



Republic of the Philippines
Supreme Court
 Manila

SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
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JUANITO V. PARAS,
 Complainant,

A.C. No. 13372
[Formerly CBD Case No. 19-5931]

- versus -

ATTY. JONATHAN J. DE PAZ,
 Respondent.

Present:
 LEONEN, *S.A.J.*, Chairperson,
 LAZARO-JAVIER,
 LOPEZ, M.
 LOPEZ, J., and
 KHO, JR., *JJ.*

Promulgated:

OCT 12 2022

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DECISION

KHO, JR., J.:

This administrative case stemmed from a Complaint-Affidavit¹ filed by complainant Juanito V. Paras (Paras) against respondent Atty. Jonathan J. De Paz (Atty. De Paz) before the Integrated Bar of the Philippines (IBP) for violation of Rules 1.01 and 1.02, Canon 1 of the Code of Professional Responsibility (CPR).

The Facts

Paras alleged that Atty. De Paz notarized the Last Will and Testament (Last Will)² of Sergio Antonio Paras, Jr. (Sergio), wherein the latter instituted the twins, James Gabriel and John Michael, as his heirs, without including his mother, Arlinda Paras, which act in itself constitutes preterition. Upon further inquiry, Paras found out that Atty. De Paz likewise notarized an Affidavit of

¹ *Rollo*, pp. 1-7.

² *Id.* at 8-10.

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Admission of Paternity and Consent to Use Surname of the Father (Affidavit of Admission of Paternity),³ allegedly signed by Sergio, recognizing the paternity of James Gabriel and John Michael.⁴ Paras averred that the Last Will under Doc. No. 202, Page No. 40, Book No. VI, Series of 2015,⁵ and the Affidavit of Admission of Paternity of the twins under Doc. No. 128, Page No. 26, Book No. VI, Series of 2015,⁶ were falsities and forgeries, and that Atty. De Paz did not record said documents in his notarial book nor submit their duplicate original copies to the Notarial Section, Office of the Clerk of Court (OCC), Regional Trial Court (RTC)-Cebu City.⁷ He likewise alleged that the documents were both indicated in the same notarial book with very close page and document numbers, and that Atty. De Paz failed to comply with Section 2, Rule VI of the 2004 Rules on Notarial Practice,⁸ as the entry appearing on Doc. No. 202, Page No. 40, Book No. VI, Series of 2015 does not pertain to the Last Will but a judicial affidavit dated June 13, 2015 of a certain “Fe P. Canada.”⁹ Moreover, he claimed that per Questioned Document Report No. 09-2017-43¹⁰ by Five R Forensic Examination and Consultancy, the signature of Sergio on the Last Will, as compared to his signatures appearing on his senior citizen’s identification card, 11 checks from Equicom Savings Bank, and one check from Eastwest Bank, were written by two different persons.¹¹ He further averred that they instituted a case for correction of entries of birth certificates of James Gabriel and John Michael to correct the illegally entered Affidavit of Admission of Paternity and the use of the twins of the surname “Paras,” which constituted the crime of simulation of birth.¹²

For his part, Atty. De Paz admitted the existence of the Last Will and the Affidavit of Admission of Paternity, as well as the fact that he notarized the same. However, he maintained that both documents were not forged, as they were duly executed by Sergio himself. He claimed that there can be no preterition as the Last Will was not about the disposition of Sergio’s properties but more on the appointment of a guardian for his minor children. He then admitted the non-entry of the Last Will and the Affidavit of Admission of Paternity in his notarial registry but claimed that the same was attributable to the inadvertence on the part of his office clerk, who was in charge of the recording of the entries therein.¹³ He likewise averred that the said non-entry does not mean that the subject documents were forgeries. He further claimed that he was not duty-bound to submit the subject documents to the Notarial Section, OCC, RTC-Cebu City, much less retain copies thereof. Finally, he

³ Id. at 11.

⁴ Id. at 2. It appears from the record of this case that a Petition was filed to change the surname of James Gabriel and John Michael from “Paras” to “Patajo.” However, the attached certificates of live birth of the twins indicated their names as “Zyri!” and “Zyrus” Patajo (see id. at 25–33 and 34–35). “Zyri!” is spelled as “Zyryl” in the *rollo* (see id. at 11).

⁵ Id. at 10.

⁶ Id. at 11.

⁷ Id. at 2–3.

⁸ A.M. No. 02-18-13-SC (August 1, 2004).

⁹ *Rollo*, p. 3.

¹⁰ Id. at 14–15.

¹¹ Id. at 3–4.

¹² Id. at 1–6.

¹³ Id. at 44–45.

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claimed that the allegation as to the forgery of the Last Will was utterly self-serving as when Sergio signed the same in 2015, there were three witnesses present, namely: Valentino C. Bacalso, Jr., Neil John Ryan Baruc, and Gela P. Durango.¹⁴

The IBP's Report and Recommendation

In a Report and Recommendation¹⁵ dated August 28, 2020, the IBP Investigating Commissioner (IBP-IC) found Atty. De Paz administratively liable for violation of the 2004 Rules on Notarial Practice due to his admitted inadvertence caused by his office in the non-registration of the Last Will in his notarial register.¹⁶ Accordingly, the IBP-IC recommended that Atty. De Paz be suspended from the practice of law for a period of three months and his current notarial commission be revoked, with a stern warning that a repetition of the same offense or similar conduct will be dealt with severely.¹⁷

In a Resolution¹⁸ dated October 16, 2021, the IBP Board of Governors adopted and approved the IBP-IC's Report and Recommendation.

The Issue Before the Court

The core issue in this case is whether Atty. De Paz should be held administratively liable for the acts complained of.

The Court's Ruling

The Court affirms the findings and adopts the recommendation of the IBP with modification as to the imposable penalty.

Time and again, the Court has emphasized that the act of notarization is impressed with public interest. "Notarization converts a private document to a public document, making it admissible in evidence without further proof of its authenticity."¹⁹ A notarial document is, by law, entitled to full faith and credence. As such, "notaries public must observe with utmost care the basic requirements in the performance of their duties"²⁰ in order to preserve the confidence of the public in the integrity of the notarial system.²¹ For being invested with public interest, "a lawyer commissioned as a notary public has a responsibility to faithfully observe the rules governing notarial practice,

¹⁴ Id. at 45. See also id. at 10.

¹⁵ Id. at 189–194. Signed by Commissioner Gilbert L. Macatangay.

¹⁶ Id. at 193.

¹⁷ Id. at 193–194.

¹⁸ Id. at 187–188. See Notice of Resolution in Resolution No. CBD-XXV-2021-10-15 signed by Assistant National Secretary Jose Angel B. Guidote, Jr.

¹⁹ *Gaddi v. Velasco*, 742 Phil. 810, 815 (2014).

²⁰ Id.

²¹ See *Dionisio, Jr. v. Padernal*, A.C. No. 12673, March 15, 2022.

having taken a solemn oath under the [CPR] to obey the laws and to do no falsehood or consent to the doing of any.”²²

Sections 1 and 2, Rule VI of the 2004 Rules on Notarial Practice provide:

RULE VI

Notarial Register

Section 1. *Form of Notarial Register.* — (a) A notary public shall keep, maintain, protect and provide for lawful inspection as provided in these Rules, a ***chronological official notarial register of notarial acts*** consisting of a permanently bound book with numbered pages.

x x x x

Section 2. *Entries in the Notarial Register.* — x x x

x x x x

(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.

x x x x

(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.** (Emphasis supplied)

“The notarial registry is a record of the notary public’s official acts. Acknowledged documents and instruments recorded [therein] are considered public documents. [Thus,] [i]f the document or instrument does not appear in the notarial records and there is no copy of it therein, doubt is engendered that the document or instrument was not really notarized, so that it is not a public document and cannot bolster any claim made based on this document. Considering the evidentiary value given to notarized documents, the failure of the notary public to record the document in [their] notarial registry is tantamount to falsely making it appear that the document was notarized when in fact it was not.”²³

²² See *Roa-Buenafe v. Lirazan*, A.C. No. 9361, March 20, 2019, 897 SCRA 449, 456.

²³ *Soriano v. Basco*, 507 Phil. 410, 415 (2005), citing *Vda. De Rosales v. Ramos*, 433 Phil. 8, 16–17 (2002).

In this case, Atty. De Paz violated the 2004 Rules on Notarial Practice when: (a) he admitted the inadvertence caused by his office clerk as to the nonregistration in his notarial registry of the Last Will and the Affidavit of Admission of Paternity executed by Sergio; and (b) he claimed that he was not duty-bound to submit to the Notarial Section, OCC, RTC-Cebu City a duplicate original copy of the Last Will, much less retain a copy thereof. Verily, Atty. De Paz cannot escape the administrative liability by passing the blame to the office clerk assigned in the recording of the entries. In *Pitogo v. Suello*,²⁴ the Court held that the “notarial commission is a license held personally by the notary public. [This act] cannot be further delegated. It is the notary public alone who is personally responsible for the correctness of the entries in [their] notarial register.”²⁵

Moreover, Atty. De Paz’s failure to retain the original copy of the Last Will and to submit a duplicate original copy thereof to the Notarial Section, OCC, RTC-Cebu City are clear violations of Section 2 (h), Rule VI of the 2004 Rules on Notarial Practice. In *Bartolome v. Basilio*,²⁶ the Court ruled that the abovementioned requirements apply to an instrument acknowledged before the notary public,²⁷ like the subject Last Will in this case. However, there can be no administrative infraction as to his failure to submit a copy of the Affidavit of Admission of Paternity to the Notarial Section, OCC, RTC-Cebu City as said document contained a *jurat*, and not an acknowledgment;²⁸ thus, it need not be forwarded to the said office.

Further, as a lawyer, Atty. De Paz is “expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might erode the trust and confidence reposed by the public in the integrity of the legal profession.”²⁹ Due to the abovementioned acts, Atty. De Paz engaged in: (a) unlawful, dishonest, immoral or deceitful conduct; and (b) unlawful delegation of the task, which by law may only be performed by a member of the Bar in good standing, to an unqualified person in violation of Rule 1.01, Canon 1 and Rule 9.01, Canon 9 of the CPR, respectively,³⁰ thus:

CANON 1 – A LAWYER SHALL UPHOLD THE
CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE
RESPECT FOR LAW AND FOR LEGAL PROCESSES.

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest,
immoral or deceitful conduct.

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²⁴ 756 Phil. 124 (2015).

²⁵ Id. at 133–134.

²⁶ 771 Phil. 1 (2015).

²⁷ Id. at 9.

²⁸ *Rollo*, p. 11.

²⁹ *Sappayani v. Gasmen*, 768 Phil. 1, 8–9 (2015).

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

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CANON 9 - A LAWYER SHALL NOT, DIRECTLY OR INDIRECTLY, ASSIST IN THE UNAUTHORIZED PRACTICE OF LAW.

Rule 9.01 - 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.

In the similar case of *Re: Order dated December 5, 2017 in Adm. Case No. NP-008-17 v. Tamano*,³¹ the Court found the erring lawyer guilty of violation of the 2004 Rules of Notarial Practice, as well as Rule 1.01, Canon 1 and Rule 9.01, Canon 9 of the CPR for failing to register the General Information Sheets he notarized in his notarial book and imputing said oversight to his office staff.

In several cases, the Court has subjected lawyers who were remiss in their duties as notaries public to disciplinary sanction, such as: (a) revocation of notarial commission; (b) disqualification from being commissioned as notaries public; and (c) suspension from the practice of law.

In *Vda. de Rosales v. Ramos*,³² the Court imposed the penalty of suspension from the practice of law for a period of six months, revocation of notarial commission, and disqualification from being reappointed as notary public against the erring lawyer for his failure to register the deed of absolute sale in his notarial registry.

In *Bartolome v. Basilio*,³³ the lawyer therein failed to: (a) verify the identities of the affiants who subscribed in the joint affidavit that he notarized; and (b) record in his notarial registry said affidavit. Thus, the Court suspended the erring lawyer from the practice of law for a period of one year, revoked his commission as a notary public, and prohibited him from being commissioned as a notary public for a period of two years with a stern warning that a repetition of the same offense or similar acts in the future will be dealt with more severely.

In *Malvar v. Baleros*,³⁴ the Court suspended the lawyer from the practice of law for a period of six months, revoked her notarial commission, and disqualified her from reappointment as notary public for a period of two for her failure to: (a) require the physical presence of the affiant and for him to present a competent proof of identity in the notarization of the application for certification of alienable and disposable land; (b) record the same in her notarial registry; and (c) personally register said application in the notarial registry.

³¹ See A.C. No. 12274, October 7, 2020.

³² Supra note 23 at 18.

³³ Supra note 26 at 11.

³⁴ 807 Phil. 16 (2017).

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In *Agadan v. Kilaan*,³⁵ the Court imposed the penalty of suspension from the practice of law for a period of three months, revocation of the notarial commission, and disqualification from being a notary public for a period of one year with stern warning that a repetition of the same offense and similar acts will be dealt with severely to the erring lawyer for his failure to make proper entries in his notarial commission.

In view of the foregoing, the Court deems it proper to modify the penalty imposed by the IBP against Atty. De Paz to suspension from the practice of law for a period of three months, revocation of notarial commission, and disqualification for being reappointed as a notary public for a period of one year, with a stern warning that a repetition of the same offense or similar acts will be dealt with severely.

As a final note, it must be emphasized that “membership in the legal profession is bestowed upon individuals who are not only learned in law, but 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.”³⁶ Verily, “of all classes and professions, lawyers are most sacredly bound to uphold the law, and as such, it is imperative that they live by the law.”³⁷

ACCORDINGLY, respondent Atty. Jonathan J. De Paz is found **GUILTY** of violating the 2004 Rules on Notarial Practice and Canon 1, Rule 1.01 and Canon 9, Rule 9.01 the Code of Professional Responsibility. Accordingly, he is **SUSPENDED** from the practice of law for a period of three months effective immediately. His notarial commission is likewise **REVOKED**, and he is **DISQUALIFIED** to be reappointed as a notary public for a period of one year. Moreover, he is **STERNLY WARNED** that a repetition of the same offense or similar act shall be dealt with more severely.

The suspension from the practice of law, the prohibition from being commissioned as a notary public, and the revocation of his notarial commission, if any, shall take effect immediately upon receipt of this Decision by respondent. 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 Decision be furnished to the Office of the Bar Confidant, to be attached to his personal record as a member of the Bar. Furthermore, let copies of the same be served to the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

³⁵ 720 Phil. 625 (2013).

³⁶ See *Rivera v. Dalangin*, A.C. No. 12724, July 28, 2020.


³⁷ See *id.*

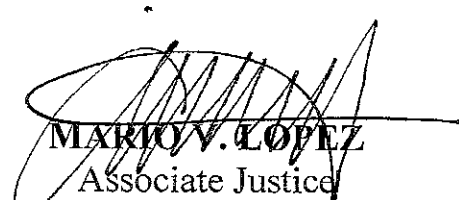
SO ORDERED.


ANTONIO T. KHO, JR.
Associate Justice

WE CONCUR:


MARVIC M.V.F. LEONEN
Senior Associate Justice
Chairperson


AMY C. LAZARO-JAVIER
Associate Justice


MARIO V. LOPEZ
Associate Justice


JHOSEP V. LOPEZ
Associate Justice

