



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **04 March 2020** which reads as follows:*

“A.C. No. 8120 (*Karen M. Silverio-Buffe v. Atty. Cesar R. Carreon III*). — This instant administrative case arose from the Affidavit-Complaint¹ dated April 14, 2009 filed by Karen M. Silverio-Buffe (complainant) against Atty. Cesar R. Carreon III (respondent), and was referred to the Integrated Bar of the Philippines (IBP) on October 4, 2010.²

Factual Antecedents

An Affidavit-Complaint³ for disbarment dated November 30, 2008 was filed by complainant originally against one Atty. Cesar R. Carreon who was identified as one employed with the government service as Human Resource Officer at the Office of the Governor, Province of Romblon.⁴ The charges were for “unauthorized private practice of law”, dishonesty, nondisclosure of the government employment in the application of the notarial commission and violation of the Code of Professional Responsibility, specifically Canon 1 and Rules 1.01 to 1.03, Canon 8, Canon 10 and Rules 10.01 and 10.03, Canon 19 and Rules 19.01, 19.02 and 19.03 thereof.⁵

Complainant filed a second Affidavit- Complaint⁶ naming Atty. Cesar R. Carreon III as respondent. It was clarified that Cesar Carreon is already dead.⁷ Complainant further alleged that respondent, a notary public of Romblon, Romblon had acknowledged on January 8, 2009, a Special Power

¹ *Rollo*, pp. 70-72.

² *Id.* at 361.

³ *Id.* at 1-15.

⁴ *Id.* at 1.

⁵ *Id.*

⁶ *Rollo*, p. 130.

⁷ *Id.* at 130-131.

of Attorney⁸ (SPA) executed by Efren Recto (Recto), appointing the former as the attorney-in-fact of the latter for the purpose of receiving the cash bail bond of ₱ 60,000.00 posted by Recto in the criminal case against him. After such unlawful notarization, respondent actually used the said document and personally received from the Regional Trial Court (RTC), Branch 81, Romblon, Romblon, as evidenced by his signature appearing above the name of Efren Recto in the Acknowledgement Receipt. Such notarial act was in clear violation of Section (Sec.) 3 (a) and (b) of the 2004 Rules on Notarial Practice.

In his Comment⁹ to the second Affidavit-Complaint, respondent admitted to the acknowledgement of the subject SPA executed by Recto, due to inadvertence and excusable negligence. However, he claimed that upon realizing that his act of notarizing the SPA might violate the Notarial Rules, he cancelled the same.¹⁰ Respondent also admitted that he accepted the cash bail bond subject of the SPA in behalf of Recto.¹¹

The IBP's Report and Recommendation

In the Report and Recommendation¹² dated June 17, 2013, the IBP Commission on Bar Discipline (IBP-CBD) dismissed the complaint for lack of evidence.¹³

In a Resolution¹⁴ dated December 13, 2014, the IBP Board of Governors adopted and approved the Report and Recommendation of the IBP-CBD.

However, upon Motion for Reconsideration of complainant, the IBP Board of Governors in its January 27, 2017 Resolution,¹⁵ reconsidered its earlier decision and recommended for the suspension from the practice of law of respondent for a period of six months, the immediate revocation of his notarial commission and his disqualification from being appointed as notary public for a period of two years in accordance to the penalties imposed on cases of the same nature.¹⁶

The IBP Board of Governors found that respondent indeed acknowledged the SPA executed by Recto in which he appointed respondent as his attorney-in-fact in violation of Notarial Rules. Respondent cannot put up a defense that he cancelled the said document because the same was already submitted to the RTC, Romblon and has now become part of its

⁸ Id. at 76.

⁹ Id. at 321-328.

¹⁰ Id. at 330.

¹¹ Id. at 331.

¹² Id. at 463-466.

¹³ Id. at 466.

¹⁴ Id. at 462.

¹⁵ Id. at 514-515.

¹⁶ Id. at 514.

records.¹⁷

Respondent moved for reconsideration of the aforementioned Resolution but the same was denied by the IBP Board of Governors in its August 29, 2018 Resolution.¹⁸

The Issue Before the Court

Whether or not the IBP correctly found respondent liable for violation of the 2004 Rules on Notarial Practice and the Code of Responsibility (Code).

The Court's Ruling

The Court adopts the findings of the IBP Board of Governors but modifies the recommendation of the penalties imposed.

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. 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 to obey the laws and to do no falsehood or consent to the doing of any.¹⁹

Sec. 3, Rule IV of the 2004 Rules on Notarial Practice enumerates the instances when a notary public is disqualified from performing notarial act:

Sec.3. Disqualifications. -A notary public is disqualified from performing a notarial act if he:

- (a) **is a party to the instrument or document that is to be notarized;**
- (b) will receive, as a direct or indirect result, any commission, fee, advantage, right title, interest, cash, property, or other consideration, except as provided by these Rules and by law; or
- (c) is a spouse, common-law partner, ancestor, descendant, or relative by affinity or consanguinity of the principal within the fourth civil degree. (Emphasis supplied.)

Here, it is undisputed that respondent notarized the SPA of Recto making the former the attorney-in-fact of the latter. His defense that he cancelled the SPA upon realizing that it might violate the Rules on Notarial Practice cannot be taken because he still admitted to the fact that he received the cash bail subject of the SPA. The aforementioned act, aside from being a violation of the Notarial Rules, also partakes of malpractice of law and

¹⁷ Id. at 521-524.

¹⁸ Id. at 568.

¹⁹ *Buenafe v. Atty. Lirazan*, A.C. No. 9361, March 20, 2019.

misconduct punishable under Sec. 27, Rule 138 of the Rules of Court: -

Sec. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — A member of the bar may be disbarred 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 admission to practice, or for a willful disobedience of any lawful order of a superior court, or for corruptly or willfully appearing as an attorney for a party to a case without authority to do so. x x x

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.²⁰

Notarization is not an empty, meaningless, or routinary act. It is impressed with substantial public interest, and only those who are qualified or authorized may act as such. It is not a purposeless ministerial act of acknowledging documents executed by parties who are willing to pay fees for notarization. Moreover, notarization of a private document, such as an SPA in this case, converts the document into a public one which, on its face, is given full faith and credit. Thus, the failure of respondent to observe the utmost care in the performance of his duties caused not only damage to those directly affected by the notarized document, but also undermined the integrity of a notary public and tainted the function of notarization.²¹

As to the 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.²²

In the case of *Virtusio v. Atty. Virtusio*,²³ for committing acts of gross misconduct punishable under Section 27, Rule 138 of the Rules of Court, the Court meted a penalty of suspension of one year from the practice of law.²⁴

In the case of *Sappayani v. Gasmen*,²⁵ the Court modified the penalty recommended by the IBP. The Court in that case ruled 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. In this case, while the IBP Commissioner found the absence of bad faith and considered Atty. Gasmen as a first time offender, the Court finds that the penalties of disqualification from being commissioned as notary public for a

²⁰ Canon 1, CODE OF PROFESSIONAL RESPONSIBILITY.

²¹ *Fire Officer I Sappayani v. Gasmen*, 768 Phil. 1, 9 (2015).

²² *Buenafe v. Lirazan*, supra note 19.

²³ 694 Phil. 148 (2012).

²⁴ Id. at 156.

²⁵ Supra 21.

period of two (2) years and suspension from the practice of law for one (1) year are proper.²⁶

In this case, respondent is guilty of malpractice that warrants his suspension for one year from the practice of law following Sec. 27, Rule 138 of the Rules of Court.

WHEREFORE, the Court finds respondent Atty. Cesar R. Carreon III **GUILTY** of violation of the 2004 Rules on Notarial Practice and the Code of Professional Responsibility. Accordingly, the Court hereby **SUSPENDS** him from the practice of law for one (1) year from the receipt of respondent of this Resolution; **REVOKES** his incumbent commission as a notary public; and **PROHIBITS** him from being commissioned as a notary public for two (2) years, effective immediately. He is **WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely. Respondent is **DIRECTED** to file a manifestation that his suspension has started.

Let the Integrated Bar of the Philippines, Office of the Bar Confidant and the Court Administrator be furnished the copy of this Resolution.

SO ORDERED.”

Very truly yours,


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

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Please notify the Court of any change in your address.
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²⁶ Id. at 9.