

JUDGE LILY LYDIA A. LAQUINDANUM, COMPLAINANT, VS. ATTY. NESTOR Q. QUINTANA, RESPONDENT.*A.C. No. 7036. June 29, 2009*

Ponente: PUNO, C.J.

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This administrative case against Atty. Nestor Q. Quintana (Atty. Quintana) stemmed from a letter[1] addressed to the Court filed by Executive Judge Lily Lydia A. Laquindanum (Judge Laquindanum) of the Regional Trial Court of Midsayap, Cotabato requesting that proper disciplinary action be imposed on him for performing notarial functions in Midsayap, Cotabato, which is beyond the territorial jurisdiction of the commissioning court that issued his notarial commission, and for allowing his wife to do notarial acts in his absence.

In her letter, Judge Laquindanum alleged that pursuant to A.M. No. 03-8-02-SC, executive judges are required to closely monitor the activities of notaries public within the territorial bounds of their jurisdiction and to see to it that notaries public shall not extend notarial functions beyond the limits of their authority. Hence, she wrote a letter[2] to Atty. Quintana directing him to stop notarizing documents within the territorial jurisdiction of the Regional Trial Court of Midsayap, Cotabato (which is outside the territorial jurisdiction of the commissioning court that issued his notarial commission for Cotabato City and the Province of Maguindanao) since certain documents[3] notarized by him had been reaching her office.

However, despite such directive, respondent continuously performed notarial functions in Midsayap, Cotabato as evidenced by: (1) the Affidavit of Loss of ATM Card[4] executed by Kristine C. Guro; and (2) the Affidavit of Loss of Driver's License[5] executed by Elenita D. Ballentes.

Under Sec. 11, Rule III[6] of the 2004 Rules on Notarial Practice, Atty. Quintana could not extend his notarial acts beyond Cotabato City and the Province of Maguindanao because Midsayap, Cotabato is not part of Cotabato City or the Province of Maguindanao. Midsayap is part of the Province of Cotabato. The City within the province of Cotabato is Kidapawan City, and not Cotabato City.

Judge Laquindanum also alleged that, upon further investigation of the matter, it was discovered that it was Atty. Quintana's wife who performed notarial acts whenever he was out of the office as attested to by the Joint Affidavit[7] executed by Kristine C. Guro and Elenita D. Ballentes.

In a Resolution dated February 14, 2006,[8] we required Atty. Quintana to comment on the letter of Judge Laquindanum.

In his Response,[9] Atty. Quintana alleged that he filed a petition for notarial commission before Branch 18, Regional Trial Court, Midsayap, Cotabato. However, the same was not acted upon by Judge Laquindanum for three weeks. He alleged that the reason for Judge Laquindanum's inaction was that she questioned his affiliation with the Integrated Bar of the Philippines (IBP) Cotabato City Chapter, and required him to be a member of IBP Kidapawan City Chapter and to obtain a Certification of Payments from the latter chapter. Because of this, he

opted to withdraw his petition. After he withdrew his petition, he claimed that Judge Laquindanum sent a clerk from her office to ask him to return his petition, but he did not oblige because at that time he already had a Commission for Notary Public^[10] issued by Executive Judge Reno E. Concha of the Regional Trial Court, Branch 14, Cotabato City.

Atty. Quintana lamented that he was singled out by Judge Laquindanum, because the latter immediately issued notarial commissions to other lawyers without asking for so many requirements. However, when it came to him, Judge Laquindanum even tracked down all his pleadings; communicated with his clients; and disseminated information through letters, pronouncements, and directives to court clerks and other lawyers to humiliate him and be ostracized by fellow lawyers.

Atty. Quintana argued that he subscribed documents in his office at Midsayap, Cotabato; and Midsayap is part of the Province of Cotabato. He contended that he did not violate any provision of the 2004 Rules on Notarial Practice, because he was equipped with a notarial commission. He maintained that he did not act outside the province of Cotabato since Midsayap, Cotabato, where he practices his legal profession and subscribes documents, is part of the province of Cotabato. He claimed that as a lawyer of good moral standing, he could practice his legal profession in the entire Philippines.

Atty. Quintana further argued that Judge Laquindanum had no authority to issue such directive, because only Executive Judge Reno E. Concha, who issued his notarial commission, and the Supreme Court could prohibit him from notarizing in the Province of Cotabato.

In a Resolution dated March 21, 2006,^[11] we referred this case to the Office of the Bar Confidant (OBC) for investigation, report and recommendation.

In the February 28, 2007 Hearing^[12] before the OBC presided by Atty. Ma. Crisitina B. Layusa (Hearing Officer), Judge Laquindanum presented a Deed of Donation,^[13] which was notarized by Atty. Quintana in 2004.^[14] Honorata Rosil appears as one of the signatories of the document as the donor's wife. However, Honorata Rosil died on March 12, 2003, as shown by the Certificate of Death^[15] issued by the Civil Registrar of Ibohon, Cotabato.

Judge Laquindanum testified that Atty. Quintana continued to notarize documents in the years 2006 to 2007 despite the fact that his commission as notary public for and in the Province of Maguindanao and Cotabato City had already expired on December 31, 2005, and he had not renewed the same.^[16] To support her claim, Judge Laquindanum presented the following: (1) Affidavit of Loss [of] Title^[17] executed by Betty G. Granada with subscription dated April 8, 2006 at Cotabato City; (2) Certificate of Candidacy^[18] of Mr. Elias Diosanta Arabis with subscription dated July 18, 2006; (3) Affidavit of Loss [of] Driver's License^[19] executed by Anecito C. Bernabe with subscription dated February 20, 2007 at Midsayap, Cotabato; and (4) Affidavit of Loss^[20] executed by Santos V. Magbanua with subscription dated February 22, 2007 at Midsayap, Cotabato.

For his part, Atty. Quintana admitted that all the signatures appearing in the documents marked as exhibits of Judge Laquindanum were his except for the following: (1) Affidavit of Loss of ATM Card^[21] executed by Kristine C. Guro; and (2) Affidavit of Loss of Driver's License^[22] executed by Elenita D. Ballentes; and (3) Affidavit of Loss^[23] executed by Santos V. Magbanua. He explained that those documents were signed by his wife and were the result of an entrapment operation of Judge Laquindanum: to let somebody bring and have them notarized by his wife, when they knew that his wife is not a lawyer. He also denied that he authorized his wife to notarize documents. According to him, he slapped his wife and told her to stop doing it as it would ruin his profession.

Atty. Quintana also claimed that Judge Laquindanum did not act on his petition, because he did not comply with her requirements for him to transfer his membership to the Kidapawan Chapter, wherein her sister, Atty. Aglepa, is the IBP President.

On the one hand, Judge Laquindanum explained that she was only performing her responsibility and had nothing against Atty. Quintana. The reason why she did not act on his petition was that he had not paid his IBP dues,[24] which is a requirement before a notarial commission may be granted. She told his wife to secure a certification of payment from the IBP, but she did not return.

This was denied by Atty. Quintana, who claimed that he enclosed in his Response the certification of good standing and payments of his IBP dues. However, when the same was examined, there were no documents attached thereto. Due to oversight, Atty. Quintana prayed that he be given time to send them later which was granted by the Hearing Officer.

Finally, Atty. Quintana asked for forgiveness for what he had done and promised not to repeat the same. He also asked that he be given another chance and not be divested of his privilege to notarize, as it was the only bread and butter of his family.

On March 5, 2007, Atty. Quintana submitted to the OBC the documents[25] issued by the IBP Cotabato City Chapter to prove that he had paid his IBP dues.

In a Manifestation[26] dated March 9, 2007, Judge Laquindanum submitted a Certification[27] and its entries show that Atty. Quintana paid his IBP dues for the year 2005 only on January 9, 2006 per Official Receipt (O.R.) No. 610381. Likewise, the arrears of his IBP dues for the years 1993, 1995, 1996, and 1998 to 2003 were also paid only on January 9, 2006 per O.R. No. 610387. Hence, when he filed his petition for notarial commission in 2004, he had not yet completely paid his IBP dues.

In its Report and Recommendation,[28] the OBC recommended that Atty. Quintana be disqualified from being appointed as a notary public for two (2) years; and that if his notarial commission still exists, the same should be revoked for two (2) years. The OBC found the defenses and arguments raised by Atty. Quintana to be without merit, viz:

Apparently, respondent has extended his notarial acts in Midsayap and Kabacan, Cotabato, which is already outside his territorial jurisdiction to perform as Notary Public.

Section 11 of the 2004 Rules on Notarial Practice provides, thus:

"Jurisdiction and Term - A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning court is made, unless earlier revoked [or] the notary public has resigned under these Rules and the Rules of Court.

Under the rule[,] respondent may perform his notarial acts within the territorial jurisdiction of the commissioning Executive Judge Concha, which is in Cotabato City and the [P]rovince of Maguindanao only. But definitely he cannot extend his commission as notary public in Midsayap or Kabacan and in any place of the province of Cotabato as he is not commissioned thereat to do such act. Midsayap and Kabacan are not part of either Cotabato City or [P]rovince of Maguindanao but part of the province of North Cotabato. Thus, the claim of respondent that he can exercise his notarial commission in Midsayap, Cotabato because Cotabato City is part of the province of Cotabato is absolutely devoid of merit.

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Further, evidence on record also shows that there are several documents which the respondent's wife has herself notarized. Respondent justifies that he cannot be blamed for the act of his wife as he did not authorize the latter to notarize documents in his absence. According to him[,] he even scolded and told his wife not to do it anymore as it would affect his profession.

In the case of *Lingan v. Calubaquib et al.*, Adm. Case No. 5377, June 15, 2006 the Court held, thus:

"A notary public is personally accountable for all entries in his notarial register; He cannot relieve himself of this responsibility by passing the buck to their (sic) secretaries"

A person who is commissioned as a notary public takes full responsibility for all the entries in his notarial register. Respondent cannot take refuge claiming that it was his wife's act and that he did not authorize his wife to notarize documents. He is personally accountable for the activities in his office as well as the acts of his personnel including his wife, who acts as his secretary.

Likewise, evidence reveals that respondent notarized in 2004 a Deed of Donation (Rollo, p. 79) wherein, (sic) Honorata Rosel (Honorata Rosil) one of the affiants therein, was already dead at the time of notarization as shown in a Certificate of Death (Rollo, p.80) issued by the Civil Registrar General of Libungan, Cotabato.

Sec. 2, (b), Rule IV of the 2004 Rules on Notarial Practice provides, thus[:]

"A person shall not perform a notarial act if the person involved as signatory to the instrument or document (1) is not in the notary's presence personally at the time of the notarization; and (2) is not personally known to the notary public through competent evidence of identity as defined by these Rules."

Clearly, in notarizing a Deed of Donation without even determining the presence or qualifications of affiants therein, respondent only shows his gross negligence and ignorance of the provisions of the 2004 Rules on Notarial Practice.

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Furthermore, respondent claims that he, being a lawyer in good standing, has the right to practice his profession including notarial acts in the entire Philippines. This statement is barren of merit.

While it is true that lawyers in good standing are allowed to engage in the practice of law in the Philippines.(sic) However, not every lawyer even in good standing can perform notarial functions without having been commissioned as notary public as specifically provided for under the 2004 Rules on Notarial Practice. He must have submitted himself to the commissioning court by filing his petition for issuance of his notarial (sic) Notarial Practice. The commissioning court may or may not grant the said petition if in his sound discretion the petitioner does not meet the required qualifications for [a] Notary Public. Since respondent herein did not submit himself to the procedural rules for the issuance of the notarial commission, he has no reason at all to claim that he can perform notarial act[s] in the entire country for lack of authority to do so.

Likewise, contrary to the belief of respondent, complainant being the commissioning court in Midsayap, Cotabato has the authority under Rule XI of the 2004 Rules on Notarial Practice to monitor the duties and responsibilities including liabilities, if any, of a notary public commissioned or those performing notarial acts without authority in her territorial jurisdiction.[29]

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We adopt the findings of the OBC. However, we find the penalty of suspension from the practice of law for six (6) months and revocation and suspension of Atty. Quintana's notarial commission for two (2) years more

appropriate considering the gravity and number of his offenses.

After a careful review of the records and evidence, there is no doubt that Atty. Quintana violated the 2004 Rules on Notarial Practice and the Code of Professional Responsibility when he committed the following acts: (1) he notarized documents outside the area of his commission as a notary public; (2) he performed notarial acts with an expired commission; (3) he let his wife notarize documents in his absence; and (4) he notarized a document where one of the signatories therein was already dead at that time.

The act of notarizing documents outside one's area of commission is not to be taken lightly. Aside from being a violation of Sec. 11 of the 2004 Rules on Notarial Practice, it also partakes of malpractice of law and falsification.[30] Notarizing documents with an expired commission is a violation of the lawyer's oath to obey the laws, more specifically, the 2004 Rules on Notarial Practice. Since the public is deceived into believing that he has been duly commissioned, it also amounts to indulging in deliberate falsehood, which the lawyer's oath proscribes.[31] Notarizing documents without the presence of the signatory to the document is a violation of Sec. 2(b)(1), Rule IV of the 2004 Rules on Notarial Practice,[32] Rule 1.01 of the Code of Professional Responsibility, and the lawyer's oath which unconditionally requires lawyers not to do or declare any falsehood. Finally, Atty. Quintana is personally accountable for the documents that he admitted were signed by his wife. He cannot relieve himself of liability by passing the blame to his wife. He is, thus, guilty of violating Canon 9 of the Code of Professional Responsibility, which requires lawyers not to directly or indirectly assist in the unauthorized practice of law.

All told, Atty. Quintana fell miserably short of his obligation under Canon 7 of the Code of Professional Responsibility, which directs every lawyer to uphold at all times the integrity and dignity of the legal profession.

That Atty. Quintana relies on his notarial commission as the sole source of income for his family will not serve to lessen the penalty that should be imposed on him. On the contrary, we feel that he should be reminded that a notarial commission should not be treated as a money-making venture. It is a privilege granted only to those who are qualified to perform duties imbued with public interest. As we have declared on several occasions, 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. The protection of that interest necessarily requires that those not qualified or authorized to act must be prevented from imposing upon the public, the courts, and the administrative offices in general. It must be underscored that notarization by a notary public converts a private document into a public document, making that document admissible in evidence without further proof of the authenticity thereof.[33]

IN VIEW WHEREOF, the notarial commission of Atty. Nestor Q. Quintana, if still existing, is hereby REVOKED, and he is DISQUALIFIED from being commissioned as notary public for a period of two (2) years. He is also SUSPENDED from the practice of law for six (6) months effective immediately, with a WARNING that the repetition of a similar violation will be dealt with even more severely. He is DIRECTED to report the date of his receipt of this Decision to enable this Court to determine when his suspension shall take effect.

Let a copy of this decision be entered in the personal records of respondent as a member of the Bar, and copies furnished the Bar Confidant, the Integrated Bar of the Philippines, and the Court Administrator for circulation to all courts in the country.

SO ORDERED.

Quisumbing, Ynares-Santiago, Carpio, Corona, Chico-Nazario, Velasco, Jr., Nachura, Leonardo-De Castro, Brion, Peralta, and Bersamin, JJ., concur.

Carpio Morales, J., on leave.

[1] Dated November 29, 2005; rollo, pp. 3-5.

[2] Exhibit "A," id. at 6-8.

[3] Exhibit "B" and Exhibit "C," id. at 9 & 10-13.

[4] Exhibit "D," id. at 21.

[5] Exhibit "E," id. at 22.

[6] SEC. 11. Jurisdiction and Term. - A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning is made, unless earlier revoked or the notary public has resigned under these Rules and the Rules of Court.

[7] Exhibit "F," rollo, p. 24

[8] Rollo, p. 27.

[9] Dated September 29, 2005; id. at 30-36.

[10] Dated and effective May 24, 2004 until December 31, 2005; Exhibit "J," id. at 23.

[11] Rollo, p. 50.

[12] TSN, id. at 132-334.

[13] Exhibit "G"; id. at 78-79.

[14] Exhibit "G-2," id. at 79.

[15] Exhibit "H," id. at 80.

[16] As evidenced by the following: (i) Certification dated June 14, 2006 issued by Clerk of Court Abdul S. Buayan of the Regional Trial Court of Cotabato City; Exhibit "M," id. at 94; (ii) Certification dated January 5, 2007 issued by Clerk of Court Abdul S. Buayan of the Regional Trial Court of Cotabato City; Exhibit "N," id. at 97; (iii) Certification dated January 3, 2007 issued by Acting Clerk of Court Lilibeth S. Palines of the Regional Trial Court of Midsayap, Cotabato; Exhibit "O," id. at 100; and (iv) Certification dated January 3, 2007 issued by Clerk of Court Atty. Teresa Gagabe-Natividad of the Regional Trial Court of Kabacan, Cotabato; Exhibit "P," id. at 101.

[17] Exhibit "K-5," id. at 88.

[18] Exhibit "Q," id. at 102-103.

[19] Exhibit "R," id. at 104.

[20] Exhibit "S," id. at 105.

[21] Supra note 4.

[22] Supra note 5.

[23] Supra note 20.

[24] As evidenced by the following: (i) Certification dated March 23, 2004 issued by Emerlinda Molina Diaz, Treasurer of the IBP North Cotabato Chapter; Exhibit "T," rollo, p. 128; and (ii) Certification dated March 16, 2004 issued by Frances Cynthia Guiani-Sayadi of the IBP Cotabato City Chapter; Exhibit "U," id. at 106.

[25] (i) Receipt of Payments with O.R. No. 610381 covering the year 2005 to 2006; rollo, p. 117; (ii) O.R. No. 610488 covering the year 2007; id. at 116; (iii) Certification dated January 12, 2006 of good standing and good moral character; id. at 112; (iv) Certification dated March 1, 2007 of good standing and good moral character; id. at 113; and (v) Certification dated March 2, 2007 stating that Atty. Quintana is a member of the IBP Cotabato City Chapter, and that he has fully paid his IBP dues from 1985 to 2003; id. at 114.

[26] Rollo, p. 124.

[27] Dated March 6, 2007; id. at 125.

[28] Dated October 3, 2008; id. at 335-348.

[29] Id. at 344-348.

[30] *Tan Tiong Bio v. Gonzales*, A.C. No. 6634, August 23, 2007, 530 SCRA 748.

[31] *Zoreta v. Simpliciano*, A.C. 6492, November 18, 2004, 443 SCRA 1.

[32] (b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document --

(1) is not in the notary's presence personally at the time of the notarization;

[33] *Maddela v. Dallong-Galacinao*, A.C. No. 6491, January 31, 2005, 450 SCRA 19, 26 citing *Nunga v. Viray*, A.C. No. 4758, 366 Phil. 155, 160 (1999).

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