

HEIRS OF THE LATE SPOUSES LUCAS AND FRANCISCA VILLANUEVA, COMPLAINANTS, VS. ATTY. SALUD P. BERADIO, RESPONDENT.

A.C. NO. 6270. January 22, 2007

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is a disbarment case against Atty. Salud P. Beradio (respondent), filed by the heirs of the late spouses Lucas and Francisca Villanueva (spouses Villanueva), namely: Ardenio M. Fonacier, Araceli M. Fonacier, Alano M. Fonacier, Eusebio M. Fonacier, Jr., Rolando V. Nazarro, Alejandro V. Nazarro, Margarita V. Collado, Felisa Collado, and Herminigildo Ylhi (complainants).

The Facts

During their lifetime, the spouses Villanueva acquired several parcels of land in Pangasinan, one of which was covered by Original Certificate of Title (OCT) No. 2522. Francisca died in 1968, and Lucas in 1974. Their five children, namely, Simeona, Susana, Maria, Alfonso, and Florencia, survived them.

On 22 May 1984, Alfonso executed an Affidavit of Adjudication^[1](affidavit of adjudication) stating that as “the only surviving son and sole heirs (sic)” of the spouses Villanueva, he was adjudicating to himself the parcel of land under OCT No. 2522. Alfonso then executed a Deed of Absolute Sale^[2] (deed of sale) on 5 July 1984, conveying the property to Adriano Villanueva. Respondent appeared as notary public on both the affidavit of adjudication and the deed of sale.

Contrary to the misrepresentations of Alfonso, his sister Florencia was still alive at the time he executed the affidavit of adjudication and the deed of sale, as were descendants of the other children of the spouses Villanueva. Complainants claimed that respondent was aware of this fact, as respondent had been their neighbor in Balungao, Pangasinan, from the time of their birth, and respondent constantly mingled with their family. Complainants accused respondent of knowing the “true facts and surrounding circumstances” regarding the properties of the spouses Villanueva, yet conspiring with Alfonso to deprive his co-heirs of their rightful shares in the property.

In a resolution dated 11 February 2004, this Court required respondent to comment on the complaint.

In her Comment,^[3] respondent admitted that she notarized the affidavit of adjudication and the deed of sale executed by Alfonso in 1984. However, respondent denied that she conspired with Alfonso to dispose of fraudulently the property. Respondent alleged that Alfonso executed the two documents under the following circumstances:

That the properties of the late spouses [Villanueva] have been divided equally among their compulsory heirs, but said old couple left for themselves one titled lot, the subject now of the complaint x x x That said titled property was the only property left by the old couple, to answer for their needs while they are still alive until their deaths x x x. Alfonso [and his wife] were tasked to take care of the old couple, as they were the ones

living in the same compound with their late parents. This fact was and is known by the other compulsory heirs, and they never questioned the said act of their parents, as they already had their own share on the estate of the late [spouses Villanueva]. This fact was also known to me because [Lucas] and [Alfonso] lived across the street from our house and I was requested to the house of the old man when he gave said title to [Alfonso and Tomasa, his wife]. The other compulsory heirs who were still alive at the time just made visits to their parents and never stayed in their old house to help in the care of their parents. Even [when] the parents died, it was [Alfonso and his wife] who took charge of the funeral and all other acts relative thereto.

x x x x

That said title remain[ed] in the custody of [Alfonso] and after the death of the old man, when the spouses Alfonso [and Tomasa] needed money to finance the schooling of their children, it was then that they thought of disposing the land x x x and said land was sold by them to one Adriano Villanueva of which in both documents, I notarized the same (sic).

x x x x

I can say with all clean and good intentions, that if ever I notarized said documents, it was done in good faith, to do my job as expected of me, to help, assist and to guide people who come to me for legal assistance, as contained in my oath as a lawyer when I passed the bar. x x x[4](Emphasis supplied)

According to respondent, the fact that none of Alfonso's co-heirs filed their objections at the time he executed the affidavit of adjudication proved that most of the properties of the spouses Villanueva had earlier been distributed to the other heirs. It also proved that the heirs had agreed to abide by the intention of the spouses Villanueva to leave the property to Alfonso. Respondent asserted that "the personal appearances and acknowledgment by the party to the document are the core of the ritual that effectively convert a private document into a public document x x x."

On 26 May 2004, we resolved to refer the complaint to the Integrated Bar of the Philippines (IBP), which designated Commissioner Leland R. Villadolid, Jr. (IBP Commissioner Villadolid) to investigate, and submit his report and recommendation on, the complaint.

The IBP's Findings

In his Report dated 16 September 2005, IBP Commissioner Villadolid found that respondent violated the provisions of the Code of Professional Responsibility and the spirit and intent of the notarial law when she notarized the affidavit knowing that Alfonso was not the sole compulsory heir of the spouses Villanueva. Although he found no evidence of fraudulent intent on respondent's part, IBP Commissioner Villadolid held that respondent "engaged in conduct that lessened confidence in the legal system." Thus, he recommended suspension of respondent's notarial commission for one year. He further recommended that respondent be reprimanded or suspended from the practice of law for up to six months.

The Court's Ruling

We sustain partly the IBP's findings and recommendations.

A notary public is empowered to perform a variety of notarial acts, most common of which are the acknowledgment and affirmation of a document or instrument. In the performance of such notarial acts, the notary public must be mindful of the significance of the notarial seal as affixed on a document. The notarial seal converts the document from private to public, after which it may be presented as evidence without need for proof of its genuineness and due execution.[5] Thus, notarization should not be treated as an empty, meaningless, or routinary act.[6] As early as *Panganiban v. Borromeo*,[7] we held that notaries public must inform themselves of the facts to

which they intend to certify and to take no part in illegal transactions. They must guard against any illegal or immoral arrangements.[8]On its face, Alfonso's affidavit does not appear to contain any "illegal or immoral" declaration. However, respondent herself admitted that she knew of the falsity of Alfonso's statement that he was the "sole heir" of the spouses Villanueva. Respondent therefore notarized a document while fully aware that it contained a material falsehood, i.e., Alfonso's assertion of status as sole heir. The affidavit of adjudication is premised on this very assertion. By this instrument, Alfonso claimed a portion of his parents' estate all to himself, to the exclusion of his co-heirs. Shortly afterwards, respondent notarized the deed of sale, knowing that the deed took basis from the unlawful affidavit of adjudication.

Respondent never disputed complainants' allegation of her close relationship with the Villanueva family spanning several decades. Respondent even underscored this closeness by claiming that Lucas himself requested her to come to his house the day Lucas handed to Alfonso a copy of OCT No. 2522, allegedly so she could hear the conversation between them.

Respondent claims she is not administratively liable because at the time Alfonso executed the affidavit, his co-heirs had already received their respective shares from the estate of the spouses Villanueva. However, we are not concerned here with the proper distribution of the spouses Villanueva's estates. Rather, respondent's liability springs from her failure to discharge properly her duties as a notary public and as a member of the bar.

Where admittedly the notary public has personal knowledge of a false statement or information contained in the instrument to be notarized, yet proceeds to affix his or her notarial seal on it, the Court must not hesitate to discipline the notary public accordingly as the circumstances of the case may dictate. Otherwise, the integrity and sanctity of the notarization process may be undermined and public confidence on notarial documents diminished. In this case, respondent's conduct amounted to a breach of Canon 1 of the Code of Professional Responsibility, which requires lawyers to obey the laws of the land and promote respect for the law and legal processes. Respondent also violated Rule 1.01 of the Code which proscribes lawyers from engaging in unlawful, dishonest, immoral, or deceitful conduct.

We also view with disfavor respondent's lack of candor before the IBP proceedings. The transcript of hearings shows that respondent denied preparing or notarizing the deed of sale,[9]when she already admitted having done so in her Comment.

WHEREFORE, for violation of Canon 1 and Rule 1.01 of the Code of Professional Responsibility, we REVOKE the commission of respondent Atty. Salud P. Beradio as Notary Public, if still existing, and DISQUALIFY her from being commissioned a notary public for one (1) year. We further SUSPEND respondent from the practice of law for six (6) months effective upon finality of this decision.

Let copies of this decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Quisumbing, (Chairman), Carpio-Morales, Tinga and Velasco, Jr., JJ., concur.

[1] Rollo, p. 9.

[2] Id. at 10.

[3] Id. at 13-18.

[4] Id.

[5] Sicat v. Ariola, Jr., A.C. No. 5864, 15 April 2005, 456 SCRA 93.

[6] Id.

[7] 58 Phil. 367 (1933).

[8] Dela Cruz v. Zabala, A.C. No. 6294, 17 November 2004, 442 SCRA 407.

[9] TSN, 9 November 2004, pp. 12-14, 21-24.

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