

DOLORES L. DELA CRUZ, MILAGROS L. PRINCIPE, NARCISA L. FAUSTINO, JORGE V. LEGASPI, AND JUANITO V. LEGASPI, COMPLAINANTS, VS. ATTY. JOSE R. DIMAANO, JR., RESPONDENT.

A.C. No. 7781. September 12, 2008

Ponente: VELASCO JR., J.

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VELASCO JR., J.:

In their complaint for disbarment against respondent Atty. Jose R. Dimaano, Jr., Dolores L. Dela Cruz, Milagros L. Principe, Narcisa L. Faustino, Jorge V. Legaspi, and Juanito V. Legaspi alleged that on July 16, 2004, respondent notarized a document denominated as Extrajudicial Settlement of the Estate with Waiver of Rights purportedly executed by them and their sister, Zenaida V.L. Navarro. Complainants further alleged that: (1) their signatures in this document were forged; (2) they did not appear and acknowledge the document on July 16, 2004 before respondent, as notarizing officer; and (3) their purported community tax certificates indicated in the document were not theirs.

According to complainants, respondent had made untruthful statements in the acknowledgment portion of the notarized document when he made it appear, among other things, that complainants "personally came and appeared before him" and that they affixed their signatures on the document in his presence. In the process, complainants added, respondent effectively enabled their sister, Navarro, to assume full ownership of their deceased parents' property in Tibagan, San Miguel, Bulacan, covered by Transfer Certificate of Title No. T-303936 and sell the same to the Department of Public Works and Highways.

In his answer, respondent admitted having a hand in the preparation of the document in question, but admitted having indeed notarized it. He explained that "he notarized [the] document in good faith relying on the representation and assurance of Zenaida Navarro that the signatures and the community tax certificates appearing in the document were true and correct." Navarro would not, according to respondent, lie to him having known, and being neighbors of, each other for 30 years. Finally, respondent disclaimed liability for any damage or injury considering that the falsified document had been revoked and canceled.

In his Report and Recommendation, the Investigating Commissioner of the Office of the Commission on Bar Discipline, Integrated Bar of the Philippines (IBP), found the following as established: (1) the questioned document bore the signatures and community tax certificates of, and purports to have been executed by, complainants and Navarro; (2) respondent indeed notarized the questioned document on July 16, 2004; (3) complainants did not appear and acknowledge the document before respondent on July 16, 2004; (4) respondent notarized the questioned document only on Navarro's representation that the signatures appearing and community tax certificates were true and correct; and (5) respondent did not ascertain if the purported signatures of each of the complainants appearing in the document belonged to them.

The Commission concluded that with respondent's admission of having notarized the document in question against the factual backdrop as thus established, a clear case of falsification and violation of the Notarial Law had

been committed when he stated in the Acknowledgment that:

Before me, on this 16[th] day of July 16, 2004 at Manila, personally came and appeared the above-named persons with their respective Community Tax Certificates as follows:

x x x x

who are known to me to be the same persons who executed the foregoing instrument and they acknowledge to me that the same is their own free act and deed. x x x

For the stated infraction, the Commission recommended, conformably with the Court's ruling in *Gonzales v. Ramos*,^[1] that respondent be suspended from the practice of law for one (1) year; that his notarial commission, if still existing, be revoked; and that he be disqualified for reappointment as notary public for two (2) years. On September 28, 2007, the IBP Board of Governors passed Resolution No. XVIII-2007-147, adopting and approving the report and recommendation of the Commission.

We agree with the recommendation of the Commission and the premises holding it together. It bears reiterating that notaries public should refrain from affixing their signature and notarial seal on a document unless the persons who signed it are the same individuals who executed and personally appeared before the notaries public to attest to the truth of what are stated therein, for under Section 1 of Public Act No. 2103 or the Notarial Law, an instrument or document shall be considered authentic if the acknowledgment is made in accordance with the following requirements:

(a) The acknowledgment shall be made before a notary public or an officer duly authorized by law of the country to take acknowledgments of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgment shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, and acknowledged that the same is his free act and deed. The certificate shall be made under his official seal, if he is by law required to keep a seal, and if not, his certificate shall so state.^[2]

Without the appearance of the person who actually executed the document in question, notaries public would be unable to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act or deed.^[3] Furthermore, notaries public are required by the Notarial Law to certify that the party to the instrument has acknowledged and presented before the notaries public the proper residence certificate (or exemption from the residence certificate) and to enter its number, place, and date of issue as part of certification.^[4] Rule II, Sec. 12 of the 2004 Rules on Notarial Practice^[5] now requires a party to the instrument to present competent evidence of identity. Sec. 12 provides:

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, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certificate from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development certification [as amended by A.M. No. 02-8-13-SC dated February 19, 2008]; 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.

One last note. 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 routinary, meaningless act, for notarization converts a private document to a public instrument, making it admissible in evidence without the necessity of preliminary proof of its authenticity and due execution.[6] 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 on notarized documents will be eroded.

WHEREFORE, for breach of the Notarial Law, the notarial commission of respondent Atty. Jose R. Dimaano, Jr., if still existing, is 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, with WARNING that a repetition of the same negligent act shall be dealt with more severely.

Let all the courts, through the Office of the Court Administrator, as well as the IBP and the Office of the Bar Confidant, be notified of this Decision and be it entered into respondent's personal record.

SO ORDERED.

Quisumbing, (Chairperson), Carpio-Morales, Tinga, and Brion, JJ., concur.

[1] A.C. No. 6649, June 21, 2005, 460 SCRA 352.

[2] Cited in 2 L.M. Tañada & F.A. Rodrigo, *Modern Philippine Legal Forms* 763 (6th ed., 1997).

[3] *Domingo v. Reed*, G.R. No. 157701, December 9, 2005, 477 SCRA 227, 238; *Lopena v. Cabatos*, A.C. No. 3441, August 11, 2005, 466 SCRA 419, 426.

[4] *Soriano v. Basco*, A.C. No. 6648, September 21, 2005, 470 SCRA 423, 429.

[5] Took effect on August 1, 2004.

[6] *Domingo*, supra note 3.

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