

ELENA BIETE LEONES VDA. DE MILLER, COMPLAINANT, VS. ATTY. ROLANDO B. MIRANDA, RESPONDENT.

A.C. No. 8507. November 10, 2015

Ponente: PERLAS-BERNABE, J.

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PERLAS-BERNABE, J.:

Before the Court is an administrative Complaint[1] dated December 12, 2009 filed by complainant Elena Biete Leones Vda. de Miller (complainant) against respondent Atty. Rolando B. Miranda (respondent) praying for the latter's disbarment.

The Facts

Complainant alleged that she filed a complaint for ejectment (ejectment case) against a certain Clarita Rodriguez Magbuhos[2] (Magbuhos), docketed as Civil Case No. 08-749, before the Municipal Trial Court in Cities of Angeles City, Branch III (MTCC).[3] A certain Corazon P. Manansala (Manansala), who claimed to be Magbuhos's attorney-in-fact, appeared in the latter's behalf alongside with her counsel, herein respondent. To prove her authority as attorney-in-fact, she presented a Special Power of Attorney[4] (SPA) duly notarized by respondent on March 6, 2009 and entered into his notarial register as Doc. No. 340; Page No. 68; Book No. IX, Series of 2009 (original SPA).[5] However, upon scrutiny of the original SPA, complainant's counsel pointed out that Manansala's authority to represent Magbuhos pertained to an alleged "cash loan extended to one Nestor Cabais" and not to the ejectment case. Insisting that she was authorized to represent Magbuhos in the ejectment case, Manansala, thru respondent, submitted another SPA[6] (altered SPA), which turned out to be almost identical to the original SPA earlier submitted, with the following notable changes: (a) the phrase "the cash loan extended to one Nestor Cabais" was enclosed with a handwritten parenthesis; and (b) the handwritten phrase "my property located at Purok 6, Aguinaldo St., Sapang Bato, Angeles City," was inserted in its stead, with all handwritten iterations not having any initials or counter-signatures of Magbuhos, as well as any indication as to when the aforesaid alterations were made.[7]

In an Order[8] dated November 18, 2009, the MTCC denied the admission of the altered SPA, thus, ruling that Manansala has no authority to represent Magbuhos in the ejectment case. It held that the handwritten insertions made on the altered SPA were made after the document's notarization and were without any counter-signatures from Magbuhos, and as such, cannot be given any effect. The MTCC also pointed out that the document registered as Doc. No. 340; Page No. 68; Book No. IX, Series of 2009 in respondent's notarial register is the SPA which authorized Manansala to represent Magbuhos regarding "the cash loan extended to one Nestor Cabais," and has no reference to the ejectment case.[9]

The foregoing incidents led to the filing of the instant administrative complaint, with complainant arguing that respondent's act of submitting before the MTCC an altered and/or falsified document which he himself had notarized is blatantly and patently immoral, improper, and unlawful, and thus, he should be accordingly penalized for the same.[10]

In his defense, respondent maintained that the handwritten iterations made in the SPA were neither malicious nor intentional but were mere products of his "honest mistake or oversight." Respondent then explained that on March 5, 2009, Magbuhos personally appeared before him and asked him to prepare an SPA in order to authorize Manansala to appear in her behalf in the ejectment case. Respondent then asked his secretary to print a copy of a similar document in his files for him to insert the necessary corrections, and after which, instructed his secretary to re-type the document and re-print the same with the corrections. Thinking that the re-printed copy already contained his corrections, he no longer bothered to proofread the SPA, went on to have Magbuhos sign the document, and then proceeded to notarize the same.[11] Upon realizing the existence of the erroneous phrase therein, i.e., "the cash loan extended to one Nestor Cabais," respondent asserted that he informed Magbuhos of such error, and that the latter explicitly gave him instructions to insert the necessary corrections.[12]

The IBP's Report and Recommendation

In a Report and Recommendation[13] dated March 23, 2011, the Integrated Bar of the Philippines (IBP) Investigating Commissioner found respondent administratively liable and, accordingly, recommended that he be meted the penalty of suspension from the practice of law for a period of one (1) year and disqualification as notary public for a period of two (2) years.[14]

The Investigating Commissioner found that since respondent already performed notarial acts on the original SPA which already contains the acts of solemn affirmation of the parties, it was improper, wrongful, and/or unlawful for respondent to have notarized a copy thereof with the handwritten alterations. In this regard, the Investigating Commissioner remarked that respondent cannot simply put the blame on his legal secretary in order to save himself from any administrative sanctions.[15]

In a Resolution[16] dated June 20, 2013, the IBP Board of Governors adopted and approved the aforesaid Report and Recommendation, with modification decreasing the recommended penalty to suspension from the practice of law for a period of six (6) months, immediately revoking respondent's notarial commission, and disqualifying him from being appointed as a notary public for a period of one (1) year.[17] Aggrieved, respondent moved for reconsideration[18] which was, however, denied in a Resolution[19] dated September 27, 2014.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable for the acts complained of.

The Court's Ruling

A notary public is empowered to perform a variety of notarial acts, most common of which are the acknowledgement and affirmation of documents or instruments. In the performance of these notarial acts, the notary public must be mindful of the significance of the notarial seal affixed on documents. The notarial seal converts a document from a private to a public instrument, after which it may be presented as evidence without need of proof of its genuineness and due execution. Thus, notarization should not be treated as an empty, meaningless or routinary act. A notary public exercises duties calling for carefulness and faithfulness. Notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.[20] The importance of the functions of a notary public is highlighted in *De Jesus v. Sanchez-Malit*[21] as follows:

The important role a notary public performs cannot be overemphasized. The Court has repeatedly stressed that notarization is not an empty, meaningless routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its

face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.[22] (Emphasis and underscoring supplied)

In view of such importance, the Notarial Law and the 2004 Rules on Notarial Practice[23] require a duly commissioned notary public to make the proper entries in his Notarial Register and to refrain from committing any dereliction or any act which may serve as cause for the revocation of his commission or the imposition of administrative sanctions.[24]

In the instant case, records reveal that respondent prepared the original SPA to show that Manansala was authorized by Magbuhos to appear in the latter's behalf in the ejectment case instituted by herein complainant. However, upon the original SPA's submission before the MTCC, it was pointed out that the authority given by Magbuhos to Manansala only pertained to "the cash loan extended to one Nestor Cabais" and not to the ejectment case. In order to remedy the situation, handwritten alterations were made on the said SPA, such as the enclosing of the aforesaid phrase with a parenthesis and the insertion of the phrase "my property located at Purok 6, Aguinaldo St., Sapang Bato, Angeles City," and thereafter, the altered SPA was then re-submitted to the MTCC. In this regard, respondent explained that in the preparation of the original SPA, he merely asked his secretary to get a similar document from his files and insert his corrections. Respondent then admitted that he did not bother checking the draft of the original SPA as he simply assumed that his secretary did her job properly. Finally, respondent reasoned out that the error made on the original SPA was only due to "honest mistake and oversight" and upon discovery thereof, he himself caused the alterations on the SPA with the knowledge and verbal consent of Magbuhos.

These factual circumstances only show that respondent's failure to carefully double-check the draft of the original SPA submitted to him by his secretary led him to notarize a document which did not reflect the true intent of his client. His attempt to escape administrative sanctions by pinning the blame on his secretary cannot be condoned as case law instructs that in these instances, the lawyer himself, not merely his secretary, should be held accountable for these kinds of misdeeds.[25] Worse, respondent himself caused the intercalation of the notarized SPA by inserting handwritten alterations therein which changed its meaning - thus, violating Rule 1.01, Canon 1 of the Code of Professional Responsibility, which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct." Absent any competent proof, respondent's assertion that he was verbally authorized by Magbuhos in altering the SPA is self-serving and cannot be given any credence.

Irrefragably, respondent's acts not only caused damage to those directly affected by the altered SPA, but also tainted the integrity of the legal profession by degrading the function of notarization. Thus, he should be held liable therefor not only as a notary public, but also as a lawyer.[26] In a similar case, the Court imposed upon the erring lawyer the following penalties: (a) suspension from the practice of law for a period of one (1) year; (b) immediate revocation of the lawyer's notarial commission, if still existing; and (c) disqualification from being appointed as a notary public for a period of two (2) years.[27] Accordingly, the Court finds it appropriate that respondent be meted with the same penalties.

WHEREFORE, respondent Atty. Rolando B. Miranda is found GUILTY of violating the 2004 Rules on Notarial Practice and the Code of Professional Responsibility. Accordingly, the Court SUSPENDS him from the practice of law for one (1) year; REVOKES his incumbent notarial commission, if any; and PROHIBITS him from being commissioned as a notary public for two (2) years, effective immediately, with a STERN WARNING that a repetition of the same or similar acts in the future shall be dealt with more severely.

Let a copy of this Decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record in this Court as attorney. Further, let copies of this Decision be furnished the Integrated Bar of the

Philippines and the Office of the Court Administrator, which is directed to circulate them to all the courts in the country for their information and guidance.

SO ORDERED.

Sereno, C.J., (Chairperson), Leonardo-De Castro, Bersamin, and Perez, JJ., concur.

- [1] Rollo, pp. 1-8.
- [2] "Clarita A. Rodriguez" in some pans of the records.
- [3] Rollo, p. 1.
- [4] Id. at 44-45.
- [5] See id. at 2-3 and 45.
- [6] Id. at 49-50.
- [7] See id. at 3-4. See also id. at 250.
- [8] Id. at 85-87. Penned by Presiding Judge Gemma Theresa B. Hilario-Logronio.
- [9] See id. at 86-87.
- [10] See id. at 6.
- [11] See Comment dated March 11, 2010; id. at 184-186.
- [12] See Position Paper dated December 17, 2010; id. at 242-244.
- [13] Id. at 249-252. Penned by Commissioner Salvador B. Hababag.
- [14] Id. at 252.
- [15] See id. at 251-252.
- [16] See Notice of Resolution No. XX-2013-698 signed by Nasser A. Marohomsalic; id. at 248 (including dorsal portion).
- [17] Id.
- [18] See motion for reconsideration dated October 1, 2013: id. at 253-255.
- [19] See Notice of Resolution No. XXI-2014-596; id. at 274-275.
- [20] *Gemina v. Madamba*, 671 Phil. 541, 549-550 (2011), citing *Agagon v. Bustamante*, 565 Phil. 581, 586- 587 (2007).
- [21] A.C. No. 6470, July 8, 2014, 729 SCRA 272.
- [22] Id. at 283.
- [23] A.M. No. 02-8-13-SC dated July 6, 2004.
- [24] *Agadan v. Kilaan*, A.C. No. 9385, November 11, 2013. 709 SCRA 1, 11, citing *Gemina v. Madamba*, *supra* note 20, at 549-550.

[25] Id. at 10-11, citing *Gemina v. Madamba*, id.

[26] See *Agbulos v. Viray*, A.C. No. 7350, February 18, 2013, 691 SCRA 1, 8-9.

[27] See id. 9-10.

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