

FLOCERFIDA S. LANUZO, COMPLAINANT, VS. ATTY. JESUS B. BONGON, RESPONDENT.

A.C. No. 6737. September 23, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

Before us is a complaint for disbarment filed by Floцерfida S. Lanuzo against respondent Atty. Jesus B. Bongon for falsification of public documents and violation of notarial rules.

In her Complaint [1] filed on May 17, 2005, Floцерfida alleged that she is the wife of Francisco L. Lanuzo, Jr., who purchased from Fernando B. Nangyo a parcel of agricultural land covering 4,357 square meters, situated at Barrio Pinugay, Baras, Rizal, as evidenced by a Deed of Absolute Sale [2] dated November 6, 1996.

Complainant alleged that sometime in December 2004, when she went to pay the real estate taxes of the land, she discovered that the land bought by her husband had been sold by Fernando Nangyo to Librada G. Santos. She was able to obtain from the Assessor's Office of Antipolo City a copy of the Deed of Sale [3] signed by the spouses Fernando and Primitiva Nangyo and by Librada G. Santos. Upon perusal, she noted that the Acknowledgment of the Deed of Sale was signed and verified on April 20, 2004 by respondent Atty. Bongon acting as Notary Public of Pasay City, notwithstanding the fact that Primitiva Nangyo, whose signature appeared thereon as co-vendor, had already died six years before, on August 10, 1997, as evidenced by a copy of her death certificate. [4]

Complainant further alleged that she obtained a copy of the same Deed from the Notarial Section of the Office of the Clerk of Court of the Regional Trial Court (RTC) of Pasay City and discovered that both instruments refer to different titles and to a parcel of land in Barrio San Roque, Municipality of Marikina (now Marikina City); whereas Nangyo's title refers to the land located in Barrio Pinugay, Baras, Rizal. Both instruments were signed on June 14, 1995, but notarized only on April 20, 2004.

In his Comment [5] filed on August 12, 2005, Atty. Bongon contended he had no part in the preparation of the subject deed of sale and the persons who prepared the same should be the subject of the complaint, not him. He further alleged that the Deed of Sale was presented to him for notarization by Librada Santos who should account for the discrepancies therein, and that he neither falsified the document nor conspired with Fernando Nangyo and Librada Santos in falsifying the same.

In his Report and Recommendation [6] dated January 4, 2008, Commissioner Acerey C. Pacheco of the Integrated Bar of the Philippines (IBP) found that respondent had violated the notarial law when he failed to require the parties to personally appear before him, thus failing to discover that one of the parties, Primitiva Nangyo, had already passed away. Nonetheless, Commissioner Pacheco found no evidence that the respondent conspired with the parties in falsifying the deed of sale. He recommended that respondent be reprimanded to be careful and extra cautious in ascertaining the identities of persons appearing before him as notary public.

In a Resolution dated January 17, 2008, the IBP Board of Governors approved the report and recommendation of

Commissioner Pacheco and recommended Atty. Bongon's suspension from the practice of law for one year and disqualification from being commissioned as notary public for two years.

We sustain the IBP's findings and recommendations.

That a notary public should not notarize a document unless the persons who signed it are the same persons who executed and personally appeared before him to attest to the contents and the truth of what are stated therein bears reiterating, the purpose being to enable the notary public to verify the genuineness of the signatures of the acknowledging parties and to ascertain that the document is the parties' free act. [7]

In this case, Atty. Bongon failed to ascertain the identities of the parties; he notarized the Deed of Sale and stated that Primitiva Nangyo personally appeared before him yet she had long been dead. Respondent has clearly failed to exercise utmost diligence in the performance of his functions as a notary public. By notarizing the questioned deed, he engaged in unlawful, dishonest, immoral or deceitful conduct. [8]

Lawyers commissioned as notaries public are mandated to discharge with fidelity the duties of their offices, such duties being dictated by public policy and impressed with public interest. It must be remembered that notarization is not a meaningless routinary act. A notarized document is by law entitled to full credit upon its face and it is for this reason that notaries public must observe the basic requirements in notarizing documents. Otherwise, the confidence of the public in notarized documents will be undermined. [9]

Respondent having thus failed to discharge his duties as a notary public, under the facts and circumstances of the case, the revocation of his notarial commission, disqualification from being commissioned as a notary public for a period of two years and suspension from the practice of law for one year are in order. [10]

As for the charge against respondent of having conspired with the parties in falsifying the subject deed of sale, we agree with the IBP Investigating Commissioner that there is no sufficient evidence to hold him liable therefor.

WHEREFORE, the notarial commission of the respondent Atty. Jesus B. Bongon, if still existing, is hereby REVOKED, he is DISQUALIFIED from being commissioned as notary public for a period of two (2) years and SUSPENDED from the practice of law for a period of one (1) year, effective upon receipt of a copy of this Decision. He is WARNED that a repetition of this offense or a similar violation by him shall be dealt with more severely.

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.

Puno, C.J., Ynares-Santiago, Carpio, Austria-Martinez, Corona, Carpio Morales, Azcuna, Tinga, Chico-Nazario, Velasco, Jr., Nachura, Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[1] Rollo, pp. 1-4.

[2] Id. at 6.

[3] Id. at 12-13.

[4] Id. at 19.

[5] Id. at 23-26.

[6] Id. at 101-105.

[7] Lopena v. Cabatos, A.C. No. 3441, August 11, 2005, 466 SCRA 419, 426.

[8] Gonzales v. Ramos, A.C. No. 6649, June 21, 2005, 460 SCRA 352.

[9] Id.

[10] Lopena v. Cabatos, supra at 426-427.

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