

FATHER RANHILIO C. AQUINO, LINA M. GARAN, ESTRELLA C. LOZADA, POLICARPIO L. MABBORANG, DEXTER R. MUNAR, MONICO U. TENEDRO, ANDY R. QUEBRAL, NESTOR T. RIVERA, EDUARDO C. RICAMORA...

A.C. NO. 5095. November 28, 2007

Ponente: SANDOVAL-GUTIERREZ, J.

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SANDOVAL-GUTIERREZ, J.:

For our resolution is the letter-complaint dated August 3, 1999 of Father Ranhilio C. Aquino, then Academic Head of the Philippine Judicial Academy, joined by Lina M. Garan and the other above-named complainants, against Atty. Edwin Pascua, a Notary Public in Cagayan.

In his letter-complaint, Father Aquino alleged that Atty. Pascua falsified two documents committed as follows:

- (1) He made it appear that he had notarized the “Affidavit-Complaint” of one Joseph B. Acorda entering the same as “Doc. No. 1213, Page No. 243, Book III, Series of 1998, dated December 10, 1998”.
- (2) He also made it appear that he had notarized the “Affidavit-Complaint” of one Remigio B. Domingo entering the same as “Doc. No. 1214, Page 243, Book III, Series of 1998, dated December 10, 1998.

Father Aquino further alleged that on June 23 and July 26, 1999, Atty. Angel Beltran, Clerk of Court, Regional Trial Court, Tuguegarao, certified that none of the above entries appear in the Notarial Register of Atty. Pascua; that the last entry therein was Document No. 1200 executed on December 28, 1998; and that, therefore, he could not have notarized Documents Nos. 1213 and 1214 on December 10, 1998.

In his comment on the letter-complaint dated September 4, 1999, Atty. Pascua admitted having notarized the two documents on December 10, 1998, but they were not entered in his Notarial Register due to the oversight of his legal secretary, Lyn Elsie C. Patli, whose affidavit was attached to his comment.

The affidavit-complaints referred to in the notarized documents were filed by Atty. Pascua with the Civil Service Commission. Impleaded as respondents therein were Lina M. Garan and the other above-named complainants. They filed with this Court a “Motion to Join the Complaint and Reply to Respondent’s Comment.” They maintain that Atty. Pascua’s omission was not due to inadvertence but a clear case of falsification.[1] On November 16, 1999, we granted their motion.[2]

Thereafter, we referred the case to the Office of the Bar Confidant for investigation, report and recommendation.

On April 21, 2003, the Office of the Bar Confidant issued its Report and Recommendation partly reproduced as follows:

A notarial document is by law entitled to full faith and credit upon its face. For this reason, notaries public must observe the utmost care to comply with the formalities and the basic requirement in the performance of their duties (*Realino v. Villamor*, 87 SCRA 318).

Under the notarial law, “the notary public shall enter in such register, in chronological order, the nature of each instrument executed, sworn to, or acknowledged before him, the person executing, swearing to, or acknowledging the instrument, xxx xxx. The notary shall give to each instrument executed, sworn to, or acknowledged before him a number corresponding to the one in his register, and shall also state on the instrument the page or pages of his register on which the same is recorded. No blank line shall be left between entries” (Sec. 246, Article V, Title IV, Chapter II of the Revised Administrative Code).

Failure of the notary to make the proper entry or entries in his notarial register touching his notarial acts in the manner required by law is a ground for revocation of his commission (Sec. 249, Article VI).

In the instant case, there is no question that the subject documents allegedly notarized by Atty. Pascua were not recorded in his notarial register.

Atty. Pascua claims that the omission was not intentional but due to oversight of his staff. Whichever is the case, Atty. Pascua cannot escape liability. His failure to enter into his notarial register the documents that he admittedly notarized is a dereliction of duty on his part as a notary public and he is bound by the acts of his staff.

The claim of Atty. Pascua that it was simple inadvertence is far from true.

The photocopy of his notarial register shows that the last entry which he notarized on December 28, 1998 is Document No. 1200 on Page 240. On the other hand, the two affidavit-complaints allegedly notarized on December 10, 1998 are Document Nos. 1213 and 1214, respectively, under Page No. 243, Book III. Thus, Fr. Ranhilio and the other complainants are, therefore, correct in maintaining that Atty. Pascua falsely assigned fictitious numbers to the questioned affidavit-complaints, a clear dishonesty on his part not only as a Notary Public, but also as a member of the Bar.

This is not to mention that the only supporting evidence of the claim of inadvertence by Atty. Pascua is the affidavit of his own secretary which is hardly credible since the latter cannot be considered a disinterested witness or party.

Noteworthy also is the fact that the questioned affidavit of Acorda (Doc. No. 1213) was submitted only when Domingo’s affidavit (Doc. No. 1214) was withdrawn in the administrative case filed by Atty. Pascua against Lina Garan, et al. with the CSC. This circumstance lends credence to the submission of herein complainants that Atty. Pascua ante-dated another affidavit-complaint making it appear as notarized on December 10, 1998 and entered as Document No. 1213. It may not be sheer coincidence then that both documents are dated December 10, 1998 and numbered as 1213 and 1214.

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 (*Maligsa v. Cabanting*, 272 SCRA 409).

As a lawyer commissioned to be a notary public, Atty. Pascua is mandated to subscribe to the sacred duties appertaining to his office, such duties being dictated by public policy and impressed with public interest.

A member of the Bar may be disciplined or disbarred for any misconduct in his professional or private capacity. The Court has invariably imposed a penalty for notaries public who were found guilty of dishonesty or misconduct in the performance of their duties.

In *Villarin v. Sabate, Jr.* (325 SCRA 123), respondent lawyer was suspended from his Commission as Notary Public for a period of one year for notarizing a document without affiants appearing before him, and for notarizing the same instrument of which he was one of the signatories. The Court held that respondent lawyer failed to exercise due diligence in upholding his duties as a notary public.

In *Arrieta v. Llosa* (282 SCRA 248), respondent lawyer who certified under oath a Deed of Absolute Sale

knowing that some of the vendors were dead was suspended from the practice of law for a period of six (6) months, with a warning that another infraction would be dealt with more severely. In said case, the Court did not impose the supreme penalty of disbarment, it being the respondent's first offense.

In *Maligsa v. Cabanting* (272 SCRA 409), respondent lawyer was disbarred from the practice of law, after being found guilty of notarizing a fictitious or spurious document. The Court considered the seriousness of the offense and his previous misconduct for which he was suspended for six months from the practice of law.

It appearing that this is the first offense of Atty. Pascua, a suspension from the practice of law for a period of six (6) months may be considered enough penalty for him as a lawyer. Considering that his offense is also a ground for revocation of notarial commission, the same should also be imposed upon him.

PREMISES CONSIDERED, it is most respectfully recommended that the notarial commission of Atty. EDWIN V. PASCUA, if still existing, be REVOKED and that he be SUSPENDED from the practice of law for a period of six (6) months.”[3]

After a close review of the records of this case, we resolve to adopt the findings of facts and conclusion of law by the Office of the Bar Confidant. We find Atty. Pascua guilty of misconduct in the performance of his duties for failing to register in his Notarial Register the affidavit-complaints of Joseph B. Acorda and Remigio B. Domingo.

“Misconduct” generally means wrongful, improper or unlawful conduct motivated by a premeditated, obstinate or intentional purpose.[4]The term, however, does not necessarily imply corruption or criminal intent.[5]

The penalty to be imposed for such act of misconduct committed by a lawyer is addressed to the sound discretion of the Court. In *Arrieta v. Llosa*,[6] wherein Atty. Joel A. Llosa notarized a Deed of Absolute Sale knowing that some of the vendors were already dead, this Court held that such wrongful act “constitutes misconduct” and thus imposed upon him the penalty of suspension from the practice of law for six months, this being his first administrative offense. Also, in *Vda. de Rosales v. Ramos*,[7] we revoked the notarial commission of Atty. Mario G. Ramos and suspended him from the practice of law for six months for violating the Notarial Law in not registering in his notarial book the Deed of Absolute Sale he notarized. In *Mondejar v. Rubia*,[8] however, a lesser penalty of one month suspension from the practice of law was imposed on Atty. Vivian G. Rubia for making a false declaration in the document she notarized.

In the present case, considering that this is Atty. Pascua's first offense, we believe that the imposition of a three-month suspension from the practice of law upon him is in order. Likewise, since his offense is a ground for revocation of notarial commission, the same should also be imposed upon him.

WHEREFORE, Atty. Edwin Pascua is declared GUILTY of misconduct and is SUSPENDED from the practice of law for three (3) months with a STERN WARNING that a repetition of the same or similar act will be dealt with more severely. His notarial commission, if still existing, is ordered REVOKED.

SO ORDERED.

Ynares-Santiago, Acting C.J., Carpio, Austria-Martinez, Corona, Carpio-Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, and Reyes, JJ., concur.
Puno, C.J., and Quisumbing, J., on official leave.

** Designated Acting Chief Justice per Special Order No. 478 dated November 23, 2007.

[1] Rollo, pp. 18-20.

[2]Id., p. 22.

[3] Records, pp. 34-38.

[4] Salazar v. Limeta, A.M. No. P-04-1908, August 16, 2005, 467 SCRA 27, citing Loyao, Jr. v. Caube, 402 SCRA 33 (April 30, 2003); Words and Phrases, Vol. 27, p. 466; Sewell v. Sharp, La App., 102 So 2d 259, 261.

[5] Salazar v. Limeta, id., citing State Ex Rel Asbaugh v. Bahr, 40 N.E. 2d 677, 680, 68 Ohio App. 308.

[6]A.C. No. 4369, November 28, 1997, 282 SCRA 248.

[7] Adm. Case No. 5645, July 2, 2002, 383 SCRA 498.

[8] A.C. Nos. 5907 and 5942, July 21, 2006, 496 SCRA 1.

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