

CHARLES B. BAYLON, COMPLAINANT, VS. ATTY. JOSE A. ALMO, RESPONDENT.

A.C. No. 6962. June 25, 2008

Ponente: QUISUMBING, J.

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QUISUMBING, J.:

This case stemmed from the administrative complaint filed by the complainant at the Integrated Bar of the Philippines (IBP) charging the respondent with fraud and deceit for notarizing a Special Power of Attorney (SPA) bearing the forged signature of the complainant as the supposed principal thereof.

Complainant averred that Pacita Filio, Rodolfo Llantino, Jr. and his late wife, Rosemarie Baylon, conspired in preparing an SPA[1] authorizing his wife to mortgage his real property located in Signal Village, Taguig. He said that he was out of the country when the SPA was executed on June 17, 1996, and also when it was notarized by the respondent on June 26, 1996. To support his contention that he was overseas on those dates, he presented (1) a certification[2] from the Government of Singapore showing that he was vaccinated in the said country on June 17, 1996; and (2) a certification[3] from the Philippine Bureau of Immigration showing that he was out of the country from March 21, 1995 to January 28, 1997. To prove that his signature on the SPA was forged, the complainant presented a report[4] from the National Bureau of Investigation stating to the effect that the questioned signature on the SPA was not written by him.

The complainant likewise alleged that because of the SPA, his real property was mortgaged to Lorna Express Credit Corporation and that it was subsequently foreclosed due to the failure of his wife to settle her mortgage obligations.

In his answer, the respondent admitted notarizing the SPA, but he argued that he initially refused to notarize it when the complainant's wife first came to his office on June 17, 1996, due to the absence of the supposed affiant thereof. He said that he only notarized the SPA when the complainant's wife came back to his office on June 26, 1996, together with a person whom she introduced to him as Charles Baylon. He further contended that he believed in good faith that the person introduced to him was the complainant because said person presented to him a Community Tax Certificate bearing the name Charles Baylon. To corroborate his claims, the respondent attached the affidavit of his secretary, Leonilita de Silva.

The respondent likewise denied having taken part in any scheme to commit fraud, deceit or falsehood.[5]

After due proceedings, the IBP-Commission on Bar Discipline recommended to the IBP-Board of Governors that the respondent be strongly admonished for notarizing the SPA; that his notarial commission be revoked; and that the respondent be barred from being granted a notarial commission for one year.[6]

In justifying its recommended sanctions, the IBP-Commission on Bar Discipline stated that

In this instance, reasonable diligence should have compelled herein respondent to ascertain the true identity of the person seeking his legal services considering the nature of the document, i.e., giving a third party authority

to mortgage a real property owned by another. The only saving grace on the part of respondent is that he relied on the fact that the person being authorized under the SPA to act as agent and who accompanied the impostor, is the wife of the principal mentioned therein.[7]

On October 22, 2005, the IBP-Board of Governors issued Resolution No. XVII-2005-109 which reads:

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 considering Respondent's failure to properly ascertain the true identity of the person seeking his legal services considering the nature of the document, Atty. Jose A. Almo is hereby SUSPENDED from the practice of law for one (1) year and Respondent's notarial commission is Revoked and Disqualified (sic) from reappointment as Notary Public for two (2) years.[8]

In our Resolution[9] dated February 1, 2006, we noted the said IBP Resolution.

We agree with the finding of the IBP that the respondent had indeed been negligent in the performance of his duties as a notary public in this case.

The importance attached to the act of notarization cannot be overemphasized. In *Santiago v. Rafanan*,[10] we explained,

... Notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document thus making that document admissible in evidence without further proof of its authenticity. 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 acknowledgment executed by a notary public and appended to a private instrument.

For this reason, notaries public should not take for granted the solemn duties pertaining to their office. Slipshod methods in their performance of the notarial act are never to be countenanced. They are expected to exert utmost care in the performance of their duties, which are dictated by public policy and are impressed with public interest.[11]

Mindful of his duties as a notary public and taking into account the nature of the SPA which in this case authorized the complainant's wife to mortgage the subject real property, the respondent should have exercised utmost diligence in ascertaining the true identity of the person who represented himself and was represented to be the complainant.[12] He should not have relied on the Community Tax Certificate presented by the said impostor in view of the ease with which community tax certificates are obtained these days.[13] As a matter of fact, recognizing the established unreliability of a community tax certificate in proving the identity of a person who wishes to have his document notarized, we did not include it in the list of competent evidence of identity that notaries public should use in ascertaining the identity of persons appearing before them to have their documents notarized.[14]

Moreover, considering that respondent admitted[15] in the IBP hearing on February 21, 2005 that he had already previously notarized some documents[16] for the complainant, he should have compared the complainant's signatures in those documents with the impostor's signature before he notarized the questioned SPA.

WHEREFORE, the notarial commission, if still extant, of respondent Atty. Jose A. Almo is hereby REVOKED. He is likewise DISQUALIFIED to be reappointed as Notary Public for a period of two years.

To enable us to determine the effectivity of the penalty imposed, the respondent is DIRECTED to report the date of his receipt of this Decision to this Court.

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

SO ORDERED.

Puno, C.J., Reyes, Leonardo-De Castro, and Brion, JJ., concur.

[*] Additional member in place of Associate Justice Dante O. Tinga who took no part because of close professional relation to a party.

[**] Additional member in place of Associate Justice Presbitero J. Velasco, Jr. who is on official leave.

[***] Additional member in place of Associate Justice Conchita Carpio Morales who is on official leave.

[1] Rollo, p. 5.

[2] Id. at 6.

[3] Id. at 7-8.

[4] Id. at 14-15.

[5] Id. at 124-126.

[6] Id. at 126.

[7] Id.

[8] Id. at 123.

[9] Id. at 127.

[10] A.C. No. 6252, October 5, 2004, 440 SCRA 91.

[11] Id. at 99.

[12] See *Vda. de Bernardo v. Restauero*, Adm. Case No. 3849, June 25, 2003, 404 SCRA 599, 604.

[13] *Dela Cruz v. Zabala*, A.C. No. 6294, November 17, 2004, 442 SCRA 407, 411.

[14] 2004 Rules on Notarial Practice, Rule II, Sec. 12.

SEC. 12. Competent Evidence of Identity. - The phrase "competent evidence of identity" refers to the identification of an individual based on:

(a)

at least one current identification document issued by an official agency bearing the photograph and signature of the individual; or

(b)

the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual

and shows to the notary public documentary identification.

[15] Rollo, pp. 103-108.

[16] Id. at 45-46. Affidavit dated November 26, 1993 and Deed of Absolute Sale dated November 26, 1993.

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