

RODOLFO L. ORENIA III, COMPLAINANT, VS. ATTY. ROMEO S. GONZALES, RESPONDENT.*A.C. No. 12766 (Formerly CBD Case No. 12-3589). October 07, 2020*

Ponente: INTING, J.

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For the Court's consideration is the Resolution[1] dated May 28, 2019 of the Integrated Bar of the Philippines (IBP) Board of Governors which resolved to grant respondent Atty. Romeo S. Gonzales' (Atty. Gonzales) Motion for Partial Reconsideration[2] of the IBP Board of Governors' Resolution No. XXII-2016-414[3] dated August 26, 2016. The IBP Board of Governors reconsidered and deleted the six-month suspension from the practice of law imposed against Atty. Gonzales, but affirmed the immediate revocation of his notarial commission, and disqualified him from being commissioned as a notary public for two years.

The Antecedents

Atty. Gonzales was the counsel of a certain Domingo C. Reyes (Mr. Reyes), one of the owners of Anaped Estate, Inc. (Anaped). Through Atty. Gonzales, Mr. Reyes and his siblings filed a criminal complaint for Falsification of Public Document and Use of Falsified Documents[4] against one Rodrigo C. Reyes and a certain Emerencia R. Gungab,[5] the employers of Rodolfo L. Orenia III (complainant).

In return, complainant tiled a Complaint Affidavit[6] for Estafa through Falsification of Public Document (counter-complaint) against Mr. Reyes, his siblings, and Atty. Gonzales. Pending resolution by the prosecutor's office of the complainant's counter-complaint, complainant filed the instant administrative case[7] for Disbarment against Atty. Gonzales.

Complainant alleged the following:

On December 28, 1998, Atty. Gonzales notarized a Deed of Sale executed by one Antonio A. Guanzon. The document was recorded in Atty. Gonzales' notarial registry as Doc. No. 305; Page No. 62; Book No. 10; Series of 1998, and certified by the Office of the Clerk of Court, Regional Trial Court (RTC), Quezon City.[8] On December 29, 1998, Atty. Gonzales notarized another document called Director's Certificate,[9] and was assigned the same notarial details as the Deed of Sale he notarized the day prior. Atty. Gonzales failed to record the Director's Certificate in his notarial register.

Complainant averred that in addition to Atty. Gonzales' failure to record the Director's Certificate in his notarial register, he also participated in its falsification because the Director's Certificate was never authorized by the Anaped's Board of Directors. He further averred that the parties to the purported Director's Certificate could not have personally signed and executed the certificate in the presence of Atty. Gonzales. According to the complainant, Atty. Gonzales also misrepresented himself as the Corporate Secretary of Anaped when he signed the minutes of the meeting dated March 24, 2006.[10]

Lastly, complainant accused Atty. Gonzales of being liable for conduct unbecoming a lawyer because Atty.

Gonzales attempted to hit him and told him the following: "ulol ka" during the preliminary investigation of the counter-complaint he filed. This prompted him to file the instant case for disbarment against Atty. Gonzales with the IBP- Commission on Bar Discipline (CBD).[11]

On October 22, 2012, Atty. Gonzales filed his Answer[12] admitting that he indeed failed to record the Director's Certificate in his notarial register due to the inadvertence of his former secretary. Atty. Gonzales denied the other allegations against him, and claimed that the disbarment case was a harassment suit to force him to drop the cases he was handling against the complainant's employers.

On April 10, 2013, Atty. Gonzales submitted his Respondent's Conference Brief.[13]

On January 30, 2014, Atty. Gonzales filed an Omnibus Motion[14] praying for the dismissal of the complaint against him on the ground of the complainant's failure to file his conference brief. Atty. Gonzales also submitted an undated Affidavit of Undertaking[15] purportedly executed by the complainant which contained a commitment by the latter to provide information against his employers, and to cause the dismissal of the instant disbarment case in exchange for money.

On February 7, 2014, the IBP CBD issued another Notice of Mandatory Conference[16] scheduled on March 5, 2014. During the mandatory conference, only Atty. Gonzales appeared.[17] The Investigating Commissioner then terminated the mandatory conference, and issued an Order[18] directing the parties to submit their respective Position Papers.

On March 27, 2014, Atty. Gonzales filed his Respondent's Position Paper.[19] He reiterated his defense that his failure to record the Director's Certificate in his notarial register, and to assign a different document number to the instrument was due to the inadvertence of his former secretary. He also reiterated that complainant executed an Affidavit of Undertaking offering to dismiss the instant case and provide information against his employers. Still, complainant did not submit his Position Paper.

Recommendation of the IBP Investigating Commissioner

In the Report and Recommendation[20] dated August 11, 2015, Investigating Commissioner Almira A. Abella-Orfanel recommended for the dismissal of the complaint against Atty. Gonzales for lack of merit.[21]

Recommendation of the IBP Board of Governors

In the Resolution No. XXII-2016-414[22] dated August 26, 2016, the IBP Board of Governors reversed the recommendation of Investigating Commissioner Almira A. Abella-Orfanel, and recommended that Atty. Gonzales be placed under a six month suspension from the practice of law. Additionally, it disqualified Atty. Gonzales from being commissioned as a rotary public with revocation of his current notarial commission.

Aggrieved, Atty. Gonzales moved for the reconsideration of the IBP Board of Governors' Resolution No. XXII-2016-414.

On May 28, 2019, the IBP Board of Governors passed a Resolution[23] which granted Atty. Gonzales' Motion for Partial Reconsideration[24] of the August 26, 2016 Resolution No. XXII-2016-414. It deleted Atty. Gonzales' six-month suspension from the practice of law, but imposed against him the immediate revocation of his notarial commission, and the disqualification of his commission as a notary public for two years.[25]

The Ruling of the Court

The Court adopts the findings of the IBP Board of Governors, but modifies the penalty it recommended.

Time and again, the Court has stressed that the duties of a notary public are dictated by public policy. As such, a

notary public is mandated to discharge with fidelity the duties of his office.[26] Having taken a solemn oath under the Code of Professional Responsibility, a lawyer commissioned as a notary public has a responsibility to faithfully observe the rules governing notarial practice.[27]

In keeping with the faithful observance of his duties, a notary public shall keep, maintain, protect and provide for lawful inspection, a chronological official notarial register of notarial acts consisting of a permanently bound book with numbered pages.[28] Section 2, Rule VI of the Notarial Rules requires that every notarial act must be registered in the notarial register, viz.:

SEC. 2. Entries in the Notarial Register. — (a) For every notarial act, the notary shall record in the notarial register at the time of notarization the following:

(1)

the entry number and page number;

(2)

the date and time of day of the notarial act;

(3)

the type of notarial act;

(4)

the title or description of the instrument, document or proceeding;

(5)

the name and address of each principal;

(6)

the competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;

(7)

the name and address of each credible witness swearing to or affirming the person's identity;

(8)

the fee charged for the notarial act;

(9)

the address where the notarization was performed if not in the notary's regular place of work or business; and

(10)

any other circumstance the notary public may deem of significance or relevance.

Here, Atty. Gonzales readily admitted that he failed to record the Director's Certificate in his notarial register. Moreover, he admitted that he failed to provide the instrument with different notarial details and assigned it with the same entries as the Deed of Sale he notarized the day prior, viz.: "Document No. 305; Page No. 62; Book No. X; Series of 1998."

As an excuse, Atty. Gonzales attributes to his former secretary the negligent assignment of erroneous notarial details on the Director's Certificate, and the failure to record the instrument in the notarial register.

It is well-settled that failure to make entry in the notary public's notarial register concerning his notarial acts violates his duty under the Code of Professional Responsibility to uphold and obey the laws of the land and to promote respect for law and legal processes. Moreover, Atty. Gonzales' delegation to his former secretary of his notarial function of recording entries in his notarial register is a clear contravention of the explicit provision of the notarial rules that such duty must be fulfilled by the notary public himself and not by anyone else. This is a direct violation of Rule 9.01, Canon 9 of the Code of Professional Responsibility which provides that:

Rule 9.01 — A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Being the one charged by law to record in the notarial register the necessary information regarding documents or instruments being notarized, Atty. Gonzales cannot evade liability by passing the negligence to his former secretary and invoke good faith. Failure to enter a notarial act in one's notarial register and the assignment of erroneous notarial details in a notarized instrument constitute dereliction of a notary public's duties which warrants the revocation of a lawyer's commission as a notary public.[29] Section 1 (b)(2), Rule XI of the 2004 Rules on Notarial Practice is explicit:

RULE XI REVOCATION OF COMMISSION AND DISCIPLINARY SANCTIONS

SECTION 1. Revocation and Administrative Sanctions. —

x x x x

(b) In addition, the Executive Judge may revoke the commission of, or impose appropriate administrative sanctions upon any notary public who:

x x x x

(2) fails to make the proper entry or entries in his notarial register concerning his notarial acts;

The Court reminds Atty. Gonzales that a notary public must observe the highest degree of compliance with the basic requirements of notarial practice in order to preserve public confidence in the integrity of the notarial system.[30] The notarization of public documents is vested with substantive public interest. Courts, administrative agencies, and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument. Atty. Gonzales' failure to strictly comply with the rules on notarial practice seriously undermines the dependability and efficacy of notarized documents.

Jurisprudence provides that a notary public who fails to discharge his duties as such is meted out the following penalties: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law—the terms of which vary based on the circumstances of each case.[31]

Under the circumstances, the Court finds the revocation of Atty. Gonzales' notarial commission, disqualification of his notarial commission for one (1) year, and suspension from the practice of law for three (3) months appropriate.

As for the complainant's other allegations that Atty. Gonzales misrepresented himself, falsified the Director's Certificate, and attempted to hit him while uttering the words "ulol ka", the IBP Board of Governors correctly

brushed them aside. Notably, complainant did not adduce any evidence or document in support of his allegations against Atty. Gonzales. Moreover, from the time complainant filed his Complaint, he did not anymore participate in the subsequent proceedings of the case despite being ordered to do so to substantiate his allegations. Thus, there is no means for the Court to deliberate and decide upon the issues.

WHEREFORE, the notarial commission of respondent Atty. Romeo S. Gonzales, if still existing, is hereby REVOKED; and he is DISQUALIFIED from being commissioned as notary public for a period of one (1) year. He is also SUSPENDED from the practice of law for three (3) months effective immediately with a WARNING that the repetition of a similar violation will be dealt with more severely. He is DIRECTED to report the date of his receipt of this Decision to enable the Court to determine when his suspension shall take effect.

Let a copy of this Decision be entered in the personal records of respondent Atty. Romeo S. Gonzales as a member of the bar, and copy furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Perlas-Bernabe, S.A.J., (Chairperson), Hernando, and Delos Santos, JJ., concur.
Baltazar-Padilla, J., on leave.

[1] Rollo, p. 132.

[2] Id. at 125-128.

[3] Id. at 110-111.

[4] See Information dated November 12, 2002 in Criminal Case No. 90256 filed with Metropolitan Trial Court, City of Mandaluyong, id. at 39.

[5] Also referred to as Emerenciana R. Gungab in some parts of the rollo.

[6] Rollo, pp. 9-14.

[7] Id. at 1-5.

[8] See Certification dated July 19, 2012 of the Office of the Clerk of Court, Regional Trial Court, Quezon City, id. at 8.

[9] Id. at 6.

[10] See Minutes of the Directors' Meeting by the President of Anaped Estate, Inc., id. at 25-26.

[11] Id. at 4, 27-28, 113.

[12] Id. at 32-37.

[13] Id. at 49-50

[14] Id. at 51-53.

[15] Id. at 61-62.

[16] Id. at 65.

[17] See Minutes of the Hearing dated March 5, 2014, id. at 66.

[18] Id. at 67; issued by Integrated Bar of the Philippines-Commission on Bar Discipline Commissioner Almira A. Abella-Orfanel.

[19] Id. at 68-75.

[20] Id. at 112-115.

[21] Id. at 115.

[22] Id. at 110-111.

[23] Id. at 132.

[24] Id. at 125-128.

[25] Id.

[26] See *Roa-Buenafe v. Atty. Lirazan*, A.C. No. 9361, March 20, 2019; see also *Agbulos v. Viray*, 704 Phil. 1, 9 (2013).

[27] Id.

[28] Section 1, 2004 Rules on Notarial Practice.

[29] Id.

[30] *Roa-Buenafe v. Atty. Lirazan*, supra note 26, citing *Heirs of Pedro Atilano v. Atty. Examen*, 756 Phil. 608 (2015).

[31] *Bakidol v. Atty. Bilog*, AC No. 11174, June 10, 2019, citing *Sappayani v. Gasmen*, 768 Phil. 1, 9 (2015).

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