

THIRD DIVISION

[A.C. No. 13548. June 14, 2023]

**CELIA D. MENDOZA, COMPLAINANT, VS. ATTY. CESAR R. SANTIAGO, JR.,
RESPONDENT.**

DECISION

GAERLAN, J.:

Before the Court is a Complaint^[1] dated June 23, 2017 filed by Celia D. Mendoza (complainant) before the Integrated Bar of the Philippines (IBP)-Commission on Bar Discipline (CBD) against Atty. Cesar R. Santiago, Jr. (respondent) for violation of the Code of Professional Responsibility and the 2004 Rules on Notarial Practice.

The Facts

Complainant claims that she is one of the heirs of Adela Espiritu-Barlaan, who died intestate on September 4, 2010, leaving no descendant or ascendant, but with brothers and sisters. Adela Espiritu-Barlaan also left a parcel of land with an area of 247 square meters, registered under Original Certificate of Title (OCT) No. 2133^[2] with Free Patent No. MT-007-602-94-2003 located in Pembo, Makati City (subject property).^[3]

On October 25, 2013, Gemma S. Barlaan, wife of the late Felimon Gundran Barlaan, and their children, namely: Ma. Theresa Barlaan, Michael Robert Barlaan, Fheljohn Barlaan, Jonathan Barlaan, and John Alexander Barlaan, executed an Extrajudicial Settlement with Waiver and Transfer of Rights,^[4] adjudicating to themselves the subject property. The Extrajudicial Settlement with Waiver and Transfer of Rights was acknowledged before and notarized by respondent in his notarial book.

By virtue of the Extrajudicial Settlement with Waiver and Transfer of Rights, OCT No. 2133 was cancelled and Transfer Certificate of Title (TCT) No. 006-2014001250^[5] was issued in the name of John Alexander Barlaan. Thereafter, John Alexander Barlaan sold 147 square meters of the subject property to Monette Abac Ramos for P3,130,000.00 as evinced by the Deed of Absolute Sale^[6] dated November 26, 2014 (First Deed of Sale). The First Deed of

Sale was acknowledged before and notarized by respondent in his notarial book.

On March 12, 2015, John Alexander Barlaan executed another Deed of Absolute Sale^[7] (Second Deed of Sale) covering the same 147 square meters of the subject property in favor of Monette Abac Ramos for P1,500,000.00. The Second Deed of Sale was, likewise, acknowledged before and notarized by respondent in his notarial book. TCT No. 006-2014001250 was then cancelled, and TCT No. 006-2015000698^[8] covering 100 square meters of the subject property was issued in favor of John Alexander Barlaan, while TCT No. 006-2015000699^[9] covering 147 square meters of the subject property was issued in favor of Monette Abac Ramos.

Monette Abac Ramos then filed a Complaint for Ejectment^[10] dated May 12, 2015 after discovering that the 147-square meter property she bought from John Alexander Barlaan was occupied by other relatives of Adela Espiritu-Barlaan (the original owner of the subject property). Attached to the Complaint was her Judicial Affidavit,^[11] where she narrated that, as shown by the First Deed of Sale, she bought the 147-square meter property from John Alexander Barlaan for P3,130,000.00.

On July 27, 2016, the Metropolitan Trial Court (MeTC) of Makati City rendered its Decision,^[12] ruling in favor of Monette Abac Ramos, and directing the defendants therein to vacate and surrender possession of the 147-square meter property.^[13]

On June 23, 2017, complainant filed the instant Complaint, praying that respondent be disbarred on the ground that his act of notarizing the First and Second Deeds of Sale is a violation of the Code of Professional Responsibility and the 2004 Rules on Notarial Practice.

On July 4, 2018, respondent filed his Answer,^[14] arguing that: (1) complainant has no legal personality to file the disbarment complaint against him and that the issue of ownership of the subject property has already been resolved with finality; and (2) the act of notarizing the First and Second Deeds of Sale with different amounts is of no moment because he has already discharged his official functions as a notary public when he submitted the documents, in particular, the Second Deed of Sale, to the Bureau of Internal Revenue and the Register of Deeds of Makati City.^[15]

Report and Recommendation of the IBP-CBD

On June 17, 2021, the IBP-CBD issued its Report and Recommendation,^[16] recommending

that respondent be suspended from the practice of law for a period of one year, and that his notarial commission be revoked for a period of two years:

WHEREFORE, based on the facts and evidence presented, the complainant has sufficiently proven by means of preponderance of evidence her case against the respondent. It is recommended that respondent Atty. Cesar R. Santiago, Jr. be suspended from the practice of law for a period of one year and that his notarial commission, if there is any, be revoked for (2) years.^[17]

In resolving the case against respondent, the IBP-CBD first ruled that complainant has legal personality to file the administrative complaint because she was able to establish that she has personal knowledge of the facts and circumstances of respondent's violation of the Code of Professional Responsibility and the 2004 Rules on Notarial Practice.^[18] The IBP-CBD, likewise, found that respondent's act of notarizing the First and Second Deeds of Sale, which was indubitably done to minimize his client's liability from paying taxes, violated the 2004 Rules on Notarial Practice and Canon 1 of the Code of Professional Responsibility.^[19]

Resolution of the IBP Board of Governors

On August 28, 2001, the IBP Board of Governors issued a Resolution,^[20] affirming the findings of the CBD, but modifying the penalty imposed upon respondent, thus:

RESOLUTION NO. CBD-XXV-2021-08-32

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*RESOLVED to MODIFY, as it is hereby MODIFIED, the Report and Recommendation of the Investigating Commissioner in the instant case, and instead to recommend the imposition upon Respondent Atty. Cesar R. Santiago of the following penalties - 1) **SUSPENSION from the practice of law for Two (2) Years**; 2) the **IMMEDIATE REVOCATION of his Notarial Commission, if subsisting**; and 3) **DISQUALIFICATION for Two (2) Years from being commissioned as a Notary Public.**^[21] (Emphases and italics in the original)*

Ruling of the Court

After an examination of the records of the case, the Court finds no cogent reason to depart from the findings and recommendations of the IBP Board of Governors.

To recall, respondent never disputed that he notarized the First and Second Deeds of Sale, corresponding to the exact same property, but indicating different amounts. In this regard, it is worthy to note that in Monette Abac Ramos' Judicial Affidavit submitted in the ejectment case before the MeTC, she categorically stated that she bought the property for P3,130,000.00 as evinced by the First Deed of Sale, which was acknowledged before and notarized by respondent. However, as borne by the records, what was submitted to the Registry of Deeds of Makati City was the Second Deed of Sale - also acknowledged before and notarized by respondent - indicating the amount of P1,500,000.00, which amount became the basis of the tax liability of respondent's client. Undeniably, and as pointed out by the IBP-CBD, respondent's act of notarizing the First and Second Deeds of Sale was for the purpose of minimizing his client's liability from paying taxes.

In *Lopez v. Ramos*,^[22] a case with similar circumstances, the Court exhaustively explained that the act of notarizing two deeds of sale corresponding to the same property, the purpose of which is to minimize the payment of taxes, is a violation of the 2004 Rules on Notarial Practice and the Code of Professional Responsibility. The Court, thus, imposed the penalty of suspension from the practice of law, and revocation of the notary public's notarial commission:

Based on Delos Santos' testimony, respondent told her that he drafted and notarized another instrument that did not state the true consideration of the sale, **in order to reduce the capital gains tax due on the transaction. Respondent cannot escape liability for making an untruthful statement in a public document for an unlawful purpose. As the second deed indicated an amount lower than the actual price paid for the property sold, respondent abetted in depriving the Government of the right to collect the correct taxes due.** Respondent violated Rule 1.02, Canon 1 of the CPR, to wit:

CANON 1 — A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW OF

AND LEGAL PROCESSES.

Rule 1.02 — A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Respondent assisted the contracting parties in an activity aimed at defiance of law, and displayed lack of respect for and made a mockery of the solemnity of the oath in an Acknowledgment. When the respondent notarized an illegal and fraudulent document, he is entitling full faith and credit upon the face of the document, which it does not deserve, considering its nature and purpose.

The act of notarization is imbued with substantive public interest wherein a private document is converted into a public document, which results in the document's admissibility in evidence without further proof of its authenticity. It is the notary public's duty to observe utmost care in complying with the formalities intended to protect the integrity of the notarized document and the act or acts it embodies. x x x

x x x x

Aside from the duty of the notary public to ascertain the identity of the affiant and the voluntariness of the declaration, **it is also incumbent upon him to guard against any illegal or immoral arrangement or at least refrain from being a party to its consummation.** Rule IV, Section 4 (a) of the 2004 Rules on Notarial Practice prohibits notaries public from performing any notarial act for transactions similar to the subject deeds of sale, x x x

x x x x

Despite knowledge of the illegal purpose of evading the payment of proper taxes due, respondent proceeded to notarize the second deed of sale. Instead of accommodating the request of his client, Benjamin, respondent, being a member of the legal profession, should have stood his ground and not yielded to the request of his client. Respondent should have been more prudent and unfaltering in his solemn oath neither to do falsehood nor consent to the doing of any. **As a lawyer, respondent is expected at all times to uphold the integrity and dignity of the legal profession and**

refrain from any act or omission which might lessen the trust and confidence reposed by the public in the integrity of the legal profession.

x x x x

We ruled that the Court may suspend or disbar a lawyer for any misconduct showing any fault or deficiency in his moral character, honesty, probity or good demeanor.

x x x x

In the instant case, we hold that respondent suffer the penalty of suspension and revocation of his notarial commission for two (2) years, for violating the 2004 Rules on Notarial Practice. This is in accord with current jurisprudence and the recommendation by the IBP Board of Governors.

As regards his suspension from the practice of law, we hold that neither the one-year suspension imposed in *Gonzales* and in the other cases, nor the six-month suspension recommended by the IBP Board of Governors, is applicable to this case. The one-year and the six-month suspension from the practice of law are not commensurate to the graveness of the respondent's transgressions.

The case of *Caalim-Verzonilla v. Pascua*, is analogous to the case at bar. In *Caalim-Verzonilla*, respondent Pascua prepared and notarized two Deeds of Extra-Judicial Settlement. The two deeds have been executed by and for the benefit of the same parties, and have identical registration, page and book numbers in the notarial portion. In addition, the two deeds were alleged to have been falsified, and have **different considerations, with the end purpose of evading the payment of correct taxes**. In *Caalim-Verzonilla*, the Court **suspended Pascua from practicing law for a period of two (2) years, revoked his notarial commission, disqualified him from reappointment as a notary public for a period of two (2) years, and gave him a warning that any similar act or infraction in the future shall be dealt with more sternly.**

Thus, with respect to respondent's suspension from the practice of law, we hold that **respondent's failure to faithfully comply with the rules on notarial practice, and his violation of his oath as lawyer when he prepared and**

notarized the second deed for the purpose of avoiding the payment of the correct amount of taxes, shall be meted with a penalty of a two (2)-year suspension from the practice of law. The said penalty is proper and commensurate to the infraction committed by respondent.^[23] (Emphases supplied; citations omitted)

Pertinently, in Section 33(p), Canon VI^[24] of A.M. No. 22-09-01-SC, or the Code of Professional Responsibility and Accountability (CPRA),^[25] a violation of the 2004 Rules on Notarial Practice is considered a serious offense. Once found guilty of a serious offense, a lawyer may be met with the following sanctions, as provided by Section 37(a), Canon VI of the CPRA:

SECTION 37. Sanctions. -

- (a) If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:
 - (1) Disbarment;
 - (2) Suspension from the practice of law for a period exceeding six (6) months;
 - (3) Revocation of notarial commission and disqualification as notary public for not less than two (2) years; or
 - (4) A fine not exceeding Php100,000.00.

Applying all the foregoing to the instant case, the Court finds no reason to depart from the findings and recommendations of the IBP Board of Governors, imposing upon respondent the penalties of: (1) suspension from the practice of law for a period of two years; (2) immediate revocation of his notarial commission, if subsisting; and (3) disqualification from being commissioned as a notary public for a period of two years.

As a final note, the Court deems it imperative to remind notaries public that the act of notarization is not an empty, meaningless and routinary act. As elucidated in *Gonzales v. Atty. Ramos*:^[26]

Notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. The notarization by a notary public converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full

faith and credit upon its face. A notary public must observe with utmost care the basic requirements in the performance of their duties; otherwise, the public's confidence in the integrity of the document would be undermined.^[27]

WHEREFORE, respondent Atty. Cesar R. Santiago, Jr. is found **GUILTY** of violating the 2004 Rules on Notarial Practice and Canon VI of the Code of Professional Responsibility and Accountability. He is hereby **SUSPENDED** from the practice of law for a period of two (2) years; his notarial commission is hereby **REVOKED**, effective immediately; and he is hereby **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years. He is, likewise, **STERNLY WARNED** that a repetition of the same or similar act in the future will be dealt with more severely. He is **DIRECTED** to report the date of receipt of this Decision in order to determine when his suspension shall take effect.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be attached to the personal record of respondent Atty. Cesar R. Santiago, Jr.; the Office of the Court Administrator for dissemination to all lower courts; and the Integrated Bar of the Philippines, for proper guidance and information.

SO ORDERED.

Caguioa, (Chairperson), Inting, Dimaampao, and Singh, JJ., concur.

^[1] *Rollo*, pp. 1-6.

^[2] *Id.* at 8.

^[3] *Id.* at 1.

^[4] *Id.* at 9-12.

^[5] *Id.* at 17-19.

^[6] *Id.* at 20-22.

^[7] *Id.* at 23-25.

^[8] *Id.* at 27-29.

^[9] *Id.* at 30-32.

^[10] *Id.* at 182-189.

^[11] *Id.* at 159-166.

^[12] *Id.* at 190-195.

^[13] *Id.* at 195.

^[14] *Id.* at 42-48.

^[15] *Id.* at 44-46.

^[16] *Id.* at 201-209.

^[17] *Id.* at 209.

^[18] *Id.* at 205-206.

^[19] *Id.* at 206-207.

^[20] *Id.* at 198-200.

^[21] *Id.* at 198.

^[22] **A.C. No. 12081**, November 24, 2020.

^[23] *Id.*

^[24] Section 33. *Serious offenses.* – Serious offenses include:

x x x x

(p) Violation of the notarial rules, except reportorial requirements, when attended by bad faith;

x x x x

^[25] The CPRA was published in the Philippine Star and the Manila Bulletin on May 14, 2023, and took effect 15 calendar days thereafter.

^[26] 499 Phil. 345 (2005).

^[27] *Id.* at 347.

Date created: November 14, 2023