MARINA C. GONZALES, COMPLAINANT, VS. ATTY. CALIXTO B. RAMOS, RESPONDENT.

A.C. NO. 6649. June 21, 2005

Ponente: YNARES-SANTIAGO, J.

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YNARES-SANTIAGO, J.:

Notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. The notarization by a notary public converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full faith and credit upon its face. A notary public must observe with utmost care the basic requirements in the performance of their duties; otherwise, the public's confidence in the integrity of the document would be undermined.[1]

This is a complaint for disbarment filed by Marina C. Gonzales against Atty. Calixto B. Ramos because of the latter's alleged misconduct in notarizing a Deed of Absolute Sale involving the complainant. In her Affidavit-Complaint[2] filed before the Commission on Bar Discipline of the Integrated Bar of the Philippines, the complainant alleged that the respondent lawyer notarized a Deed of Sale on March 27, 1996,[3] where the complainant and her husband, Francisco T. Gonzales, allegedly sold in favor of the spouses Henry and Mila Gatus a piece of land with a building thereon located at Paranaque City and covered by Transfer Certificate of Title (T.C.T.) No. (30643) 17223.[4] Due to the execution of the Deed of Sale, T.C.T. No. (30643) 17223 was cancelled and T.C.T. No. 108589 was issued in the name of spouses Henry and Mila Gatus.

The complainant, however, maintained that she and her husband never appeared before the respondent to acknowledge the Deed of Sale on March 27, 1996.

When ordered[5] to file his Answer,[6] the respondent lawyer countered that the complainant's act was motivated by malice. He alleged that sometime in January 1995, Francisco T. Gonzales went to his office at the Adamson University Legal Aid Office, accompanied by a couple who were introduced to him as Henry and Mila Gatus. Francisco showed the respondent a Deed of Sale consisting of two (2) pages and requested him to notarize it. The respondent, however, noticed that the Deed of Sale did not contain a technical description of the property being sold, so he prepared another set of Deed of Absolute Sale. Thereafter, Francisco and the spouses Gatus, together with a witness, Ms. Eva Dulay, signed the second Deed of Absolute Sale in his presence. He then instructed Francisco to bring his wife, herein complainant, to his office so she can sign the Deed of Absolute Sale in his presence.

When Francisco returned to his office, he brought with him the Deed of Absolute Sale signed by Marina C. Gonzales. At first, he was hesitant to notarize the document because he did not see the complainant sign the same, but due to Francisco's insistence and knowing them personally, he eventually notarized the deed.

Respondent compared the signatures of Marina C. Gonzales on the Deed of Absolute Sale with her other signatures in his files, the spouses Gonzales being his clients from way back. Convinced that the signature on the Deed of Absolute Sale was indeed the signature of complainant Marina C. Gonzales, respondent notarized the

Deed of Absolute Sale on March 27, 1996.[7]

During the mandatory conference before the Commission on Bar Discipline of the IBP, the respondent admitted that the complainant never appeared before him to affirm the genuineness and authenticity of her signature in the Deed of Absolute Sale dated March 27, 1996.[8]

On July 30, 2004, the Commission on Bar Discipline submitted its Report[9] recommending thus:

> In view of the foregoing, it is recommended that Respondent be suspended for a period of three (3) to six (6) months for failing to act more diligently and prudently when he notarized the subject documents. It is further recommended that Respondent's commission as notary public be suspended for a period of six (6) months, with a warning that a repetition of the same or similar negligent act in the future will be dealt with more severely by this Commission.[10]

The Board of Governors of the IBP adopted the findings of the Commission on Bar Discipline but modified its recommendation, to wit:

> RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for Respondent's failure to act more diligently and prudently when he notarized the documents, Atty. Calixto B. Ramos commission as notary public is hereby SUSPENDED for six (6) months with a Warning that a repetition of the same or similar negligent act in the future will be dealt with more severely.[11]

On February 7, 2005, the parties were required to manifest whether they are willing to submit the case for resolution based on the pleadings filed.[12] To date, only complainant submitted her manifestation[13] hence, the filing thereof was deemed waived by the respondent.

A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before the said notary public to attest to the contents and truth of what are stated therein. The presence of the parties to the deed making the acknowledgment will enable the notary public to verify the genuineness of the signature of the affiant. A notary public is enjoined from notarizing a fictitious or spurious document. The function of a notary public, is among others, to guard against any illegal deed.[14]

By affixing his notarial seal on the instrument, the respondent converted the Deed of Absolute Sale, from a private document into a public document. Such act is no empty gesture. The principal function of a notary public is to authenticate documents. When a notary public certifies to the due execution and delivery of a document under his hand and seal, he gives the document the force of evidence. Indeed, one of the purposes of requiring documents to be acknowledged before a notary public, in addition to the solemnity which should surround the execution and delivery of documents, is to authorize such documents to be given without further proof of their execution and delivery. A notarial document is by law entitled to full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgement executed before a notary public and appended to a private instrument. Hence, a notary public must discharge his powers and duties, which are impressed with public interest, with accuracy and fidelity.[15]

The respondent's act of notarizing the acknowledgment of a deed of sale even if one of the signatories therein did not personally appear before him clearly falls short of the yardstick of accuracy and fidelity referred to above. The respondent himself admitted his professional shortcomings when he said that all he did to ascertain the authenticity of the signature of the complainant was to compare her signature on the Deed of Absolute Sale with her other signatures on pleadings on file with him. Such conduct of the respondent runs contrary to the express

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wordings of the acknowledgment in the deed of sale which provides:

> BEFORE ME, a Notary Public, for and in the City of Manila, personally appeared the Vendors and Vendees with their Community Tax Certificate Numbers above-written, known to me and to the (sic) known to be the same persons who executed the foregoing Deed of Absolute Sale consisting of two (2) pages, duly signed by the parties and their two (2) instrumental witnesses and they acknowledged to me that the same are their own free and voluntary acts and deeds.[16] (Underscoring supplied)

The respondent's act of notarizing the document despite the non-appearance of one of the signatories should not be countenanced. His conduct, if left unchecked, is fraught with dangerous possibilities considering the conclusiveness on the due execution of a document that our courts and the public accord to notarized documents. Respondent has clearly failed to exercise utmost diligence in the performance of his functions as a notary public and to comply with the mandates of law.

As a lawyer, respondent breached the Code of Professional Responsibility. By notarizing the questioned deed, he engaged in unlawful, dishonest, immoral or deceitful conduct.[17] He also committed falsehood and misled or allowed the Court to be misled by any artifice.[18]

We find the penalty recommended by the Commission on Bar Discipline of the IBP to be in full accord with recent jurisprudence. The Court, in Bon v. Ziga,[19] Serzo v. Flores,[20] Zaballero v. Montalvan,[21] Tabas v. Mangibin,[22] and similar cases, found the revocation of the respondents' notarial commission and their disqualification from securing their reappointment, insufficient to punish them for their offense. Hence, the Court did not only revoke their notarial commission but likewise suspended them from the practice of law.

WHEREFORE, for breach of the Notarial Law and Code of Professional Responsibility, the notarial commission of respondent Atty. Calixto B. Ramos, if still existing, is REVOKED effective immediately and he is DISQUALIFIED from reappointment as Notary Public for a period of two (2) years. He is also SUSPENDED from the practice of law for a period of one (1) year, effective immediately. He is further WARNED that a repetition of same or of similar acts shall be dealt with more severely. He is DIRECTED to report the date of receipt of this Decision in order to determine when his suspension shall take effect.

Let copies of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts all over the country. Let a copy of this Decision likewise be attached to the personal records of the respondent.

SO ORDERED.

Davide, Jr., C.J., (Chairman), Quisumbing, Carpio, and Azcuna, JJ., concur.

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[1] Atty. Miniano B. Dela Cruz v. Atty. Alejandro P. Zabala, A.C. No. 6294, 14 November 2004.

[2] Rollo, pp. 1-4.

[3] Id. at 5-6.

[4] Id. at 7-8.

[5] Order of the Commission on Bar Discipline dated January 5, 2004 signed by Atty. Rogelio A. Vinluan, Director for Bar Discipline, Rollo, p. 38.

[6] Rollo, pp. 40-44.

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[7] Id. at 41-42.

[8] Transcript of Stenographic Notes of the Commission on Bar Discipline, March 30, 2005, Rollo, p. 83.

[9] Rollo, pp. 122-130.

[10] Id. at 130.

[11] Id. at 121.

[12] Id. at 131.

[13] Id. at 132.

[14] Cabanilla v. Cristal-Tenorio, A.C. No. 6139, 11 November 2003, 415 SCRA 353, 361.

[15] Bernardo v. Restauro, A.C. No. 3849, 25 June 2003, 404 SCRA 599, 603.

[16] Rollo, p. 6.

[17] Serzo v. Flores, A.C. No. 6040, 30 July 2004, 435 SCRA 412, 416.

[18] Bon v. Ziga, Adm. Case No. 5436, 27 May 2004, 429 SCRA 177, 185.

[19] Id. at 186.

[20] Supra, note 17.

[21] Adm. Case No. 4370, 25 May 2004, 429 SCRA 74, 79-80.

[22] A.C. No. 5602, 3 February 2004, 421 SCRA 511, 516.

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