

MA. VILMA F. MANQUIZ, COMPLAINANT, V. ATTY. DANILO C. EMELO, RESPONDENT.

A.C. No. 8968. September 26, 2017

Ponente: PERALTA, J.

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PERALTA, J.:

This is an administrative complaint filed by Ma. Vilma Maniquiz against Atty. Danilo C. Emelo, for notarizing a fictitious Deed of Absolute Sale and in the absence of the required notarial commission.

The procedural and factual antecedents of the case are as follows:

Maniquiz alleged that Emelo violated his lawyer's oath and the Code of Professional Responsibility (CPR) when he willfully notarized a fictitious Deed of Absolute Sale containing a falsified signature of her sister-in-law, Mergelita Sindanom Maniquiz, as vendor of a parcel of land in favor of spouses Leonardo and Lucena Torres, as the vendees. Even worse, Emelo notarized said document without being authorized to act as a notary public for Cavite.

On January 11, 2011, a person connected with the Spouses Torres gave Maniquiz a copy of said deed of sale. When she showed it to Mergelita, the latter was surprised and denied that she ever signed the same. Also, they noticed that the document did not show the names of the witnesses but only their signatures and the purported vendees failed to present any government-issued identification documents. Emelo's notarial commission and roll of attorneys number were likewise not indicated in the document. Thus, Maniquiz went to Emelo's residence to confirm if he indeed notarized said deed of sale. Emelo told them that he did notarize said document based on a photocopy of Mergelita's passport which was shown to him by his kumpare, Leonardo Torres, who personally appeared before him at that time.

Emelo, for his part, denied the accusations against him. In his belatedly filed Comment on July 26, 2012, he argued that he was not remiss in his obligations as a notary public when he notarized the subject deed of absolute sale since the parties actually appeared before him. He likewise attested that a woman introduced herself to him as Mergelita Maniquiz, as evidenced by her passport. As regards the issue of absence of notarial commission, he explained that for the year 2007, he could not retrieve orders of his commission as they may have been destroyed when his residential house was inundated by the typhoon Milenyo on September 28, 2006. He admitted the notarization of said document without notarial commission and begged for clemency, kind consideration, and forgiveness for the same.

On June 18, 2013, the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) recommended Samson's suspension from the practice of law for two (2) years.[1] On October 10, 2014, the IBP Board of Governors passed Resolution No. XXI-2014-729,[2] which adopted and approved, with modification, the aforementioned recommendation, hence:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the

Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A ", and considering that Respondent is liable for deceit, gross misconduct and dishonesty, Atty. Danilo C. Emelo is hereby SUSPENDED from the practice of law for two (2) years and his notarial commission, if presently commissioned, is REVOKED. Further, he is DISQUALIFIED from being commissioned as notary public for two (2) years.

The Court's Ruling

The Court upholds the findings and recommendations of the IBP that Emelo should be held liable for the questioned act.

Notarization is the act that ensures the public that the provisions in the document express the true agreement between the parties. Transgressing the rules on notarial practice sacrifices the integrity of notarized documents. The notary public is the one who assures that the parties appearing in the document are indeed the same parties who executed it. This obviously cannot be achieved if the parties are not physically present before the notary public acknowledging the document since it is highly possible that the terms and conditions favorable to the vendors might not be included in the document submitted by the vendee for notarization. Worse, the possibility of forgery becomes real.[3] It should be noted that a notary public's function should not be trivialized; a notary public must always discharge his powers and duties, which are impressed with public interest, with accuracy and fidelity, and with carefulness and faithfulness. Notaries must, at all times, inform themselves of the facts they certify to. And most importantly, they should not take part or allow themselves to be part of illegal transactions.[4]

Where the notarization of a document is done by a member of the Philippine Bar at a time when he has no authorization or commission to do so, the offender may be subjected to disciplinary action. For one, performing a notarial act without such commission is a violation of the lawyer's oath to obey the laws, more specifically, the Notarial Law. Then, too, by making it appear that he is duly commissioned when he is not, he is, for all legal intents and purposes, indulging in deliberate falsehood, which the lawyer's oath similarly proscribes. It cannot be overemphasized that notarization is not an empty, meaningless, routinary act. Notarization is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Hence, the requirements for the issuance of a commission as notary public are treated with a formality definitely more than casual.[5]

These violations fall squarely within the prohibition of Rule 1.01 of Canon 1 of the CPR. Canon 1 and Rule 1.01 of the CPR provide:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

Rule 1.0 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

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Canon 1 clearly mandates the obedience of every lawyer to laws and legal processes. A lawyer, to the best of his ability, is expected to respect and abide by the law and, thus, avoid any act or omission that is contrary to the same. A lawyer's personal deference to the law not only speaks of his character but it also inspires the public to likewise respect and obey the law. Rule 1.0, on the other hand, states the norm of conduct to be observed by all lawyers. Any act or omission that is contrary to, or prohibited or unauthorized by, or in defiance of, disobedient to, or disregards the law is unlawful. Unlawful conduct does not necessarily imply the element of criminality although the concept is broad enough to include such element. To be dishonest means the disposition to lie, cheat,

deceive, defraud, or betray; be unworthy; lacking in integrity, honesty, probity, integrity in principle, fairness, and straightforwardness, while conduct that is deceitful means the proclivity for fraudulent and deceptive misrepresentation, artifice or device that is used upon another who is ignorant of the true facts, to the prejudice and damage of the party imposed upon.[6]

The Court must reiterate that membership in the legal profession is a privilege that is bestowed upon individuals who are not only learned in law, but also known to possess good moral character. Lawyers should act and comport themselves with honesty and integrity in a manner beyond reproach, in order to promote the public's faith in the legal profession. To declare that lawyers must at all times uphold and respect the law is to state the obvious, but such statement can never be overemphasized. Since of all classes and professions, lawyers are most sacredly bound to uphold the law, it is then imperative that they live by the law.[7]

When Emelo was admitted to the Bar, he took an oath to obey the laws, do no falsehood, and conduct himself as a lawyer according to the best of his knowledge and discretion. After a review of the records of the case, however, the Court finds him guilty of deceit, gross misconduct, and dishonesty in notarizing the deed of sale without all the parties personally appearing before him and in the absence of a notarial commission.

The public is led to expect that lawyers would always be mindful of their cause and accordingly exercise the required degree of diligence in handling their affairs. The lawyer is expected to maintain, at all times, a high standard of legal proficiency, and to devote his full attention, skill, and competence to his work. To this end, he is enjoined to employ only fair and honest means to attain lawful objectives.[8]

Emelo's failure to fulfill this basic undertaking constitutes a violation of his duty to observe fairness and honesty in all his dealings and transactions. Indubitably, he fell short of the demands required of him as a faithful member of the bar. His inability to properly discharge said duty makes him answerable, not just to the private complainant, but also to the Court, to the legal profession, and to the general public. Considering the crucial importance of his role in the administration of justice, his misconduct certainly diminished the confidence of the public in the integrity and dignity of the legal profession.[9]

In the recent case of *De Jesus v. Atty. Sanchez-Malit*, [10] the respondent-lawyer notarized twenty-two (22) public documents even without the signatures of the parties on those documents. The Court suspended the lawyer from the practice of law for one (1) year and perpetually disqualified her from being a notary public. In *Anudon v. Atty. Arturo B. Cefra*, [11] wherein the lawyer notarized a Deed of Absolute Sale without requiring the presence of the affiants, the Court suspended the respondent-lawyer from the practice of law for two (2) years and likewise perpetually disqualified him from being commissioned as a notary public.

Therefore, pursuant to the aforecited principles, the Court finds Emelo guilty of violating the pertinent Canons of the CPR, for which he must necessarily be held administratively liable.

WHEREFORE, IN VIEW OF THE FOREGOING, the Court **SUSPENDS** Atty. Danilo C. Emelo from the practice of law for a period of two (2) years, **REVOKES** his notarial commission, if presently commissioned, and **PERPETUALLY DISQUALIFIES** him from being commissioned as a notary public. The Court further **WARNS** him that a repetition of the same or similar offense shall be dealt with more severely.

Let copies of this decision be included in the personal records of Atty. Danilo C. Emelo and entered in his file in the Office of the Bar Confidant.

Let copies of this Decision be disseminated to all lower courts by the Office of the Court Administrator, as well as to the Integrated Bar of the Philippines, for their information and guidance.

SO ORDERED.

Sereno, C.J., Velasco, Jr., Leonardo-De Castro, Bersamin, Del Castillo, Perlas-Bernabe, Leonen, Caguioa, Martires, Tijam, Reyes, Jr., and Gesmundo, JJ., concur.

Carpio, J., on official leave.

Jardeleza, J., on wellness leave.

NOTICE OF JUDGMENT

Sirs/Mesdames:

Please take notice that on September 26, 2017 a Decision/Resolution, copy attached herewith, was rendered by the Supreme Court in the above-entitled case, the original of which was received by this Office on October 9, 2017, at 10:45 a.m.

Very truly yours,

(SGD.) FELIPA G. BORLONGAN-ANAMA
Clerk of Court

[1] Report and Recommendation submitted by Commissioner Eldrid C Antiquiera; rollo, pp. 141-142.

[2] Rollo, pp. 139-140.

[3] *Anudon v. Atty. Cefra*, 753 Phil. 421, 430 (2015).

[4] *Sultan v. Atty. Macabanding*, 745 Phil. 12, 20 (2014).

[5] *Almazan, Sr. v. Atty. Suerte-Felipe*, 743 Phil. 131, 137 (2014).

[6] *Jimenez v. Atty. Francisco*, 749 Phil. 551, 566 (2014).

[7] *Id.*

[8] *Pitcher v. Atty. Gagate*, 719 Phil. 82, 91 (2013).

[9] *Rollon v. Atty. Naraval*, 493 Phil. 24, 32 (2005).

[10] 738 Phil. 480 (2014).

[11] *Supra* note 3.

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