

VICTOR NUNGA, COMPLAINANT, VS. ATTY. VENANCIO VIRAY, RESPONDENT.

A.C. No. 4758. April 30, 1999

Ponente: DAVIDE, JR., C.J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/a-c-no-4758/>

DAVIDE, JR., C.J.:

In his complaint, Victor Nunga seeks the disbarment of respondent Venancio Viray on the ground of grave misconduct for notarizing documents without a commission to do so. After issues were joined, the Integrated Bar of the Philippines conducted an investigation.

The Investigating Commissioner was Atty. Lydia A. Navarro. Report dated 4 August 1998 reads as follows:

Victor D. Nunga, president of the Masantol Rural Bank filed a complaint for disbarment against Atty. Venancio M. Viray on the ground of gross and serious misconduct for notarizing documents when he was not commissioned to do so at the time the said documents were executed.

Complainant alleged that in May 1996, he was appointed by the board of directors of Masantol Rural Bank after his father's resignation as its president.

A few month[] thereafter, he allegedly discovered that one of the bank's assets consisting of 250 square meters house and lot in Kalookan City was sold without proper bidding by its manager Jesus B. Manansala to Jesus Carlo Gerard M. Viray, a minor born February 2, 1969 during the transaction on May 22, 1987. The deed of absolute sale was notarized by the respondent who is not only the father of the buyer minor but also a stockholder and legal counsel of the vendor bank and was not duly commissioned as notary public as of that date.

Complainant further alleged that the said minor vendee wasn't capable to buy the said property at its value of FOUR HUNDRED THOUSAND PESOS (P400,000.00) but his parents Atty. and Mrs. Venancio Viray, respondent herein [sic]. Being a minor he must [have been] represented by a guardian in the said transaction. After the title was allegedly issued in the name of the minor vendee Jesus Carlo [M.] Viray, the same title was allegedly used by Respondent and his wife in mortgaging the property to Crown Savings and Loan Association for THREE HUNDRED THOUSAND PESOS (P300,000.00) on July 15, 1991 both by virtue of Special Powers of Attorney annotated at the back of the TCT No. 362813 PR 9907. The annotation of the cancellation of the THREE HUNDRED THOUSAND PESOS (P300,000.00) loan in ... favor of Crown Savings and Loan Association under entry number 1226 was allegedly entered in the notarial registry of the Respondent for 1991 when he wasn't commissioned as notary public.

The aforesaid acts of Respondent allegedly constitute not only unprofessional and unethical misconduct unbecoming of a lawyer but also gross and serious malpractice which justifies disbarment.

Respondent for his part alleged in his comment that complainant holds no position at the Masantol Rural Bank Inc. [i]n 1987 and 1997, but is facing criminal charges for having plundered the said bank of millions of pesos and [for] trespass to dwelling; while his father is facing a case before the Securities and Exchange Commission. The sale of the lot by the Masantol Rural Bank Inc. to his son was allegedly done in good faith

all the formalities required by law [were] properly complied with and the complaint from all indications is a leverage in persuading him into a possible compromise.

From 1965 to date Respondent alleged that he was always commissioned as notary public and the fact that Pampanga is under several feet of floodwaters, he could not annex all the needed documents to support the allegations. According to Respondent, there was no year in his practice of law that he was not commissioned as notary public. In fact, in the alleged documents he had PTR for that purpose [, and] he would not [have obtained] a commission without the PTR.

After going over the records of this case, the Undersigned noted that although both parties were required to submit their respective memorand[a], only complainant complied with the order.

Complainant submitted certification and the respective orders of the Clerk of Court and presiding judges ... in support of his contention, and previous certification issued by the Clerk of Court of Pampanga to the effect that Respondent Atty. Venancio Viray had been commissioned to act as notary public for the said province on January 2, 1981 to December 31, 1982; January 10, 1983 to December 31, 1984; and January 8, 1995 to December 31, 1996 and had no record of any notarial reports. These therefore negate respondent's allegation that he [has been] commissioned as notary public since 1965 to the present.

Complainant likewise submitted a copy of the Resolution which dismissed the cases filed against the Complainant and his father and the xerox copy of the TCT No. 362813 PR 9907 where the special power of attorney and the annotations for the cancellation of mortgage showed inscription of the same in the notarial register of Venancio Viray on June 4, 1991. Nowhere from the records and evidence[] submitted was there any proof that Respondent was commissioned as notary public in 1987 and 1991, the years the Absolute Deed of Sale was notarized by Respondent as appearing to be May 22, 1987 and the inscription for cancellation of mortgage on the dorsal side of TCT 362813 as June 4, 1991 [sic].

The respondent's contention that he had a PTR for all the documents he prepared is only an indication that the Professional Tax Receipt is a license for him to engage in the practice of his profession as a lawyer but not a commission for him to act as notary public.

Inasmuch as Respondent was not able to counteract the averments of Complainant which were duly supported with evidence[], it is apparent that Respondent violated the provisions of the notarial law by having affixed his official signatures to the aforesaid documents with the intent to impart the appearance of notarial authenticity thereto when ... in fact as of those dates 1987 and 1991 he was not commissioned as notary public.

In view of the foregoing, it is respectfully recommended that if Respondent is presently commissioned as notary public, the same should be revoked, and [he should] not be granted any commission as notary public up to December 31, 2002.

On 5 November 1998, the Board of Governors of the Integrated Bar promulgated Resolution No. XIII-98-196 adopting the Report of the Investigating Commissioner and recommending that respondent's commission as a notary public be revoked and that respondent be suspended from the practice of law for three months.

We concur with the finding of the Investigating Commissioner that respondent Atty. Venancio Viray did not have a commission as notary public in 1987 and 1991 when he notarized the assailed documents. Respondent knew that he could not exercise the powers or perform the duties of a notary public unless he was duly appointed as such pursuant to the Notarial Law (Chapter 11, Title IV, Book I, Revised Administrative Code). He tried to impress upon the investigating commissioner that since "1965 to date" he has always been commissioned as a notary public. Yet, he was unable to rebut complainant's evidence that he was not so commissioned for the years in question.

We have emphatically stressed that notarization is not an empty, meaningless, routinary act. It is invested with

substantive public interest, such that only those who are qualified or authorized may act as notaries public. The protection of that interest necessarily requires that those not qualified or authorized to act must be prevented from imposing upon the public, the courts, and the administrative offices in general. It must be underscored that the notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of the authenticity thereof. A notarial document is by law entitled to full faith and credit upon its face. For this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties. (*Maligsa v. Cabanting*, 272 SCRA 408, 413 [1997]; *Arrieta v. Llosa*, 282 SCRA 248, 252-253 [1997]).

Where the notarization of a document is done by a member of the Philippine Bar at a time when he has no authorization or commission to do so, the offender may be subjected to disciplinary action. For one, performing a notarial without such commission is a violation of the lawyer's oath to obey the laws, more specifically, the Notarial Law. Then, too, by making it appear that he is duly commissioned when he is not, he is, for all legal intents and purposes, indulging in deliberate falsehood, which the lawyer's oath similarly proscribes. These violations fall squarely within the prohibition of Rule 1.01 of Canon 1 of the Code of Professional Responsibility, which provides: "A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

By such misconduct as a notary public, the lawyer likewise violates Canon 7 of the same Code, which directs every lawyer to uphold at all times the integrity and dignity of the legal profession. Elaborating on this, we said in *Maligsa v. Cabanting* (*supra*):

A lawyer brings honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients. To this end a member of the legal fraternity should refrain from doing any act which might lessen in any degree the confidence and trust reposed by the public in the fidelity, honesty and integrity of the legal profession. (Citing *Marcelo v. Javier*, 214 SCRA 1 [1992]).

What aggravated respondent's unlawful notarization in 1987 was the fact that the transaction involved was in favor of his son, who was then only eighteen years old and, therefore, a minor. Under Article 402 of the Civil Code, which was the governing law as of 22 May 1987 when the said transaction was made, the age of majority was twenty-one years. Republic Act No. 6809, which reduced the age of majority to eighteen years was approved only on 13 December 1989 and became effective two weeks after publication in two newspapers of general circulation.

Needless to state, respondent cannot escape from disciplinary action in his capacity as a notary public and as a member of the Philippine Bar.

However, the penalty recommended by the Board of Governors of the Integrated Bar of the Philippines is too light. Respondent must be barred from being commissioned as a notary public for three (3) years, and suspended from the practice of law for also three (3) years.

WHEREFORE, the Court hereby adopts the findings and conclusions of Investigating Commissioner Lydia A. Navarro, which the Board of Governors of the Integrated Bar of the Philippines adopted and approved, but MODIFIES the penalty recommended by the said Board of Governors. As modified, respondent ATTY. VENANCIO VIRAY is hereby BARRED from being commissioned as notary public for THREE (3) years and his present commission, if any, is revoked, and SUSPENDED from the practice of law also for THREE (3) years, effective upon receipt of a copy of this Resolution.

SO ORDERED.

Romero, Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Quisumbing, Purisima, Pardo, Buena, Gonzaga-Reyes, and Ynares-Santiago, JJ., concur.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.