

Title: Maligsa v. Cabanting (Disbarment for Notarial Misconduct)

Facts:

In the matter at hand, Atty. Arsenio Fer Cabanting faces a disbarment complaint, filed by Romana R. Maligsa. The complaint stems from allegations that Atty. Cabanting unlawfully notarized a Deed of Quitclaim on May 5, 1992, concerning a piece of property in a pending civil case in the Regional Trial Court, Branch 45, Urdaneta, Pangasinan, identified as Civil Case No. U-5434. Upon reviewing the complaint, the Supreme Court instructed Atty. Cabanting to provide a formal response on March 11, 1996. Despite the service of the Resolution and the complaint, Atty. Cabanting did not respond.

On October 22, 1996, the Supreme Court deemed his non-reply as a waiver of his right to respond and advanced the case to judgment. The primary evidence supporting disciplinary action involved the notarization of a Deed of Quitclaim, allegedly signed by Irene Maligsa, in favor of Juanito V. Abaoag. The Deed was meant to serve as evidence in a civil case challenging the annulment of OCT No. P-31297, the quieting of title, with additional claims for a preliminary injunction or temporary restraining order and damages.

Romana R. Maligsa asserted that it was impossible for the Deed to have been drafted and notarized by Atty. Cabanting as Irene Maligsa passed away on April 21, 1992, 16 days before the purported notarization. Furthermore, Irene Maligsa was illiterate and used her thumb mark for transactions, making it implausible for her to have signed the document.

Legal procedures necessitate a person acknowledging a document to appear before a notary public or an authorized officer who will verify the signer's identity and willingness to undertake the act freely.

Given the timeline of the death of Irene Maligsa, the notarization by Atty. Cabanting on May 5, 1992, was deemed fictitious as she could not have been present or acknowledged the document before the notary public.

Moreover, this was not Atty. Cabanting's first ethical violation. In previous cases (*Valencia v. Cabanting*), he faced a six-month suspension for purchasing a client's property under pending litigation, contravening ethical standards.

Issues:

1. Did Atty. Arsenio Fer Cabanting indulge in unethical behavior by notarizing a document in violation of his duties as a lawyer and notary public?

2. Does the misconduct described warrant disbarment from the legal practice?

Court's Decision:

The Supreme Court found substantial evidence of severe ethical misconduct by Atty. Cabanting. By notarizing a document posthumously attributed to Irene Maligsa, Atty. Cabanting significantly blighted the legal profession. The document's notarization was fictitious, demonstrating a blatant disregard for the solemn responsibilities of a notary public.

1. On the first issue, the Court determined that Atty. Cabanting breached legal ethics by falsely certifying the Deed, ignoring death records indicating Irene Maligsa's demise prior to notarization.
2. On the second issue, the grave nature of the misconduct justified disbarment, considering his previous suspension and warning from the Court.

Doctrine:

The Court reiterated the ethical obligation of a lawyer and notary public to uphold the integrity of legal documents and processes. Notarization is a public trust that mandates personal oversight and confirmation of document signers. Any misrepresentation or falsification gravely impacts public confidence in the legal system and are serious offenses warranting severe penalties, including disbarment.

Class Notes:

- A notary public must require the personal appearance of the signatory involved in a document.
- Verifying the identity and capability of the signor is critical.
- Ethical breaches in notarization can lead to both suspension and disbarment.
- A lawyer's prior misconduct increases the severity of penalties imposed for future violations.

Historical Background:

The Maligsa v. Cabanting case arises in a context where legal ethics were critically examined due to ongoing issues with notarial misconduct. The legal framework in the Philippines stresses integrity and ethical standards among legal practitioners to maintain public confidence, with this case serving as an illustrative precedent to uphold stringent conduct among attorneys, particularly focusing on the responsibilities tied to notarial functions.