

Title: Flordelina Ascaño vs. Atty. Mario V. Panem

Facts:

Flordelina Ascaño owned a property in Sto. Domingo, Ilocos Sur, which was purportedly sold to Spouses Severino and Matilde Guillermo through a Deed of Absolute Sale notarized by Atty. Mario V. Panem. Ascaño claimed she was not present nor did she sign the Deed, and faced Atty. Panem about the matter. Atty. Panem offered to represent her in court to get the property back, but Ascaño later found that the representation did not align with her version of the facts, prompting her to file an administrative complaint against him.

Ascaño accused Atty. Panem of notarizing the Deed without her presence, failing to require competent evidence of identity during notarization, and not submitting his notarial register for 2006-2007. Additionally, she charged him with representing conflicting interests.

Atty. Panem defended himself by claiming Ascaño appeared before him and signed the Deed in his presence, presenting her community tax certificate as identity proof. He also claimed his notarial register was destroyed in a flood in July 2006 and denied any conflict of interest as he only represented her in the civil case.

The case went through an IBP Investigation where the Investigating Commissioner found Atty. Panem guilty and initially recommended disbarment. However, the IBP Board of Governors modified the sanctions, suggesting: a 2-year suspension from law practice, immediate revocation of any existing notarial commission, and a 2-year disqualification from reappointment as a notary public.

Issues:

The Supreme Court considered whether Atty. Panem should be administratively liable for his actions. Specifically, the Court examined: (1) Whether Atty. Panem violated the Notarial Rules and (2) Whether Atty. Panem violated the Code of Professional Responsibility (now the Code of Professional Responsibility and Accountability - CPRA) by representing conflicting interests and making untruthful statements in a pleading.

Court's Decision:

The Supreme Court adopted the findings and recommendations of the IBP with modifications, particularly with regard to the penalties, applying the CPRA. The Court ruled that Atty. Panem violated the Notarial Rules by notarizing the Deed without Ascaño's presence and without requiring competent evidence of identity. It found Atty. Panem's defense about the loss of his notarial register unsubstantiated and dismissed his justification

about the flood. Moreover, the Court found that Ascaño did not present a competent identity proof, and that Atty. Panem had failed to submit the required notarial report. Brief / Digest)

The Supreme Court disagreed with the IBP's finding on the conflict of interest but found Atty. Panem administratively liable for changing his client's narrative in the civil action he filed, thus acting out of self-interest.

#### Doctrine:

The Supreme Court reiterated the essential role of a notary public and the duties to adhere to the Notarial Rules, especially regarding the presence of the signatory during notarization and the requirement for competent evidence of identity. It also reinforced the standard of conduct for legal representatives under the CPRA, including fidelity, truthful representation, and the avoidance of conflicts of interest.

#### Class Notes:

Key aspects central to the case include the obligations of notaries under the 2004 Rules on Notarial Practice and the standards for attorney conduct under the CPRA. The case illustrates that a notary must ensure the affiant's personal presence and identify the affiant using competent evidence. Additionally, an attorney must remain truthful in pleadings and avoid any actions that conflict with a client's interests.

#### Historical Background:

The case reflects the Court's responsibility in maintaining the integrity of legal practice, including strict adherence to notarization procedures, a foundational aspect of trust in legal documents, and ensuring the ethical behavior of attorneys toward their clients. It also illustrates the evolution of disciplinary standards, as the CPRA replaced the earlier CPR, signifying a commitment to updating and enforcing ethical standards in the legal profession.