



Republic of the Philippines
Supreme Court
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated **June 10, 2020**, which reads as follows:*

“A.C. No. 9490 (Angelina S. Santos, Complainant, v. Atty. Cecilio C. Casalla, Respondent). – Before the Court is an administrative case for violation of A.M. No. 02-8-13-SC, or the 2004 Rules on Notarial Practice, stemming from a complaint¹ filed by Angelina Santos (complainant) before Executive Judge Edwin B. Ramizo (Executive Judge) of the Regional Trial Court (RTC), Pasay City against Atty. Cecilio C. Casalla (respondent).

Antecedents

Complainant alleged that on 23 December 2010, respondent notarized a Special Power of Attorney² (subject SPA) which was ostensibly signed by Ernesto Soliman (Ernesto), Teresita Soliman (Teresita), Angelina Soliman (Angelina), Lucia Soliman (Lucia), Ramon Soliman (Ramon), Roberto Soliman (Roberto), Augusto Soliman (Agusto), authorizing Rosita Soliman (Rosita) to sell, on their behalf, six (6) parcels of land which they inherited from their parents.³

Verily, complainant denied having signed the subject SPA. She claimed that she did not obtain the community tax certificate (CTC) appearing in the SPA because she had been a resident of Marikina since 2010, and not Parañaque City. Furthermore, her signature in the subject SPA was a scanned image from other documents.⁴ She attached a Certification⁵ dated 15 November 2011 from the Office of the Clerk of Court of the Pasay City RTC which declared that the signatures of the grantors and the attorney-

¹ *Rollo*, pp. 12-14.

² *Id.* at 16-23.

³ *Id.* at 16.

⁴ *Id.* at 13.

⁵ *Id.* at 15; signed by Asst. Clerk of Court Arlene D. Alday.

in-fact therein were not their original signatures.

She likewise averred that respondent notarized the subject SPA despite the discrepancy in complainant's name.⁶ In the subject SPA's first page, her name appeared as "Angelina Santos," while in the acknowledgment portion, her name was indicated as "Angelina Soliman."⁷ She also noted that the acknowledgment stated that the SPA consisted of seven (7) pages, when in reality, it had eight (8) pages.⁸

Further, complainant alleged that she only discovered the subject SPA's existence in March 2011, when her sister, Rosita, was able to sell their parents' properties without the knowledge and consent of all but one of her siblings. Likewise, it was only Rosita who appeared before the notary public because five (5) of their siblings were already in the United States, while the rest were busy with work.⁹

In sum, she argued that respondent committed violations of the Rules on Notarial Practice when he notarized the SPA even if the signatories did not present any competent evidence of identity.¹⁰ She also pointed out that respondent did not submit a duplicate original of the subject SPA with the RTC.¹¹

For his part, respondent alleged that on 23 December 2010, seven (7) to eight (8) persons appeared in his office and presented a prepared SPA for notarization.¹² Because of the limited space of his office, he asked the three (3) or four (4) men to wait outside.¹³ Upon inquiry, the women claimed that they were Rosita, Teresita, Angelina, and Lucia, all surnamed Soliman.¹⁴ They confirmed that the signatures in the subject SPA were theirs and presented their respective CTCs. The men who waited outside also did the same thing.¹⁵ Upon confirming that the CTCs matched those indicated in the subject SPA, respondent proceeded to notarize the document.¹⁶

He further explained that he did not notice that the subject SPA contained eight (8) pages, and that his secretary may have overlooked the same.¹⁷ He also admitted that he did not retain a copy of the subject SPA for

⁶ Id. at 13-14.

⁷ Id.

⁸ Id. at 13.

⁹ Id. at 66-67; TSN dated 14 February 2012, pp.12-13.

¹⁰ Id. at 13.

¹¹ Id.

¹² Id. at 98; TSN dated 17 February 2012, p. 5.

¹³ Id.

¹⁴ Id.

¹⁵ Id. at 99.

¹⁶ Id.

¹⁷ Id. at 103; TSN dated 17 February 2012, p. 10.

record-keeping.¹⁸ Respondent acknowledged that he was not familiar with the amendments to the Rules on Notarial Practice, particularly that CTCs are no longer considered competent evidence of identity.¹⁹

Ruling of the RTC

In a Resolution²⁰ dated 14 May 2012, the Executive Judge ruled that respondent violated Section 12, Rule II of the Rules on Notarial Practice when he notarized the subject SPA without requiring competent evidence of identity, and not merely CTCs.

The Executive Judge also found respondent negligent for failing to ensure the authenticity of the signatures in the SPA, as it was apparent that the signatures were merely scanned images, and in not keeping a copy of the documents he had notarized. Thus, the Executive Judge recommended the revocation of respondent's commission as notary public from 18 January 2011 until 31 December 2012, and his disqualification from re-appointment as notary public for a period of two (2) years, with a stern warning.²¹

Proceedings before this Court

In a Resolution²² dated 23 July 2012, this Court required respondent to comment on the findings and recommendation of the Executive Judge within ten (10) days from receipt of the notice.

Respondent failed to file his comment within that time. Thus, on 14 March 2013, complainant, through counsel, moved that respondent be deemed to have waived the right to comment.²³

On 01 July 2013, the Court required respondent to show cause why he should not be disciplinary dealt with or held in contempt for his failure to comply with the Court's directive.²⁴ When respondent failed to do this as well, the Court imposed upon him the penalty of paying Php1,000.00 fine with a subsidiary penalty of a five (5)-day imprisonment if he fails to pay the fine. The Court also reiterated its earlier order for respondent to file his comment.²⁵

¹⁸ Id. at 107.

¹⁹ Id. at 108.

²⁰ Id. at 114-118; penned by Executive Judge Edwin B. Ramizo.

²¹ Id. at 118.

²² Id. at 124-125.

²³ Id. at 130-131.

²⁴ Id. at 135-136.

²⁵ Id. at 138-139.

Respondent filed his Comment on 11 September 2014, alleging that he chose to respect the Executive Judge's disposition and not file his comment thereto.²⁶ He further manifested that he ceased from performing notarial services from his receipt of the Executive Judge's Order believing the same to be compliant with said Order.²⁷ In a later submission,²⁸ respondent apologized for his errors. He also prayed that the suspension of his commission be lifted considering that the two (2)-year period provided in the Resolution²⁹ of the Executive Judge.

Complainant opposed respondent's motion.³⁰ She alleged that respondent disrespected the Court's processes when he failed to promptly file his Comment, praying for reconsideration of the penalty despite not filing a Comment, and for failing to furnish complainant copies of his pleadings.³¹

In its Report and Recommendation³² dated 26 June 2015, the Office of the Bar Confidant (OBC) agreed with the Executive Judge's findings and recommendation. In addition, it recommended that respondent's prayer to resume notarial practice be denied for being premature.³³

On 22 February 2016, respondent reiterated his prayer to resume notarial practice.³⁴ He attached a Certification³⁵ from the Office of the Clerk of Court of the RTC of Pasay stating that his commission has not been renewed since January 2013.

Ruling of the Court

This Court sees no reason to depart from the findings and recommendation of the OBC, but modifies the penalty. The records clearly show that respondent was negligent in the performance of notarial services.

Notarization is a mechanism to guard the public against immoral and illegal³⁶ and spurious³⁷ arrangements. By affixing his notarial seal on the instrument, respondent converted the subject SPA, from a private document into a public document, which meant that: (1) all the parties therein

²⁶ Id. at 140.

²⁷ Id.

²⁸ Id. at 142-143.

²⁹ Id. at 142.

³⁰ Id. at 148-152.

³¹ Id. at 149.

³² Id. at 158-161.

³³ Id. at 161.

³⁴ Id. at 167-168.

³⁵ Id. at 171.

³⁶ See *Baysac v. Aceron-Papa*, 792 Phil 635-647 (2016); A.C. No. 10231, 10 August 2016.

³⁷ See *Cabanilla v. Cristal-Tenorio*, 461 Phil 1-17 (2003); A.C. No. 6139, 11 November 2003.

personally appeared before him; (2) they are all personally known to him; (3) they were the same persons who executed the instrument; (4) he inquired into the voluntariness of execution of the instrument; and (5) they acknowledged personally before him that they voluntarily and freely executed the same.

Having noticed that the SPA involved the sale of six (6) properties,³⁸ and his presumed knowledge of the legal consequence of notarization, respondent should have been more prudent in ascertaining the identities of those allegedly executing the subject SPA. Instead of investigating the affiants' identities, and despite discrepancies in the SPA, such as the difference in complainant's surname,³⁹ and the fact that some of the signatures in the SPA clearly appeared to be mere scanned images,⁴⁰ respondent lackadaisically relied on the representations of the purported affiants, and proceeded to notarize the SPA on the basis of mere CTCs.

A CTC is not considered as competent evidence of identity as it does not bear the photograph and the signature of the individual concerned, as required in Rule II, Section 12 of the Notarial Rules.⁴¹ Moreover, it is not one of those enumerated competent pieces of evidence of identity.⁴²

Based on respondent's testimony, he hastily notarized and signed documents, and did not keep copies for his records.⁴³ When confronted about the provisions of the Rules on Notarial Practice, respondent merely

³⁸ *Rollo*, p. 99; TSN dated 17 February 2012, p. 6.

³⁹ *Id.* at 16, 21.

⁴⁰ *Id.* at 21.

⁴¹ *See Ko v. Uy-Lampasa*, 578 Phil. 238 (2008); A.C. No. 11584, 06 March 2019; *Baylon v. Almo*, 578 Phil. 238-243; A.C. No. 6962, 25 June 2008.

⁴² Under Rule II, Section 12 of the 2004 Rules of Notarial Practice:

"Rule II

DEFINITIONS

xxx xxx xxx

"Sec. 12. *Competent Evidence of Identity*. — The phrase "competent evidence of identity" refers to the identification of an individual based on:

- (a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, **passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; or**

⁴³ *Rollo*, pp. 103-109; TSN dated 17 February 2012, pp. 10-16.

claimed lack of knowledge or attributed the mistakes to his secretary.⁴⁴ Evidently, such behavior smacks of dereliction of his notarial duties, and indifference to the significance and repercussions of notarization. Respondent failed to appreciate the weight of his actions. Through his failure to be mindful of his responsibilities, complainant and her siblings lost some of their inherited properties, and are in danger of losing the rest.

Likewise, in notarizing the subject SPA, it was not only respondent's negligence which became apparent, so was his ignorance of updates on notarial laws. During the hearings before the Executive Judge, respondent candidly admitted that he failed to educate himself with updates on notarial laws.⁴⁵ Certainly, respondent failed to live up to his sworn obligation to keep abreast of legal developments.⁴⁶

What is more, respondent was likewise remiss in failing to keep a copy of the subject SPA, in contravention of Rule VI, Section 2(d) of the 2004 Rules on Notarial Practice, *viz*:

SECTION 2. *Entries in the Notarial Register.* — (a) For every notarial act, the notary shall record in the notarial register at the time of notarization the following:

xxx

(d) When the instrument or document is a contract, the notary public shall keep an original copy thereof as part of his records and enter in said records a brief description of the substance thereof and shall give to each entry a consecutive number, beginning with number one in each calendar year. He shall also retain a duplicate original copy for the Clerk of Court.

Respondent's actuations also violated the Code of Professional Responsibility. His failure to live up to his oath as a notary public violates Rule 1.01⁴⁷ of Canon 1, Rule 7.03⁴⁸ of Canon 7, and Rule 10.01⁴⁹ of the Code of Professional Responsibility.⁵⁰

The Court has previously ruled that a notary public who fails to

⁴⁴ Id. at 101-109.

⁴⁵ Id. at 108.

⁴⁶ CANON 5 — A lawyer shall keep abreast of legal developments, participate in continuing legal education programs, support efforts to achieve high standards in law schools as well as in the practical training of law students and assist in disseminating information regarding the law and jurisprudence.

⁴⁷ Rule 1.01. — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

⁴⁸ Rule 7.03 — A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

⁴⁹ 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.

⁵⁰ See *Lingan v. Calubaquib*, 524 Phil 60-71; A.C. No. 5377, 15 June 2006, *Peña v. Paterno*, 710 Phil 582-599; A.C. No. 4191, 10 June 2013,

discharge his or her duties as such is penalized with revocation of his or her notarial commission and disqualification from being commissioned as a notary public for a period of two (2) years.⁵¹ In addition, he or she may also be suspended from the practice of law - the period of which is dependent on the circumstances of each case.⁵²

Considering respondent's ignorance of the prevailing notarial rules, his carelessness in the discharge of his duties, as well as his indifference to this Court's Orders, the Court deems it proper to suspend respondent from the practice of law for one (1) year.⁵³

As to the revocation of his commission, this Court rules that the same is effective upon respondent's receipt of the instant Resolution. Evidently, the Resolutions of the Executive Judge should not be deemed the reckoning point for the imposition of the administrative penalty because the same is merely recommendatory in nature.

Likewise, respondent's voluntary cessation and abstention from applying for notarial commission since 2012 does not automatically entitle him to resume notarial duties. In the first place, the resulting delay in the disposition of this case, which incidentally exceeded the two (2)-year recommended period of revocation of respondent's commission, is largely, if not solely, attributable to his repeated failure to comply with the Court's orders. Certainly, to consider that respondent had already served the penalty is to diminish the Court's disciplinary power and to sanction delay in the disposition of administrative proceedings. Hence, consistent with jurisprudence,⁵⁴ the penalties imposed here should be reckoned from the date of respondent's receipt of this resolution.

WHEREFORE, this Court finds Atty. Cecilio C. Casalla **GUILTY** of violating the Rules on Notarial Practice and Code of Professional Responsibility. Accordingly, he is hereby **SUSPENDED** from the practice of law for one (1) year, his notarial commission is **REVOKED** effective immediately, and he is **PROHIBITED** from being commissioned as a notary public for two (2) years. He is further **WARNED** that a repetition of the same or similar offense shall be dealt with more severely.

To enable us to determine the effectivity of the penalty imposed, the respondent is **DIRECTED** to report the date of his receipt of this resolution to this Court.

⁵¹ *Ko v. Uy-Lampasa*, A.C. No. 11584, 06 March 2019.

⁵² *Roa-Buenafe v. Lirazan*, A.C. No. 9361, 20 March 2019.

⁵³ *See Spouses Chambon v. Ruiz*, A.C. No. 11478, 05 September 2017, 838 SCRA 526.

⁵⁴ *Baylon v. Almo*, 578 Phil 238-243; A.C. No. 6962, 25 June 2008.

Let copies of this resolution be furnished to the Office of the Bar Confidant, to be appended to the respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.”

Very truly yours,

MisDcBatt
MISAELO DOMINGO C. BATTUNG III
Division Clerk of Court *8/11/21*

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