



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **June 15, 2020** which reads as follows:*

**“A.C. No. 8588 [Formerly CBD Case No. 11-2903] – SPOUSES ANTONIO A. CHUA AND LEONIDEZ C. CHUA, complainants, versus ATTY. NELSON DC. PALARIS, respondent.**

A notary public should not notarize a document unless the signatories are the very same persons who executed it and personally appeared before him to attest to the contents and truth of what are stated therein. We apply this rule in the present administrative case.

ANTECEDENTS

On April 19, 2010, Spouses Antonio and Leonidez Chua (Spouses Chua) filed a joint complaint<sup>1</sup> affidavit against Atty. Nelson DC. Palaris (Atty. Palaris) for gross misconduct before the Office of the Bar Confidant. Spouses Chua alleged that Atty. Palaris notarized the deed of sale between the Spouses Carlito and Rosita Ambrosio, as vendors, and the Spouses Chua, as vendees. However, it turned out that Carlito was already dead at the time of notarization. As a result, Rosita sued Spouses Chua for falsification of public document.

In his comment, Atty. Palaris denied the charge and claimed that a certain Irene Carulla presented the deed of sale to him in his office. At that time, Irene was accompanied by two persons who she introduced as the vendors. Upon presentation of the vendors' residence certificates, Atty. Palaris notarized the deed. Later, Atty. Palaris was surprised when a person came to his office and introduced herself as the real Rosita Ambrosio. The said person informed him that her signature in the deed of sale was forged resulting in the illegal

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133

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<sup>1</sup> Rollo, p. 3-5.

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transfer of her property to the Spouses Chua. Atty. Palaris denied that he was aware of the fact that the persons who signed the deed were not the same persons who they represent to be. He performed his duty as notary public with utmost care and acted in good faith in notarizing the deed of sale.

In reply, Spouses Chua maintained that Atty. Palaris did not exercise due care in the performance of his duties as he failed to verify the identity of the persons who signed the deed through supporting documents. Instead, he relied on Irene's representation that she was authorized by Spouses Chua to have the deed notarized without requiring the presentation of a special power of attorney.

In a Resolution dated September 27, 2010, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. After the mandatory conferences and the filing of the parties' position papers, the case was submitted for resolution.

On November 2, 2011, the IBP Board of Governors issued its report finding that Atty. Palaris acted in good faith and under honest mistake of fact in the notarization of the deed of sale. Thus, it recommended the dismissal of the case. Spouses Chua sought reconsideration.

In a Resolution dated November 29, 2016, the IBP Board of Governors granted the motion.<sup>2</sup> It suspended Atty. Palaris in the practice of law for six months, immediately revoked his notarial commission, and disqualified him from being appointed as notary for two years, thus:

Under Section 12 (a) of the 2004 Rules on Notarial Commission, the notary public is mandated to identify the parties to the document through **competent evidence of identity**. Here, respondent has not adduced any evidence of such identity nor even alleged that he had required the purported parties to produce the same. That he never bothered to inquire into the identities of Carlito and Rosita Ambrosio is readily shown in the afore-quoted acknowledgment portion which does not indicate the identification number of Rosita. Respondent should have been more vigilant, especially considering that the Deed of Absolute Sale was a unilateral instrument purportedly executed by the vendors. Respondent's reliance on Irinea Carulla's representations cannot absolve him from liability. The duties of notaries public are dictated by public policy and impressed with public interest.

- over -

133

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<sup>2</sup> *Id.* at 133.

*“Notarization is not a routinary, meaningless act, for notarization converts a private document to a public instrument, making it admissible in evidence without the necessity of preliminary proof of its authenticity and due execution.”*

WHEREFORE, the Board of Governors hereby resolves to recommend the suspension of Atty. Nelson DC. Palaris from the practice of law for a period of six (6) months, immediate revocation of his notarial commission and disqualification from being appointed as notary for two (2) years, for violation of the 2004 Rules on Notarial Practice.<sup>3</sup> (Emphasis and italics in the original; citation omitted.)

Atty. Palaris moved for reconsideration<sup>4</sup> and invoked good faith and honest mistake of fact. On August 29, 2018, the IBP Board of Governors partially granted Atty. Palaris’ motion and deleted the penalty of suspension from the practice of law and disqualification from being appointed as notary public. Yet, it maintained the order for immediate revocation of Atty. Palaris’ notarial commission,<sup>5</sup> thus:

RESOLVED to PARTIALLY GRANT the Respondent’s Motion for Reconsideration, and impose the penalty of **IMMEDIATE REVOCATION of Respondent’s Notarial Commission, if subsisting, with a Stern Warning** that repetition of the same or similar act/s shall be dealt with more severely, considering that – i) this is Respondent’s first offense, and ii) he appears to have been [misled] into notarizing the document.<sup>6</sup> (Emphasis in the original.)

### RULING

The Court adopts the IBP’s findings with modification as to the penalty.

The 2004 Rules on Notarial Practice<sup>7</sup> stresses the necessity of the affiant's personal appearance before the notary public. Rule II, Section 1 is explicit:

SEC. 1. Acknowledgment. – “Acknowledgment” refers to an act in which an individual on a single occasion:

- (a) appears in person before the notary public and presents and integrally complete instrument or document;

- over -

133

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<sup>3</sup> *Id.* at 134.

<sup>4</sup> *Id.* at 111-115.

<sup>5</sup> *Id.* at 126-127.

<sup>6</sup> *Id.* at 126.

<sup>7</sup> A.M. No. 02-8-13-SC, promulgated on July 6, 2004.

- (b) is attested to be personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; x x x

x x x x

Rule IV, Section 2(b) further states:

SEC. 2. Prohibitions. – x x x

x x x x

- (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.

Here, it is undisputed that Atty. Palaris failed to comply with the rules of notarial law when he failed to personally verify the identity of all parties who signed the deed of sale. Atty. Palaris merely relied upon the assurance of Irene Carulla that the two persons accompanying her are the actual persons whose names appear on the deed as the vendors. In ascertaining their identities, Atty. Palaris contented himself with requiring them to produce their residence certificate, despite the requirement of presentation of competent evidence of identity, such as an identification card with photograph and signature.<sup>8</sup> Verily, there was a failure on the part of Atty. Palaris to exercise the due diligence required of him as a notary public.

On this point, we reiterate that notarization ensures the authenticity and reliability of a document. It converts a private document into a public one, and renders the document admissible in court without further proof of its authenticity. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument. Moreover, notarization is not an empty routine. On the contrary, it engages public interest in a substantial degree and the protection of that interest requires preventing those who are not qualified or authorized to act as a notary public. Thus, a notary public

- over -

133

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<sup>8</sup> See *Flordeliza E. Coquia v. Atty. Emmanuel E. Laforteza*, 805 Phil. 400, 411 (2017).

must verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act and deed.

In the realm of legal ethics, a breach of the notarial rules would also constitute a violation of the Code of Professional Responsibility (CPR).<sup>9</sup> An erring lawyer who is found to be remiss in his functions as a notary public is considered to have violated his oath as a lawyer.<sup>10</sup> He does not only fail to fulfill his solemn oath of upholding and obeying the law and its legal processes, but he also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.<sup>11</sup> Thus, Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the CPR categorically state:

CANON 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

x x x x

CANON 10 - A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

Applying prevailing jurisprudence, we modify the penalty and imposed upon Atty. Palaris the immediate revocation of his notarial commission, disqualification from being commissioned as a notary public for a period of two years, and suspension from the practice of law for a period of one year.<sup>12</sup>

**FOR THESE REASONS**, Atty. Nelson DC. Palaris' notarial commission is **IMMEDIATELY REVOKED**. He is also **DISQUALIFIED** from being commissioned as a notary public for a period of two years and **SUSPENDED** from the practice of law for a period of one year. He is likewise **STERNLY WARNED** that a repetition of the same or similar acts will be dealt with more severely.

- over -

133

<sup>9</sup> Approved on June 21, 1988.

<sup>10</sup> *Triol v. Agcaoili, Jr.*, A.C. No. 12011, June 26, 2018, 868 SCRA 175, 181, citing *Fabay v. Resuena*, 779 Phil. 151 (2016).


<sup>11</sup> *Id.*, citing *De Jesus v. Sanchez-Malit*, 738 Phil. 480, 491-492 (2014).

<sup>12</sup> *Dandoy v. Edayan*, A.C. No. 12084, June 6, 2018, 864 SCRA 152, 164.

The suspension in the practice of law, the prohibition from being commissioned as notary public, and the revocation of his notarial commission, shall take effect immediately upon respondent's receipt of this Resolution. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

**SO ORDERED."**

Very truly yours,

  
**LIBRADA C. BUENA**  
Division Clerk of Court  
GPR

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court  
**133**

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