

ZENAIDA B. GONZALES, PETITIONER, VS. ATTY. NARCISO PADIERNOS, RESPONDENT.

A.C. No. 6713. December 08, 2008

Ponente: BRION, J.

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BRION, J.:

Before the Court is the Complaint for Disbarment of Atty. Narciso Padiernos (respondent) filed on May 12, 2003 by Ms. Zenaida B. Gonzales (complainant) with the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP). Commissioner Milagros V. San Juan conducted the fact-finding investigation on the complaint.

Commissioner San Juan submitted a Report and Recommendation[1] dated September 10, 2004 to the IBP Board of Governors who approved this Report and Recommendation in a resolution dated November 4, 2004.

In a letter[2] dated March 14, 2005, IBP Director for Bar Discipline Rogelio A. Vinluan transmitted to the Office of Chief Justice Hilario G. Davide, Jr. (retired) a Notice of Resolution[3] and the records of the case.

The Factual Background

The complainant alleged in her complaint for disbarment that on three (3) separate occasions the respondent notarized the following documents: (1) a Deed of Absolute Sale[4] dated July 16, 1979 which disposed of her property in Jaen, Nueva Ecija in favor of Asterio, Estrella and Rodolfo, all surnamed Gonzales; (2) a Subdivision Agreement[5] dated September 7, 1988 which subdivided her property among the same persons; and (3) an affidavit of Non-Tenancy[6] dated March 3, 1988 which certified that her property was not tenanted. All three documents were purportedly signed and executed by complainant. All three documents carried forged signatures and falsely certified that the complainant personally appeared before the respondent and that she was "known to me (the respondent) to be the same person who executed the foregoing and acknowledged to me that the same is her own free act and voluntary deed." The complainant claimed that she never appeared before respondent on the dates the documents were notarized because she was then in the United States.

The respondent filed his Answer[7] on June 16, 2003. He admitted that he notarized the three documents, but denied the "unfounded and malicious imputation" that the three documents contained the complainant's forged signatures. On the false certification aspect, he countered that "with the same or identical facts obtained in the instant case, the Highest Tribunal, the Honorable Supreme Court had this to say - That it is not necessary to know the signatories personally, provided he or she or they signed in the presence of the Notary, alleging that they are the same persons who signed the names."

On October 13, 2003, the respondent moved to dismiss the complaint for lack of verification and notification of the date of hearing.[8]

On December 19, 2003, complainant amended her complaint.[9] This time, she charged respondent with gross negligence and failure to exercise the care required by law in the performance of his duties as a notary public,

resulting in the loss of her property in Jaen, Nueva Ecija, a 141,497 square meters of mango land covered by TCT NT-29578. The complainant claimed that because of the respondent's negligent acts, title to her property was transferred to Asterio Gonzales, Estrella Gonzales and Rodolfo Gonzales. She reiterated that when the three documents disposing of her property were notarized, she was out of the country. Estrella Gonzales Mendrano, one of the vendees, was also outside the country as shown by a certification issued by the Bureau of Immigration and Deportation (BID) on September 14, 1989.[10] She likewise claimed that Guadalupe Ramirez Gonzales (the widow of Rodolfo Gonzales, another vendee) executed an affidavit describing the "Deed of Absolute Sale and Subdivision Agreement" as spurious and without her husband's participation.[11] The affidavit further alleged that the complainant's signatures were forged and the respondent did not ascertain the identity of the person who came before him and posed as vendor despite the fact that a large tract of land was being ceded and transferred to the vendees.

The complainant prayed for the revocation of the respondent's notarial commission and his suspension from the practice of law due to "his deplorable failure to hold the importance of the notarial act and observe [with] utmost care the basic requirements in the performance of his duties as a notary public which include the ascertainment that the person who signed the document as the very person who executed and personally appeared before him."

On May 3, 2004, the complainant moved that the case be considered submitted for resolution in view of respondent's failure to answer the amended complaint.[12]

The IBP Findings

In her report to the IBP Board of Governors,[13] Commissioner San Juan categorically noted the respondent's admission that he notarized the three documents in question - the Deed of Absolute Sale on July 16, 1979; the Subdivision Agreement on September 7, 1988 and the affidavit of Non-Tenancy on March 3, 1988. Commissioner San Juan also noted that the complainant's documentary evidence supported her claim that she never executed these documents and never appeared before the respondent to acknowledge the execution of these documents. These documentary evidence consisted of the certification from the BID that complainant did not travel to the Philippines on the dates the documents were allegedly notarized;[14] and the affidavit of Guadalupe Ramirez Gonzales described above.[15]

Commissioner San Juan found that the respondent had no participation in the preparation or knowledge of the falsity of the spurious documents, and found merit in the complainant's contention that the respondent "was negligent in the performance of his duties as a notary public." She faulted the respondent for not demanding proof of the identity of the person who claimed to be complainant Zenaida Gonzales when the documents were presented to him for notarization. She concluded that the respondent failed to exercise the diligence required of him as notary public to ensure the integrity of the presented documents. She recommended that the respondent's notarial commission be revoked and that he be suspended from the practice of law for a period of three months.

The Court's Ruling

Rule II of the 2004 Rules of Notarial Practice[16] provides:

SECTION 1. Acknowledgment. - "Acknowledgment" refers to an act in which an individual on a single occasion:

(a) appears in person before the notary public and present an integrally complete instrument on document;

(b) is attested to be personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and

(c) represents to the notary public that the signature on the instrument or document was voluntarily affixed by him for the purpose stated in the instrument or document, declares that he has executed the instrument or document as his free and voluntary act and deed, and, if he acts in a particular representative capacity that he has the authority to sign in that capacity."

Under the given facts, the respondent clearly failed to faithfully comply with the foregoing rules when he notarized the three documents subject of the present complaint. The respondent did not know the complainant personally, yet he did not require proof of identity from the person who appeared before him and executed and authenticated the three documents. The IBP Report observed that had the respondent done so, "the fraudulent transfer of complainant's property could have been prevented."

Through his negligence in the performance of his duty as a notary public resulting in the loss of property of an unsuspecting private citizen, the respondent eroded the complainant's and the public's confidence in the notarial system; he brought disrepute to the system. As we held in *Pantoja Mumar vs. Flores*,^[17] he thereby breached Canon 1 of the Code of Professional Responsibility (which requires lawyers to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes) as well as Rule 1.01 of the same Code (which prohibits lawyers from engaging in unlawful, dishonest, immoral or deceitful conduct).

The respondent should be reminded that a notarial document is, on its face and by authority of law, entitled to full faith and credit. For this reason, notaries public must observe utmost care in complying with the formalities intended to ensure the integrity of the notarized document and the act or acts it embodies.^[18]

We are not persuaded by the respondent's argument that this Court, in a similar case or one with identical facts, said "that it is not necessary to know the signatories personally provided he or she or they signed in the presence of the notary, alleging that they are the persons who signed the names." The respondent not only failed to identify the cited case; he apparently also cited it out of context. A notary public is duty bound to require the person executing a document to be personally present, and to swear before him that he is the person named in the document and is voluntarily and freely executing the act mentioned in the document.^[19] The notary public faithfully discharges this duty by at least verifying the identity of the person appearing before him based on the identification papers presented.

For violating his duties as a lawyer and as a notary public, as well as for the grave injustice inflicted on the complainant, it is only proper that the respondent be penalized and suffer the consequences of his acts. We note in this regard that in her amended complaint, the complainant no longer sought the disbarment of respondent; she confined herself to the revocation of the respondent's notarial commission and his suspension from the practice of law. Thus, the recommendation of the IBP is for revocation of his notarial commission and for his suspension from the practice of law for three (3) months. We approve this recommendation as a sanction commensurate with the transgression committed by the respondent as a member of the bar and as a notary public.

WHEREFORE, premises considered, ATTY. NARCISO PADIERNOS of 103 Del Pilar Street, Cabanatuan City, is **SUSPENDED** from the practice of law for a period of **THREE (3) MONTHS**, and his notarial commission is hereby **REVOKED**.

SO ORDERED.

Quisumbing, (Chairperson), Carpio Morales, Tinga, and Velasco, Jr., JJ., Concur.

[1] Rollo, pp. 53-57.

- [2] Rollo, p. 51.
- [3] Id, p. 52.
- [4] Annex "A", Complaint; id., p. 2.
- [5] Annex "B", Complaint; id., p. 3.
- [6] Annex "C", Complaint; id., p. 4.
- [7] Id., pp. 6-7.
- [8] Rollo, pp. 14-15.
- [9] Id., pp. 20-23.
- [10] Id., p. 31
- [11] Id., p. 32
- [12] Rollo, p. 47
- [13] Supra note 1, p. 1
- [14] Supra note 10, p. 3
- [15] Supra note 11, p. 3
- [16] A.M. No. 02-8-13-SC.
- [17] A.C. No. 5426, April 4, 2007; 520 SCRA 470.
- [18] Traya Jr. v. Villamor, A.C. No. 5595, February 6, 2004, 422 SCRA 293.
- [19] Social Security Commission v. Coral, A.C. No. 6249, October 24, 2004; 440 SCRA 291.

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