

FLORA C. MARIANO PETITIONER, VS. ATTY. ANSELMO ECHANEZ, RESPONDENT.

A.C. No. 10373 [Formerly CBD Case No. 08-2280]. May 31, 2016

Ponente: PERALTA, J.

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PERALTA, J.:

Before us is a Complaint Affidavit for Disbarment dated August 25, 2008[1] filed by Flora C. Mariano (Mariano) against respondent Atty. Anselmo Echanez (Atty. Echanez), for violation of the Notarial Law by performing notarial acts on documents without a notarial commission.

In support of her complaint, Mariano attached several documents to show proof that Atty. Echanez has indeed performed notarial acts without a notarial commission, to wit: (1) Complaint dated June 18, 2007;[2] (2) Joint-Affidavit of Gina Pimentel and Marilyn Cayaban dated May 8, 2008;[3] (3) Affidavit of Ginalyn Ancheta dated May 8, 2008;[4] and (4) Joint-Affidavit dated May 8, 2008.[5] Also attached to the complaint is a document containing the list of those who were issued notarial commissions for the year 2006-2007 signed by Executive Judge Efren Cacatian of the Regional Trial Court of Santiago City where Atty. Echanez's name was not included as duly appointed notary public.[6]

The Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) ordered Atty. Echanez to submit his answer to the complaint against him.[7]

Atty. Echanez moved for extension to file his Answer but nevertheless failed to submit his Answer. Thus, the IBP-CBD, deemed Atty. Echanez to be in default.[8]

On July 24, 2009, during the mandatory conference, only Mariano appeared. The IBP-CBD directed the parties to submit their position papers but again only Mariano submitted her verified position paper.

In her position paper, Mariano maintained that Atty. Echanez is unauthorized to perform notarial services. To support her allegation, Mariano submitted the Certificate of Lack of Authority for a Notarial Act issued by Executive Judge Anastacio D. Anghad showing that Atty. Echanez has not been commissioned as a notary public for and within the jurisdiction of the RTC, Santiago City[9] at the time of the unauthorized notarization on May 8, 2008.[10] Mariano likewise attached a Certification issued by Executive Judge Efren M. Cacatian, RTC, Santiago City enumerating those lawyers who have been commissioned as notary public within and for the territorial jurisdiction of the RTC of Santiago City for the term of 2007-2008, which does not include Atty. Echanez's name.[11]

On May 14, 2011, the Board of Governors of the Integrated Bar of the Philippines issued a Resolution No. XIX-2011-273 remanding the case to the investigating commissioner to refer the documents to the clerk of court of the Regional Trial Court of Isabela who issued Atty. Echanez's notarial commission for proper verification.[12]

In its Report and Recommendation,[13] the IBP-CBD found Atty. Echanez liable for malpractice for notarizing documents without a notarial commission. The IBP-CBD further noted that Atty. Echanez ignored the processes

of the Commission by failing to file an answer on the complaint, thus, it recommended that Atty. Echanez be suspended from the practice of law for two (2) years and that he be permanently barred from being commissioned as notary public.

In a Notice of Resolution No. XX-2013-850 dated June 22, 2013,[14] the IBP- Board of Governors adopted and approved in toto the Report and Recommendation of the IBP-CBD.

No motion for reconsideration has been filed by either party.

RULING

We concur with the findings and the recommended penalty of the IBP-CBD.

Time and again, this Court has stressed that notarization is not an empty, meaningless and routine act. It is invested with substantive public interest that only those who are qualified or authorized may act as notaries public. It must be emphasized that the act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity. A notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties.[15]

In the instant case, it is undisputable that Atty. Echanez performed notarial acts on several documents without a valid notarial commission.[16] The fact of his lack of notarial commission at the time of the unauthorized notarizations was likewise sufficiently established by the certifications issued by the Executive Judges in the territory where Atty. Echanez performed the unauthorized notarial acts.[17]

Atty. Echanez, for misrepresenting in the said documents that he was a notary public for and in Cordon, Isabela, when it is apparent and, in fact, uncontroverted that he was not, he further committed a form of falsehood which is undoubtedly anathema to the lawyer's oath. This transgression also runs afoul of Rule 1.01, Canon 1 of the Code of Professional Responsibility which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."[18]

In a number of cases, the Court has subjected lawyers to disciplinary action for notarizing documents outside their territorial jurisdiction or with an expired commission. In the case of *Nunga v. Viray*,[19] a lawyer was suspended by the Court for three (3) years for notarizing an instrument without a commission. In *Zoreta v. Simpliciano*,[20] the respondent was likewise suspended from the practice of law for a period of two (2) years and was permanently barred from being commissioned as a notary public for notarizing several documents after the expiration of his commission. In the more recent case of *Laquindanum v. Quintana*,[21] the Court suspended a lawyer for six (6) months and was disqualified from being commissioned as notary public for a period of two (2) years because he notarized documents outside the area of his commission, and with an expired commission.[22]

Likewise, Atty. Echanez' conduct in the course of proceedings before the IBP is also a matter of concern. Atty. Echanez, despite notices, did not even attempt to present any defense on the complaint against him. He did not even attend the mandatory conference set by the IBP. He ignored the IBP's directive to file his answer and position paper which resulted in the years of delay in the resolution of this case. Clearly, this conduct runs counter to the precepts of the Code of Professional Responsibility and violates the lawyers oath which imposes upon every member of the Bar the duty to delay no man for money or malice.

In *Ngayan v. Tugade*,[23] we ruled that [a lawyer's] failure to answer the complaint against him and his failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his despicency for his oath of office in violation of Section 3, Rule 138 of the Rules of Court.

Atty. Echanez's failure to attend the mandatory conference and to submit his Answer and Position paper without any valid explanation is enough reason to make him administratively liable since he is duty-bound to comply with all the lawful directives of the IBP, not only because he is a member thereof but more so because IBP is the Court-designated investigator of this case.[24] As an officer of the Court, Atty. Echanez is expected to know that a resolution of this Court is not a mere request but an order which should be complied with promptly and completely. This is also true of the orders of the IBP.[25]

WHEREFORE, respondent Atty. Anselmo S. Echanez is hereby SUSPENDED from the practice of law for two (2) years and BARRED PERMANENTLY from being commissioned as Notary Public, effective upon his receipt of a copy of this decision with a stern warning that a repetition of the same shall be dealt with severely.

Let copies of this decision be furnished all the courts of the land through the Office of the Court Administrator, the Integrated Bar of the Philippines, the Office of the Bar Confidant, and be recorded in the personal files of the respondent.

SO ORDERED.

Sereno, C. J., Carpio, Velasco, Jr., Brion, Bersamin, Del Castillo, Perez, Mendoza, Reyes, Leonen, and Caguioa, JJ., concur.

Leonardo-De Castro, and Perlas-Bernabe, JJ., on official business.

Jardeleza, J., on official leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on May 31, 2016 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on July 20, 2016 at 10:45 a.m.

Very truly yours,
(SGD)FELIPA G. BORLONGAN-ANAMA
Clerk of Court

[1] Rollo, pp. 2-3.

[2] Id. at 9-13.

[3] Id. at 14-15.

[4] Id. at 17-18.

[5] Id. at 19-20.

[6] Id. at 6.

[7] Id. at 21.

[8] Id. at 22-23.

[9] Includes the Municipalities of Cordon, Ramon and San Isidro.

[10] Rollo, p. 62.

[11] Id. at 67.

[12] Id. at 68.

[13] Id. at 72-75.

[14] Id. at 71.

[15] St. Louis University Laboratory High School (SLU-LHS) Faculty and Staff v. Dela Cruz, 531 Phil. 213, 226 (2006); Zaballero v. Montalvan, 473 Phil. 18, 24 (2004).

[16] Supra notes 2-5.

[17] Supra notes 6 and 9.

[18] Almazan v. Felipe, A.C. No. 7184, September 17, 2014, 735 SCRA 230.

[19] 366 Phil. 155, 161 (1999).

[20] 485 Phil. 395 (2004).

[21] 608 Phil. 727 (2009).

[22] A.M. No. 09-6-1-SC, January 21, 2015 - RE: VIOLATION OF RULES ON NOTARIAL PRACTICE.

[23] 271 Phil. 654 (1991).

[24] Vecino v. Ortiz, 579 Phil. 14, 17 (2008).

[25] Gone v. Ga, A.C. No. 7771, 662 Phil. 610, 617 (2011).

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