

Title: Navarrete v. Brillantes: Administrative Complaint for Disbarment

****Facts:****

1. ****Initial Incident****: On October 30, 2004, Atty. Constante V. Brillantes, Jr. drafted, prepared, and notarized a Deed of Real Estate Mortgage (DREM) in favor of Willy Sebastian involving a property co-owned by complainants Miguel G. Navarrete and Miguelito G. Navarrete, Jr. (complainants) and their elder brother Michael Dinno Navarrete (Dinno).
2. ****Complainants' Allegations****: Complainants alleged that the DREM was executed without their knowledge, notarized when they were minors (Miguel was 15, and Miguelito, Jr. was 13), and that their signatures were forged. They asserted that complete strangers signed as them, facilitated by respondent Brillantes.
3. ****Respondent's Defense****: Brillantes denied the allegations, claiming that he verified the identities of the signatories through Community Tax Certificates (CTCs) and IDs presented to him. He stated that the persons who appeared before him were represented to be the complainants by their brother Dinno and father Miguelito Navarrete, Sr. He also noted that the property's Transfer Certificate of Title (TCT) listed complainants as of legal age, which he copied onto the DREM.
4. ****Supporting Documents****: Complainants presented various documents, including birth certificates, the DREM, amendments, and IDs to substantiate their claim. Respondent presented similar documentation showing the identities of the individuals he believed were the complainants.
5. ****Procedural Steps****: Complainants filed an administrative complaint with the Integrated Bar of the Philippines (IBP). After investigation, the IBP Investigating Commissioner recommended suspending Brillantes from practicing law for six months and revoking his notarial commission. The IBP Board of Governors modified this, extending the suspension to one year and adding a two-year disqualification from being a notary.

****Issues:****

1. ****Competent Evidence of Identity****: Whether Brillantes violated the 2004 Notarial Rules by notarizing the DREM without requiring the presentation of competent evidence of identity.
2. ****Due Diligence****: Whether Brillantes exercised the necessary due diligence in verifying

the identities of the signatories.

3. **Fabrication Allegations**: Whether the allegation that Brillantes allowed or participated in the forgery and misrepresentation was substantiated.
4. **Code of Professional Responsibility (CPR) Violations**: Whether Brillantes violated specific rules under the CPR, such as engaging in dishonest behaviors or failing in his notarial duties.

Court's Decision:

1. **Competent Evidence of Identity**: The Court held that Brillantes failed to comply with the 2004 Notarial Rules requiring competent evidence of identity, as he relied on CTCs and IDs from private entities that did not meet the criteria laid out in Section 12.
2. **Due Diligence**: The Court found Brillantes failed to exercise due diligence. Had he required official documents bearing photos and signatures or credible witness affirmation not privy to the transaction, the fraud could have been detected.
3. **Fabrication Allegations**: While the complainants' signatures in the Extrajudicial Settlement of Estate and DREM appeared similar, the Court focused on Brillantes' reliance on invalid documents and the absence of proper verification of identities.
4. **CPR Violations**: The Court acknowledged the CPR breaches due to Brillantes' failure to adhere to the notarial rules, which constituted a lack of candor and fairness (Rule 1.01, Canon 1; Rule 10.01, Canon 10).

Doctrine:

- **Notarization Requirements**: A notary public must ensure the signatory appears before them and provide competent proof of identity. The identification must be from an official agency with the individual's photograph and signature.
- **Violation of Notarial Rules**: Any breach of notarial commission duties that jeopardizes public trust in notarized documents is a serious offense that also reflects on overall professional responsibility.
- **Legal Ethics and Due Diligence**: Lawyers must exercise diligence and strictly adhere to procedural duties to avoid facilitating fraud.

Class Notes:

- **Essentials in Notarial Rules**: Notarization requires personal appearance and

competent identity proof.

- **Lawyer's Ethics**: Upheaval of legal integrity and avoidance of any acts of misrepresentation.
- **Competent Evidence of Identity Includes**: Government-issued IDs like passport, driver's license, PRC ID.
- **Sanctions for Violations**: Include suspension from practice, disqualification from notarial duties, and revocation of notarial commission.

Historical Background:

The 2004 Rules on Notarial Practice were enacted to solidify the integrity of notarized documents, ensuring greater security and preventing fraudulent transactions. This case represents a clear application and enforcement of these rules to maintain public trust in legal processes and document authenticity.

This brief highlights the interplay between regulatory adherence and ethical law practice, reflecting ongoing judicial efforts to curb misconduct within the legal profession.