

JULIAN C. DINOY, COMPLAINANT, VS. ATTY. JESUS ROSAL, RESPONDENT.

Adm. Case No. 3721. August 17, 1994

Ponente: FELICIANO, J.

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FELICIANO, J.:

Mr. Julian C. Dinoy sent the Secretary of Justice an unverified letter dated 23 August 1991, charging Atty. Jesus Rosal with having notarized a Special Power of Attorney dated 8 May 1989 in favor of one Estela Gentacutan, at a time when some of the principals (i.e., Cesaria Bacalla and Jose Gentacutan) mentioned in the document were already dead. The letter was indorsed to the Court which in turn referred it to the Committee on Bar Discipline of the Integrated Bar of the Philippines ("Committee") for investigation, report and recommendation.

A series of communications were then exchanged between Mr. Dinoy and the Committee, among which was another unverified letter from Mr. Dinoy dated 9 March 1992 containing evidence tending to support his charge against Atty. Rosal. Such evidence included: (a) a xerox copy of a death certificate issued by the Parish Church of San Nicolas, Cebu City indicating that one Cesaria Bacalla died on 10 February 1981; (b) a photograph of a headstone indicating that Jose Gentacutan died on 2 April 1974; and (c) a xerox copy of a certification issued by the Parish Church of San Nicolas, Cebu City indicating that the skeletal remains of Jose Gentacutan have been interred in the Calamba Roman Catholic Cemetery, Cebu City. When the investigation was already well under way, Mr. Dinoy submitted a "Supple-mentary Affidavit" dated 25 September 1993 wherein he declared that the act complained of "is illegal and unlawful and he (Atty. Rosal) should be punished for this act (by) disbarment from (the) practice of law."

Meanwhile, the Committee, through Commissioner Presbitero J. Velasco, issued an order dated 18 June 1992 inquiring if the parties desired a change of venue to Cebu City, since both are residents thereat. Complainant Dinoy agreed; respondent Rosal gave no response.

In an order dated 3 February 1993, the Committee, this time acting through Commissioner Victor C. Fernandez, required Atty. Rosal to submit his answer to the complaint. Respondent filed a verified answer dated 23 February 1993 to the complaint. Respondent asserted that notwithstanding the heavy workload of documents to be notarized which he faced on the day he dealt with the document in question, he was able to interview each of the persons who executed the Special Power of Attorney regarding their personal circumstances and the consequences of their act; he was satisfied the persons who signed the document were the ones who represented themselves to be such. Respondent asked that the complaint be dismissed for lack of merit.

Complainant filed a reply thereto as well as a motion to transfer venue. In an order dated 13 April 1993, the Committee finally designated Cebu City as the venue of the investigation and authorized the local chapter president thereat, Atty. Manuel P. Legaspi, to receive the evidence of the parties and submit a recommendation thereon.

A hearing was set by Atty. Legaspi on 19 August 1993, but it was reset to 24 September 1993 because the

respondent was unavailable. The record of this case contains no indication that a hearing was actually held on this subsequent date; although Atty. Legaspi in his report mentioned a hearing being conducted on 7 October 1993.

Atty. Legaspi eventually promulgated a resolution dated 14 December 1993 finding that respondent failed to exercise due diligence in ascertaining the identities and capacities of the individuals who executed the document dated 8 May 1989. Atty. Legaspi reasoned that the volume of documents respondent declared having notarized (e.g., sixty-five [65] documents on 5 May 1989, eighty-seven [87] documents on 8 May 1989 and eighty-nine [89] documents on 10 May 1989) before, during and after the date in question would render it unlikely that respondent conducted a careful interview of the individuals who executed the questioned document.

Atty. Legaspi observed, however, that the complainant presented no proof that respondent acted with malice, ill-will or bad faith in committing the negligent act complained of; complainant cannot therefore insist upon the disbarment of the respondent.

In a Report and Recommendation dated 15 April 1994, the Committee adopted Atty. Legaspi's report and recommended respondent's suspension from the practice of law for a period of six (6) months. This disposition was adopted by the Board of Governors of the Integrated Bar of the Philippines ("IBP") on 26 May 1994 by way of Resolution No. XI-94-077.

Deliberating upon the present administrative case, after a careful review of the evidence of record, the Court finds that the conclusions of the IBP in its Report are supported by substantial evidence. The findings of the IBP's Report are hereby adapted by the Court as its own.

Notarization of a private document converts such document into a public one and renders it admissible in court without further proof of its authenticity; courts, administrative agencies and the public at large must be able to rely upon the acknowledgement executed by a notary public and appended to a private document.[1] Consequently, it is the duty of the notarial officer to demand that a document be signed in his presence by the real parties thereto; the notarial officer must observe "utmost care" to comply with the elementary formalities in the performance of his duties.[2]

In this case, respondent's failure to observe the required standard of care was not only evident from his inconsistent admissions as noted by Atty. Legaspi, but also from the documentary evidence submitted by the complainant which demonstrated that two (2) of the eight (8) co-owners of a parcel of land who executed the special power of attorney dated 8 May 1989 were already deceased well before the time respondent notarized the document in question.

Furthermore, although the Court agrees with the IBP's recommendation that the respondent be administratively sanctioned for his negligence, we find the recommended penalty of six (6) month's suspension from the practice of law to be unduly harsh, considering that complainant had not shown that the respondent had deliberately acknowledged and recorded a falsehood when he notarized the document dated 8 May 1989,[3] and considering further that the present complaint relates to the notarization of one (1) document only.[4]

ACCORDINGLY, Attorney Jesus Rosal is **SUSPENDED** from the practice of law for a period of three (3) months for negligence in the performance of his duty as a notary public with the **WARNING** that repetition of the same or similar conduct in the future will be dealt with more severely. Copies of this Resolution shall be furnished to all courts of the land. Copies shall also be furnished to the Integrated Bar of the Philippines and to the Office of the Bar Confidant and spread on the personal record of respondent attorney.

SO ORDERED.

Bidin, Romero, Melo, and Vitug, JJ., concur.

[1] Section 23, Rule 132; *Antillon v. Barcelon*, 37 Phil. 148, 153-154 (1917), reiterated in *Joson v. Baltazar*, 194 SCRA 114, 119 (1991).

[2] See *Realino v. Villamor*, 87 SCRA 318, 322 (1978).

[3] *Ordonio v. Eduarte*, 207 SCRA 229, 232-233 (1992).

[4] See *Joson v. Baltazar*, 194 SCRA 114 (1991).

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