

## MARCIANO A. SAMBILE AND LERMA M. SAMBILE, COMPLAINANTS, VS. ATTY. RENATO A. IGNACIO, RESPONDENT.

*A.C. No. 8249 (Formerly CBD Case No. 05-129). September 02, 2019*

Ponente: REYES, J. JR., J.

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### REYES, J. JR., J.:

#### The Facts and the Case

On February 15, 2005, Marciano Sambile and Lerma Sambile (complainants) filed before the Integrated Bar of the Philippines (IBP) a verified complaint[1] against Atty. Renato A. Ignacio (respondent) for disciplinary action for notarizing a document without their personal appearance.

On February 16, 2005, the IBP-Commission on Bar Discipline (IBP- CBD or Commission) issued an Order directing the respondent to submit his Answer to the complaint. A copy of the Order was sent to respondent's office address at EPZA, Rosario, Cavite.[2]

In an undated letter which was received by the IBP-CBD on April 25, 2005, the office manager of Supnet, Emelo and Torres Law Offices returned the Order (to Answer) and informed the Commission that the respondent is no longer connected with the law firm since he immigrated to the United States of America on December 26, 2004.[3]

On May 31, 2005, the IBP-CBD issued an Order directing the complainants to furnish the Commission with the correct and current address of the respondent, with a warning that non-compliance with the same will result in the dismissal of the complaint on the ground of lack of jurisdiction.[4]

In compliance with the May 31, 2005 Order, complainants informed the Commission of respondent's correct address as: Filomena Building, General Trias Drive, Rosario, Cavite.[5] Thus, on August 24, 2005, the IBP- CBD issued an Order to Answer reiterating its previous order for the respondent to file his Answer.[6]

On June 8, 2006, the IBP-CBD issued an Order noting that the address furnished anew by the complainants is the same address as that of Supnet, Emelo and Torres Law Offices which had already informed the Commission that the respondent was no longer connected therewith. Given that the Commission could not acquire jurisdiction over the respondent as he could not be properly served with its Orders, the Commission ordered the case archived, subject to its revival upon the determination of respondent's current address.[7]

On September 14, 2008, the Commission issued an Order submitting the case for decision.[8]

On September 22, 2008, the Commission issued a Report and Recommendation recommending that the complaint be dismissed without prejudice to its refiling should the whereabouts and address of the respondent be finally determined.[9]

On November 20, 2008, the IBP Board of Governors passed Resolution No. XVIII-2008-551 adopting and approving the Report and Recommendation of the IBP-CBD which dismissed the complaint against the

respondent without prejudice to its refiling.[10]

On April 20, 2009, the IBP forwarded to this Court the Notice of Resolution of the Board of Governors and the records of the case, with information that none of the parties filed a motion for reconsideration in the case.[11]

On July 1, 2009, the Court's Second Division issued a Resolution noting the Notice of Resolution of the IBP, the records of the case, as well as the notation that no motion for reconsideration was filed by either party.[12]

In a Report for Agenda dated August 8, 2014, the Deputy Clerk of Court and Chief of the Office of the Bar Confidant recommended that the case be considered closed and terminated considering that no motion for reconsideration or petition for review had been filed by either party as of said date.[13]

On September 17, 2014, the Court's Second Division issued a Resolution noting the returned and unserved copy of the Court's July 1, 2009 Resolution that was sent to the respondent with the notation, "RTS-moved out"; and requiring the IBP and the Mandatory Continuing Legal Education Office (MCLEO) to inform the Court of respondent's current address within five days from notice.[14]

In compliance with the September 17, 2014 Resolution, the IBP informed the Court that based on their files, respondent's office address is at 3<sup>rd</sup> Floor, Filomena Building, General Trias Drive, Rosario, Cavite, while his home address is at 152 Callejon No. 2, Rosario, Cavite.[15] MCLEO, on the other hand, informed the Court that based on their records, respondent's address is at 3<sup>rd</sup> Floor, Filomena Building, General Trias Drive, Rosario, Cavite.[16]

In a Report for Agenda dated January 19, 2015, the Deputy Clerk of Court and Chief of the Office of the Bar Confidant reiterated its earlier recommendation to consider the case closed and terminated.[17]

On March 25, 2015, the Court's Second Division, issued a Resolution noting the compliance of both the IBP and the MCLEO to its September 17, 2014 Resolution.[18]

On April 17, 2017, the Court's Third Division, issued a Resolution referring the case to the IBP for investigation, report and recommendation or resolution given that the copy of the July 1, 2009 Resolution that the Court re-sent to respondent's home address had been duly received by his representative.[19]

On September 7, 2017, the IBP issued a Notice of Mandatory Conference to the parties directing them to appear before the Commission for a mandatory conference on October 13, 2017. They were likewise directed to submit their respective mandatory conference briefs, copy furnished the other party, at least three days before the scheduled conference.[20]

On the scheduled mandatory conference, Lerma appeared with her counsel. She manifested before the Commission that Marciano passed away on March 11, 2011. Respondent, on the other hand failed to appear. In view of the absence of the respondent, the mandatory conference was cancelled and reset to November 22, 2017. Lerma was also directed to submit to the Commission an authenticated copy of Marciano's death certificate on the next scheduled conference. A copy of the October 13, 2017 Order was sent to the respondent and the same was received by Emma Ignacio on October 30, 2017.[21]

During the mandatory conference scheduled on November 22, 2017, Lerma appeared together with her counsels. Since respondent again failed to appear, the mandatory conference was terminated and the parties were directed to submit their respective verified position papers within 30 days therefrom. A copy of the Order was received by the respondent on December 8, 2017.[22]

Complainants alleged that on February 15, 2002, Remedios Sambile (Remedios), adoptive mother of Marciano, came to their house and asked them to sign a document. Since they were busy at that time because they were

hosting their daughter's birthday party, they just signed the document. After the document was signed, Remedios left their house. Shortly thereafter, she returned and furnished them with a copy of a document denominated as a Deed of Donation.[23] The Deed of Donation was signed by Remedios as the donor, with the marital consent of her husband and the adoptive father of Marciano, Herminio Sambile (Herminio); Marciano as the donee, with the marital consent of his spouse, Lerma; and notarized before the respondent on even date.[24]

Complainants averred that they were surprised when subsequently thereafter, they received a notice that a complaint for annulment of deed of donation was filed against them by Remedios where it was alleged that the said Deed of Donation in favor of Marciano was falsified because Herminio could not have signed the same on February 15, 2002 since he already passed away on July 17, 1987. Complainants contended that they have nothing to do with the falsification of the same as they were only made to sign the document and accept the donation. They also never appeared before the respondent, the notary public before whom the said Deed of Donation was purportedly notarized. As proof that they never appeared before the respondent, complainants attached a Certification[25] executed by the Officer-in-Charge of the Office of the Clerk of Court of the Regional Trial Court (RTC) in Cavite City which stated that a copy of the subject Deed of Donation was not among the notarial documents submitted by the respondent before it for the year 2002. Thus, for notarizing the Deed of Donation without their personal appearance, complainants contended that respondent violated Rule 10.01 of the Code of Professional Responsibility (CPR) and the 2004 Rules on Notarial Practice.[26]

Respondent did not file his position paper.

In its April 19, 2018 Report and Recommendation, the IBP-CBD held that respondent's act of notarizing the Deed of Donation even if the complainants did not appear before him and his failure to submit a copy of the Deed of Donation together with his report to the Office of the Clerk of Court of the RTC not only violated the 2004 Rules on Notarial Practice, but also amounted to an unlawful, dishonest, immoral or deceitful conduct which makes him liable under Rule 10.01 of the CPR. The IBP-CBD, thus, recommended that respondent be suspended from the practice of law for one year and that he be prohibited from being commissioned as a notary public for two years effective immediately, with a warning that a repetition of the same offense or similar acts shall be dealt with more severely.[27]

On June 28, 2018, the IBP Board of Governors issued a Resolution adopting the findings and recommendation of the IBP-CBD with modification, in that, aside from the penalties recommended by the IBP- CBD, it also imposed a P5,000.00 fine upon the respondent for his failure to comply with the directive of the Commission and ordered the immediate revocation of his notarial commission, if subsisting.[28]

The Resolution, together with the records of the case, were transmitted to this Court for final action, pursuant to Section 12(b), Rule 139-B of the Rules of Court.[29]

The Court agrees with the undisputed finding of the IBP that respondent indeed notarized the Deed of Donation despite the fact that complainants did not appear before him. It must be emphasized that respondent was given ample chance to refute the allegations hurled against him, but he obstinately chose to ignore the notices and directive for him to appear before the Commission and file his position paper. The Certification[30] issued by the Office of the Clerk of Court of the RTC of Cavite City which attested to the fact that no copy of such Deed of Donation is on file with the said court, coupled with the fact that the donor's spouse, who has been dead since 1987,[31] signed the Deed of Donation in 2002[32] clearly show that the notarization of the same was dubious.[33]

In *Legaspi v. Landrito*,[34] the Court held:

It cannot be overemphasized that notarization of documents is not an empty, meaningless or routinary act. It is

invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. It is through the act of notarization that a private document is converted into a public one, making it admissible in evidence without need of preliminary proof of authenticity and due execution. Indeed, a notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe utmost care in complying with the elementary formalities in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.

Similarly, in *Bautista v. Bernabe*,<sup>[35]</sup> the Court ruled:

A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein. The presence of the parties to the deed will enable the notary public to verify the genuineness of the signature of the affiant.

Respondent, however, could not be adjudged to have violated the 2004 Rules on Notarial Practice for such failure for the reason that at the time the subject Deed of Donation was notarized in 2002, the 2004 Rules on Notarial Practice was not yet in force. Instead, respondent's failure to require the parties to the Deed of Donation notarized by him to personally appear before him constitutes a violation of Section 1(a)<sup>[36]</sup> of Public Act No. 2103.<sup>[37]</sup>

As correctly found by the IBP, in acknowledging that the parties personally came and appeared before him when they, in fact, did not do so, respondent also violated Rule 10.01 of the CPR and [his] oath as a lawyer that [he] shall do no falsehood.<sup>[38]</sup> In addition, his act of notarizing the Deed of Donation without the required presence of the complainants as required by Section 1(a) of Public Act No. 2103 likewise constitutes a violation of Canon 1 of the CPR which requires lawyers to obey the laws of the land.

WHEREFORE, for violating Section 1(a) of Public Act No. 2103 and the Code of Professional Responsibility, the Court SUSPENDS respondent Atty. Renato A. Ignacio from the practice of law for one (1) year; REVOKES his notarial commission, if still extant; and PROHIBITS him from being commissioned as a notary public for two (2) years, effective immediately. Atty. Ignacio is WARNED that a repetition of the same or similar acts in the future shall be dealt with more severely.

Let copies of this Resolution be entered into the personal records of respondent as a member of the bar and furnished to the Bar Confidant, the Integrated Bar of the Philippines, and the Court Administrator for circulation to all courts of the country for their information and guidance.

### **SO ORDERED.**

Carpio, (Chairperson), Caguioa, Lazaro-Javier, and Zalameda, JJ., concur.

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[1] Rollo, pp. 2-3.

[2] Id. at 6.

[3] Id. at 7.

[4] Id. at 14.

[5] Id. at 15.

[6] Id. at 17.

[7] Id. at 18.

[8] Id.at 19.

[9] Id. at 23-25.

[10] Id. at 22.

[11] Id. at 21.

[12] Id. at 26.

[13] Id. at 28.

[14] Id. at 29.

[15] Id. at 30.

[16] Id. at 32.

[17] Id. at 33.

[18] Id. at 34.

[19] Id. at 35 (dorsal side), 38.

[20] Id. at 41.

[21] Id. at 44, 45 including dorsal side.

[22] Id. at 46, 47 including the dorsal side.

[23] Id. at 57.

[24] Id. at 80-81.

[25] Id. at 82.

[26] Id. at 2, 57-58.

[27] Id. at 99-101.

[28] Id. at 93-94.

[29] Id. at 92.

[30] Supra note 25.

[31] Rollo, p. 85.

[32] Supra note 24.

[33] See Spouses Martires v. Chua, 707 Phil. 34, 46 (2013).

[34] 590 Phil. 1, 6 (2008).

[35] 517 Phil. 236, 240 (2006).

[36] Sec. 1. An instrument or document acknowledged and authenticated in any State, Territory, the District of Columbia, or dependency of the United States, shall be considered authentic if the acknowledgment and authentication are 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.

[37] *Social Security Commission v. Atty. Corral*, 483 Phil. 316, 320 (2004); *Heirs of Amado Celestial v. Heirs of Editha G. Celestial*, 455 Phil. 704, 716-717 (2003).

[38] *De Jesus v. Atty. Sanchez-Malit*, 738 Phil. 480, 493 (2014).

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