Republic of the Philippines
Supreme Court
Manila

EN BANC

ATTY. ROGELIO N. VELARDE, Petitioner, - versus - **ATTY. RUBEN M. ILAGAN,** Respondent.	**A.C. No. 12154** **Present:** BERSAMIN, *C.J.*, CARPIO,* PERALTA, PERLAS-BERNABE, LEONEN, JARDELEZA, CAGUIOA, REYES, JR., GESMUNDO, REYES, J JR., HERNANDO, CARANDANG, LAZARO-JAVIER, INTING, AND ZALAMEDA, *JJ.* **Promulgated:** September 17, 2019

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DECISION

REYES, J. JR., *J.*:

In a Complaint-Affidavit,[1] commission of violation of the 2004 Rules on Notarial Practice was imputed against Atty. Ruben M. Ilagan (respondent) for allegedly notarizing several Deeds of Absolute Sale by a deceased affiant.

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* Acting Chief Justice.
1 *Rollo*, pp. 2-6.

The Relevant Antecedents

The case stemmed from a parcel of land (subject land), originally dedicated for parks and playgrounds, situated in Ma. Cristina Village covering an area of 1,467 square meters. The subject land was registered in the name of Narciso Salas (Narciso) under Transfer Certificate of Title (TCT) No. NT-229061, but was owned in common by all the lot owners and lot buyers of the village, all of whom held undivided interest thereon. Among the lot owners is Atty. Rogelio N. Velarde (complainant).[2]

On May 6, 2010, Narciso died.[3] However, it appeared that the subject land was successfully subdivided into eight smaller lots three years thereafter. These lots were in the name of Narciso and his surviving spouse Lina Domingo Salas (Lina).[4]

Out of the eight lots, five lots which were covered by TCT Nos. 041-201300813 to 041-2013008117, were allegedly sold by Narciso and Lina to: (1) the spouses Jasper Nagayo and Aprilyn M. Nagayo evidenced by a Deed of Absolute Sale[5] dated December 13, 2013; (2) the spouses Nelson M. Sta. Maria and Marites N. Sta. Maria evidenced by a Deed of Absolute Sale[6] dated February 28, 2014; (3) the spouses Leopoldo G. Atacador, Jr. and Bebelyn M. Atacador evidenced by a Deed of Absolute Sale[7] dated May 15, 2014; (4) Joshua E. Gonzales evidenced by a Deed of Absolute Sale[8] dated September 1, 2014; and (5) spouses Raynaldy Cruz Marin and Marivic C. Marin evidenced by a Deed of Absolute Sale[9] dated September 1, 2014. It is ostensible that said Deeds were notarized by respondent three to four years after the death of the purported vendor Narciso.[10]

Asserting that respondent violated the 2004 Rules on Notarial Practice, complainant alleged that respondent falsely attested on Narciso's personal appearance before him. As a direct consequence of such act, complainant and his co-owners in Ma. Cristina Village have been deprived of their right and enjoy the benefits derived from the subject land.[11]

In his Answer,[12] respondent offered the defense of general denial and maintained that his signatures in the purported deeds of sale were forged.

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2 Id. at 114.
3 Id. at 14-15.
4 Id. at 114.
5 Id. at 37-38.
6 Id. at 39-40.
7 Id. at 42-43.
8 Id. at 44.
9 Id. at 46.
10 Id. at 4.
11 Id.
12 Id. at 62-71.

The Integrated Bar of the Philippines (IBP) issued a Notice of Mandatory Conference Hearing[13] dated April 17, 2015. However, in an Order[14] dated June 5, 2015, the IBP observed respondent's non-appearance to the hearing.

Consequently, the IBP issued another Notice of Mandatory Conference[15] dated October 29, 2015, requiring once again the attendance of all the parties.

In an Order[16] dated December 7, 2015, the IBP noted that only the complainant attended the hearing. It then required the parties to submit their respective position papers.

In his Position Paper,[17] complainant reiterated the allegations in his complaint, *i.e.,* that respondent notarized several deeds of absolute sale by a deceased vendor.

On the other hand, respondent failed to file his Position Paper.

In a Report and Recommendation[18] dated May 23, 2016, the IBP-Commission on Bar Discipline (CBD) found that respondent committed misconduct by certifying under oath several deeds of sale, knowing fully well that one of the vendors was already dead. Thus, the IBP-CBD recommended the penalty of suspension of respondent from the practice of law for a period of two years, revocation of his notarial commission, and disqualification from being a notary public for two years, to wit:

> WHEREFORE, premises considered, it is hereby recommended that Respondent ATTY. RUBEN M. ILAGAN be SUSPENDED from the practice of law for two (2) years, REVOKES his incumbent notarial commission, if any, and DISQUALIFIES him from being commissioned as notary public for two (2) years. Respondent is also STERNLY WARNED that more severe penalties will be imposed for any further breach of the Canons in the Code of Professional Responsibility.
>
> RESPECTFULLY SUBMITTED.

The IBP-Board of Governors adopted the findings of fact and recommendation of the IBP-CBD *in toto* in a Resolution[19] dated June 17, 2017, *viz.*:

> *RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of revocation of Notarial Commission, and disqualification from being commissioned as*

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13 Id. at 47.
14 Id. at 61.
15 Id. at 72.
16 Id. at 74.
17 Id. at 75-87.
18 Id. at 114-124.
19 Id. at 112-113.

Notary Public for two (2) years; and suspension of two (2) years from the practice of law.

The Issue

Whether or not respondent's conduct warrants an imposition of penalty to be meted out against him.

The Court's Ruling

We agree with the findings of the IBP-CBD and the IBP-Board of Governors that respondent failed to live up with the duties of a notary public as dictated by the 2004 Rules on Notarial Practice.

The pronounced nature of notarization cannot be overemphasized. It is not a meaningless ministerial act of acknowledging documents executed by parties who are willing to pay the fees for the same.[20] For notarization converts a private document into a public document, making the same admissible in evidence without further proof of authenticity; thus, a notarial document is, by law, entitled to full faith and credit upon its face.[21]

To ensure that the noble consequences of notarization would be achieved while protecting the public, Rule IV, Section 1(b) and (c) of the Notarial Rules provide for the following guidelines, among others:

> (b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document –
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> (1) is not in the notary's presence personally at the time of the notarization; and
> (2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

The importance of personal appearance was highlighted as one of the prohibitions under the Rules, to wit:

> Section 2. *Prohibitions.*
>
> b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document –
>
> (1) is not in the notary's presence personally at the time of the notarization; and
> (2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules

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20 *Isenhardt v. Atty. Real*, 682 Phil.. 19, 26 (2012), citing *Lanuzo v. Bongon*, 587 Phil. 658, 662 (2008).
21 *Gonzales v. Atty. Ramos*, 499 Phil. 345, 350 (2005).

Based on the records of the case, it is apparent that respondent notarized several Deeds of Absolute Sale, purporting to convey several parcels of land by deceased Narciso to several individuals long *after* the former's demise. By notarizing a document without the appearance of the affiant, respondent failed to ascertain not only the genuineness of his signature but also the due execution of the document.[22]

In the case of *Dela Cruz-Silano v. Pangan,*[23] we had the occasion to explain the indispensable character of personal appearance so as to guard the public against fraud, to wit:

> The Court is aware of the practice of not a few lawyers commissioned as notary public to authenticate documents without requiring the physical presence of affiants. However, the adverse consequences of this practice far outweigh whatever convenience is afforded to the absent affiants. Doing away with the essential requirement of physical presence of the affiant does not take into account the likelihood that the documents may be spurious or that the affiants may not be who they purport to be. 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. x x x

Respondent's failure to faithfully discharge his duties as a notary public likewise makes him guilty of violating the CPR, which prohibits him from engaging in unlawful, dishonest, immoral or deceitful conduct and requires him to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes.[24]

Equally deplorable is respondent's disregard of the IBP's authority when he repeatedly failed to attend the mandatory conference hearings. Such conduct is contrary to what the CPR requires:

> Canon 11 - A lawyer shall observe and maintain the respect due to the courts and to judicial officers and should insist on similar conduct by others.

Thus, respondent's failure to heed to the orders of the IBP amounts to conduct unbecoming of a lawyer.[25]

For notarizing a document without requiring the affiant's personal appearance, we revoked the respondent lawyer's notarial commission, disqualified him from reappointment as notary public for two years, and suspended him from the practice of law for a period of one year in the case of *Isenhardt v. Atty. Real.*[26]

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22 *Almario v. Atty. Llera-Agno*, A.C. No. 10689, January 8, 2018, 850 SCRA 1, 10.
23 592 Phil. 219, 227 (2008).
24 Rule 1.01, Code of Professional Responsibility.
25 *Heenan v. Atty. Espejo*, 722 Phil. 528 (2013).
26 682 Phil. 19 (2012).

In light of respondent's breach of the notarial rules coupled with respondent's downright defiance of the orders by the IBP, the penalty of suspension of two years from the practice of law, revocation of notarial commission, and disqualification from being a commissioned notary public for two years is deemed proper.

Once again, we remind the commissioned notaries public that it is their duty not only to preserve the integrity of notarized documents, but also to actively take measures to increase the public's confidence in them. In this light, this Court will not hesitate to impose punishment against an erring lawyer found to have committed any act which diminishes the imagery of these documents as imbued with public interest.

WHEREFORE, premises considered, Atty. Ruben M. Ilagan is **GUILTY** of violating the Code of Professional Responsibility and the 2004 Rules on Notarial Commission. Accordingly, **SUSPENSION** from the practice of law for a period of two (2) years effective upon the finality of this Decision, **REVOCATION** of his notarial commission, and **DISQUALIFICATION** from being commissioned as Notary Public for a period of two (2) years is hereby imposed upon him.

He is likewise **STERNLY WARNED** that commission of a similar infraction will be dealt with more severely.

Let copies of this Decision be furnished the Office of the Bar Confidant, to be appended to Atty. Ruben M. Ilagan's personal record. 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 courts in the country for their information and guidance.

SO ORDERED.

JOSE C. REYES, JR.
Associate Justice

WE CONCUR:

(On Official Business)
LUCAS P. BERSAMIN
Chief Justice

ANTONIO T. CARPIO
Associate Justice
Acting Chief Justice

DIOSDADO M. PERALTA
Associate Justice

ESTELA M. PERLAS-BERNABE
Associate Justice

MARVIC M.V. F. LEONEN
Associate Justice

FRANCIS H. JARDELEZA
Associate Justice

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

ANDRES B. REYES, JR.
Associate Justice

(On Official Business)
ALEXANDER G. GESMUNDO
Associate Justice

RAMON PAUL L. HERNANDO
Associate Justice

ROSMARI D. CARANDANG
Associate Justice

AMY C. LAZARO-JAVIER
Associate Justice

HENRI JEAN PAUL B. INTING
Associate Justice

RODIL V. ZALAMEDA
Associate Justice

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EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court