



Republic of the Philippines
Supreme Court
 Manila

SUPREME COURT OF THE PHILIPPINES
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FIRST DIVISION

LILIA YUSAY-CORDERO,
 Complainant,

A.C. No. 12709

Present:

- versus -

PERALTA, *CJ.*, Chairperson,
 CAGUIOA,
 REYES, J., JR.,
 LAZARO-JAVIER, and
 LOPEZ, *JJ.*

ATTY. JUANITO S.
AMIHAN, JR.,
 Respondent.

Promulgated:

SEP 08 2020

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R E S O L U T I O N

LOPEZ, J.:

We determine in this case the administrative liability of a lawyer who notarized a document without a notarial commission.

ANTECEDENTS

In 1976, Spouses Hector Cordero (Hector) and Lilia Yusay-Cordero (Lilia) executed a special power of attorney authorizing Lilia’s father, Quirico Yusay Sr. (Quirico, Sr.), to sell and mortgage a land registered under Transfer Certificate of Title No. T-102992.¹ Accordingly, Quirico, Sr. mortgaged the property to the bank and surrendered the certificate of title. On January 22, 2004, Hector passed away. In 2015, Lilia finished paying the loan and received back the certificate of title from the bank. However, Lilia noticed that there is an annotation² on the title pertaining to a “Deed of Portion Sale” between her, as seller, represented by her father Quirico Sr., and Quirico Y. Yusay, Jr. and Alberto Y. Yusay, as buyers. The deed was notarized on December 11, 2003 by Atty. Juanito S. Amihan, Jr. (Atty. Amihan, Jr.).³

¹ *Rollo*, 10-16.

² *Id.* at 17.

³ *Id.* at 19-20.

Upon verification, however, Lilia discovered that Atty. Amihan, Jr. is not a commissioned notary public in 2003 and that no copy of the deed was recorded with the Office of the Clerk of Court of the Regional Trial Court (RTC).⁴ Accordingly, Lilia filed an administrative complaint⁵ against Atty. Amihan, Jr. before the Integrated Bar of the Philippines (IBP) for violation of the Lawyer's Oath and the Canons of Professional Responsibility (CPR). As evidence, Lilia presented the corresponding certifications from the clerk of court. On the other hand, Atty. Amihan, Jr. claimed that he is authorized to notarize documents in 2003. Atty. Amihan, Jr. presented imprints of his rubber stamps indicating the details of his notarial commission for the year 2003,⁶ the recommendation letter stating that his appointment expired on December 31, 2003,⁷ and the oath of office⁸ and appointment as notary public in 2004.⁹ Nevertheless, Lilia maintained that the rubber stamps do not establish that Atty. Amihan, Jr. has a valid commission in 2003.¹⁰

On November 21, 2018, the Commission on Bar Discipline found that Atty. Amihan, Jr. is not a commissioned notary public in 2003, absent a certificate of authority and notarial reports/register for that year. Moreover, it gave credence to the certification of the clerk of court over the recommendation letter and the rubber stamps which do not prove a valid commission. The investigating commissioner also confirmed with the RTC that Atty. Amihan, Jr. has no notarial commission in 2003. As such, Atty. Amihan, Jr. committed deliberate falsehood in violation of the Lawyer's Oath and Rule 1.01 of the CPR. The Commission recommended a penalty of immediate revocation of notarial commission, disqualification from being commissioned as a notary public for two years, and suspension from practice of law for two years, thus:

Contrary to his claim, Respondent does not appear that he was commissioned as a notary public for and in the City of Bacolod. **The Respondent, for his part, has been completely unable to submit any kind of proof of his claim that he had a commission as a notary public for and in the City of Bacolod in 2003, or of his submission of notarial reports and notarial register during the said period.** Respondent has only presented the imprints of his rubber stamps indicating his notarial commission details for the year 2003. **He failed to establish that he was certainly commissioned as a notary public nor he wasn't [sic] able to produce his Certificate Authority issued by the Executive Judge which evidences the authenticity of his commission.**

⁴ *Id.* at 22.

⁵ *Id.* at 1-8.

⁶ *Id.* at 31. The imprints bear the following information:

JUANITO S. AMIHAN, JR.
NOTARY PUBLIC
UNTIL DECEMBER 31, 2003
PTR NO. 1098595
BACOLOD CITY, 10-04-02
IAN 5520-82044-R

⁷ *Id.* at 79.

⁸ *Id.* at 80.

⁹ *Id.* at 81.

¹⁰ *Id.* at 44-58.

Respondent's claim that his authority to notarize documents is confirmed thru the Recommendation issued by the Regional Trial Court of Bacolod City does not hold water. **It is the Certificate of Notarial Act and not the Recommendation of the court which authorizes and commission a lawyers as a notary public.**

x x x x

Finally, undersigned Commissioner went out of her way to inquire with the Regional Trial Court of Bacolod City if Respondent was indeed issued a notarial commission for 2003. She was [in fact] able to confirm that Respondent had no notarial commission.¹¹ (Emphases supplied.)

On February 15, 2019, the IBP Board of Governors reduced the penalty of suspension from the practice of law from two years to one year, viz.:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, with modification, to impose upon the Respondent the penalty of ONE (1) YEAR SUSPENSION FROM THE PRACTICE OF LAW and TWO (2) YEARS DISQUALIFICATION to hold commission as Notary Public, and if currently so engaged, be immediately decommissioned as such.¹²

RULING

The Court adopts the IBP's findings with modification as to the penalty.

Notarization ensures the authenticity and reliability of a document. It converts a private document into a public one, and renders the document admissible in court without further proof of its authenticity. 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. Moreover, notarization is not an empty routine. On the contrary, it engages public interest in a substantial degree and the protection of that interest requires preventing those who are not qualified or authorized to act as a notary public.¹³ Corollarily, a lawyer who notarized a document without the required commission is guilty of violating the Lawyer's Oath and is deemed to engage in deliberate falsehood. As aptly explained in *Nunga v. Atty. Viray*:¹⁴

Where the notarization of a document is done by a member of the Philippine Bar at a time when he has no authorization or commission to do so, the offender may be subjected to disciplinary action. For one, performing a notarial without such commission is a **violation of the lawyer's oath to obey the laws, more specifically, the Notarial Law.** Then, too, by making it appear that he is duly commissioned

¹¹ *Id.* at 91-94.

¹² *Id.* at 87.

¹³ *Villaflores-Puza v. Atty. Arellano*, 811 Phil. 313, 315 (2017); *Coronado v. Atty. Felongco*, 398 Phil. 496, 502 (2000); *Talistic v. Atty. Rinen*, 726 Phil. 497, 500 (2014); *Ang v. Atty. Gupana*, 726 Phil. 127, 134-135 (2014).

¹⁴ 366 Phil. 155 (1999).

when he is not, he is, for all legal intents and purposes, **indulging in deliberate falsehood, which the lawyer's oath similarly proscribes.** These violations fall squarely within the prohibition of Rule 1.01 of Canon 1 of the Code of Professional Responsibility, which provides: **"A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."**¹⁵ (Emphasis supplied.)

Here, it is undisputed that Atty. Amihan, Jr. notarized the deed in 2003. However, the office of the clerk of court certified that Atty. Amihan, Jr. was not a commissioned notary public in that year and that no copy of the deed was filed. The investigating commissioner likewise confirmed with the RTC that Atty. Amihan, Jr. has no notarial commission in 2003. In contrast, Atty, Amihan, Jr. presented imprints of his rubber stamps for the year 2003. Yet, they do not contain material information such as his notarial commission number. Atty. Amihan, Jr. also submitted a recommendation letter stating that his appointment as notary public expired on December 31, 2003. Nonetheless, the certification from the clerk of court belied the contents of the letter. The prevailing law at the time of notarization in 2003 was the Revised Administrative Code which provides that the oath of office of a notary public and his commission shall be filed and recorded in the Office of the Clerk of Court of the RTC.¹⁶ A certification issued by the clerk of court stating that a lawyer has no notarial commission is sufficient to establish that fact.¹⁷ Indeed, Atty. Amihan, Jr. was unable to submit a copy of his certificate of authority for 2003 and his notarial reports and register for that year. On this point, we stress that in an administrative case against a lawyer, preponderant evidence is necessary which means that the evidence adduced by one side is superior to or has greater weight than that of the other.¹⁸ The burden of proof rests upon the complainant.¹⁹ Verily, Lilia proved that Atty. Amihan, Jr. was not a commissioned notary public in 2003.

In *Cruz-Villanueva v. Atty. Rivera*,²⁰ the respondent was suspended from the practice of law for one year and barred from being commissioned as notary public for one year for notarizing two documents without a notarial commission. The Court noted that the respondent has no prior administrative record.²¹ In *Buensuceso v. Barrera*,²² the respondent was likewise suspended for one year when he notarized five documents after his commission as notary public expired.²³ Considering that this is Atty. Amihan, Jr.'s first infraction and that the case involved only one document, we deem it proper to impose the penalties of immediate revocation of notarial commission, disqualification from being commissioned as a notary public for one year, and suspension from the practice of law for a period of one year.

¹⁵ *Id.* at 161.

¹⁶ ADMINISTRATIVE CODE, Sections 236 and 248, as amended by Executive Order No. 41, s. 1945.

¹⁷ *Sps. Frias v. Atty. Abao*, A.C. No. 12467, April 10, 2019.

¹⁸ *Aba, et al. v. Attys. De Guzman, Jr., et al.*, 678 Phil. 588, 601 (2011).

¹⁹ *Cruz v. Atty. Centron*, 484 Phil. 671, 675 (2004).

²⁰ 537 Phil. 409 (2006).

²¹ *Id.* at 417-418.

²² 290-A Phil. 57 (1992).

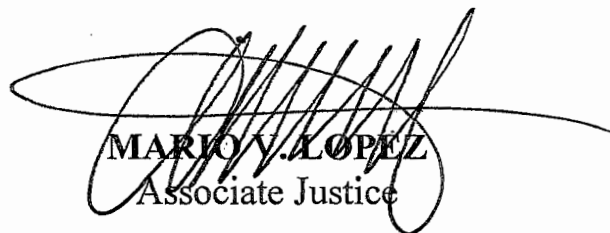
²³ *Id.* at 62.

FOR THESE REASONS, Atty. Juanito S. Amihan, Jr.'s notarial commission is **IMMEDIATELY REVOKED**. He is also **DISQUALIFIED** from being commissioned as a notary public for a period of one year and **SUSPENDED** from the practice of law for a period of one year. He is likewise **STERNLY WARNED** that a repetition of similar acts will be dealt with more severely.

The suspension in the practice of law, the prohibition from being commissioned as notary public, and the revocation of his notarial commission, if any, shall take effect immediately upon respondent's receipt of this decision. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

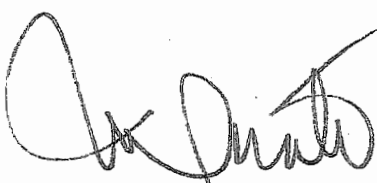
Let a copy of this Resolution be furnished to the Office of the Bar Confidant to be entered into Atty. Juanito S. Amihan, Jr.'s records. Copies shall likewise be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for circulation to all courts concerned.

SO ORDERED.

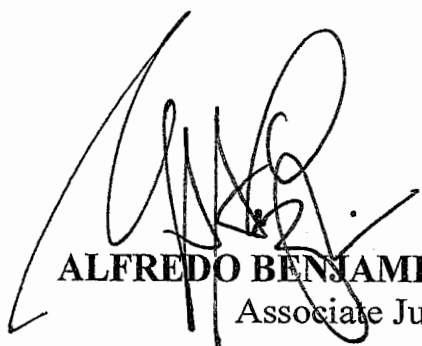


MARIO V. LOPEZ
Associate Justice

WE CONCUR:




DIOSDADO M. PERALTA
Chief Justice
Chairperson



ALFREDO BENJAMIN S. CAGUIOA
Associate Justice



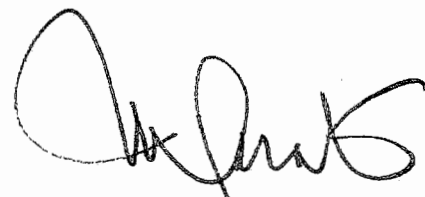
JOSE C. REYES, JR.
Associate Justice



AMY C. LAZARO-JAVIER
Associate Justice

CERTIFICATION

Pursuant to Section 13, Article VIII of the Constitution, I certify that the conclusions in the above Resolution had been reached in consultation before the case was assigned to the writer of the opinion of the Court's Division.



DIOSDADO M. PERALTA
Chief Justice