Philippines.


SO ORDERED.


ALEXANDER G. GESMUNDO
Associate Justice

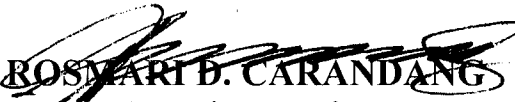
³⁰ *Gonzales v. Bañares*, A.C. No. 11396, June 20, 2018.

WE CONCUR:

(On Official Leave)
LUCAS P. BERSAMIN
Chief Justice


MARIANO C. DEL CASTILLO
Associate Justice
Acting Chairperson


FRANCIS H. JARDELEZA
Associate Justice


ROSMARI B. CARANDANG
Associate Justice

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