



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **September 3, 2020** which reads as follows:*

**“A.C. No. 11105 [Formerly CBD Case No. 13-3919] – GODOFREDO LAVAREZ, complainant, versus ATTY. JORGE B. VARGAS, respondent.**

This is a complaint<sup>1</sup> against Atty. Jorge B. Vargas (Atty. Vargas) for notarizing several deeds of donation without the personal appearance of the donor.

**The Case**

Complainant Godofredo Lavarez (Lavarez) is one of the plaintiffs in Civil Case No. 1996-159, filed before the Lucena City Regional Trial Court (RTC) on October 16, 1996.<sup>2</sup> The civil case was an action for reconveyance, partition, accounting, and nullification of documents, particularly, the extrajudicial partition of the estate of Valenta Zaballero, the deeds of conveyance of properties that Rebecca Zaballero allegedly executed in favor of the defendants therein, and the adjudication and partition of the properties of the estates of Rebecca Zaballero and Valenta Zaballero.<sup>3</sup>

According to Lavarez, it was established during trial that at the time of the execution of five Deeds of Donation on May 12, 1993, Rebecca Zaballero, the supposed donor, was confined at the Philippine Heart Center in Quezon City. Thus, she could not have personally appeared before Atty. Vargas, the notary public, to execute and acknowledge these deeds in Lucena City, donating 10 parcels of land to the defendants in the civil case.<sup>4</sup>

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<sup>1</sup> *Rollo*, pp. 2-5.  
<sup>2</sup> *Id.* at 6-19.  
<sup>3</sup> *Id.* at 18-19.  
<sup>4</sup> *Id.* at 3-4.

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In an Order dated September 3, 2013, the Integrated Bar of the Philippines (IBP), Commission on Bar Discipline (CBD) directed Atty. Vargas to submit his verified Answer to the Complaint.<sup>5</sup>

On September 27, 2013, Atty. Vargas filed his Answer,<sup>6</sup> where he alleged that the subject deeds of donation were already declared valid by the Court of Appeals (CA). Furthermore, he argued that the deeds were executed more than 20 years ago, and as such, all issues and matters relating thereto are now barred by prescription.<sup>7</sup>

The IBP-CBD scheduled a mandatory conference on December 19, 2013.<sup>8</sup> Prior to said conference, Lavarez manifested his inability to attend,<sup>9</sup> but nevertheless, he submitted his brief<sup>10</sup> to the IBP-CBD. Atty. Vargas, meanwhile, appeared during said mandatory conference.<sup>11</sup> He also submitted his own mandatory conference brief,<sup>12</sup> reiterating the arguments in his Answer.

Thereafter, the IBP-CBD terminated the mandatory conference and directed both parties to submit their respective position papers.<sup>13</sup>

On February 14, 2014, Lavarez submitted his position paper,<sup>14</sup> where he maintained his position that Rebecca Zaballero could not have signed and executed the deeds of donation before Atty. Vargas on May 12, 1993. To support his claim, he attached a Certificate of Confinement<sup>15</sup> from the Medical Records Officer of the Philippine Heart Center, which states that Rebecca Zaballero was admitted to the hospital from March 25, 1993 to May 24, 1993. Thus, during this time, she could not have been in Lucena City to have the subject deeds notarized.<sup>16</sup>

Lavarez concluded that in notarizing the deeds of donation, Atty. Vargas made it appear that Rebecca Zaballero personally appeared before him, when in fact, she did not. He averred that Atty. Vargas should be meted the penalty of disbarment for violating his

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<sup>5</sup> Id. at 64.  
<sup>6</sup> Id. at 65-67.  
<sup>7</sup> Id. at 66.  
<sup>8</sup> Id. at 69.  
<sup>9</sup> Id. at 70.  
<sup>10</sup> Id. at 71-72.  
<sup>11</sup> Id. at 75.  
<sup>12</sup> Id. at 76-79.  
<sup>13</sup> Id. at 94.  
<sup>14</sup> Id. at 95-100.  
<sup>15</sup> Id. at 107.  
<sup>16</sup> Id. at 96.

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oath as a lawyer, and for violating the Code of Professional Responsibility.<sup>17</sup>

The records do not show that Atty. Vargas complied with the directive to submit his own position paper.

### **The IBP's Report and Recommendation**

On March 26, 2014, the IBP-CBD issued a Report and Recommendation,<sup>18</sup> which found clear and convincing evidence that Rebecca Zaballero was indeed hospitalized at the time of the notarization of the subject deeds of donation. In light of this uncontroverted fact, the IBP-CBD held that Atty. Vargas violated Section 2(b), Rule IV of the 2004 Rules on Notarial Practice, which prohibits the performance of a notarial act when the signatory is not personally present at the time of notarization, and when the signatory is not personally known or otherwise identified by the notary public through a competent evidence of identity.<sup>19</sup>

The IBP-CBD concluded as follows:

Based on the foregoing, the undersigned humbly believes after a thorough consultation with a long line of jurisprudence that [Atty. Vargas] erred. Succinctly put, when a lawyer duly commissioned as a notary public fails to properly discharge his duties as such the respondent at bar, he should be meted the penalties of revocation of his notarial commission, disqualification from being commissioned as a notary public for a period of two (2) years, and suspension from the practice of law for one year.

RESPECTFULLY SUBMITTED.<sup>20</sup>

The IBP Board of Governors issued a Resolution on October 11, 2014,<sup>21</sup> which resolved to adopt and approve the IBP-CBD's Report and Recommendation:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and finding the recommendation to be fully supported by the evidence on record and applicable laws, for violation of Section 2(b) of Rule IV of the 2004 Rule on Notarial Practice, Atty. Jorge B. Vargas' notarial commission if presently commissioned is **immediately REVOKED**.*

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<sup>17</sup> Id. at 98-99.

<sup>18</sup> Id. at 120-124.

<sup>19</sup> Id. at 122-123.

<sup>20</sup> Id. at 124.

<sup>21</sup> Id. at 119.

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*Further, he is **DISQUALIFIED** from re-appointment as notary public for two (2) years and **SUSPENDED** from the practice of law for one (1) year.*

On May 12, 2015, Atty. Vargas filed a Motion for Reconsideration,<sup>22</sup> where he reiterated his earlier arguments. He further alleged that he acted in good faith in notarizing the deeds of donation.<sup>23</sup> The IBP Board of Governors denied this motion on June 20, 2015.<sup>24</sup>

### **The Court's Ruling**

The Court affirms the findings of the IBP.

Preliminarily, it bears noting that there is no prescription of actions for the discipline of members of the bar. As the Court held in *Heirs of Alilano v. Examen*:<sup>25</sup>

In *Frias v. Atty. Bautista-Lozada*, the Court En Banc opined that there can be no prescription in bar discipline cases. It pointed out this has been the policy since 1967 with the Court's ruling in *Calo, Jr. v. Degamo* and reiterated in *Heck v. Santos* where we had the chance to state:

If the rule were otherwise, members of the bar would be emboldened to disregard the very oath they took as lawyers, prescinding from the fact that as long as no private complainant would immediately come forward, they stand a chance of being completely exonerated from whatever administrative liability they ought to answer for. It is the duty of this Court to protect the integrity of the practice of law as well as the administration of justice. No matter how much time has elapsed from the time of the commission of the act complained of and the time of the institution of the complaint, erring members of the bench and bar cannot escape the disciplining arm of the Court. This categorical pronouncement is aimed at unscrupulous members of the bench and bar, to deter them from committing acts which violate the Code of Professional Responsibility, the Code of Judicial Conduct, or the Lawyer's Oath x x x

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<sup>22</sup> Id. at 125-129.

<sup>23</sup> Id. at 128.

<sup>24</sup> Id. at 165.

<sup>25</sup> A.C. No. 10132, March 24, 2015, 754 SCRA 187.

Thus, even the lapse of considerable time from the commission of the offending act to the institution of the administrative complaint will not erase the administrative culpability of a lawyer.<sup>26</sup>

For this reason, there is no merit in the claim of Atty. Vargas that the complaint of Lavarez has prescribed. Relevant to this is the Court's oft-repeated ruling that the performance of a notarial act is "not x x x empty, meaningless[,] and routinary."<sup>27</sup> Rather, it is imbued with public interest because by virtue of notarization, a document is converted from private to public, making it admissible in evidence even without further proof of its authenticity.<sup>28</sup> In this regard, notaries public are expected to diligently discharge their powers and duties with accuracy and fidelity.<sup>29</sup>

The Court shall now proceed to rule on the allegation of Lavarez that Atty. Vargas violated his duty as a notary public.

In finding Atty. Vargas liable for notarizing the deeds of donation, the IBP mistakenly cited the 2004 Rules on Notarial Practice as the deeds subject of the present complaint were notarized on May 12, 1993. At that time, the governing rules on notarization were Act No. 2711,<sup>30</sup> particularly, Title IV, Chapter 11<sup>31</sup> thereof, and Act No. 2103.<sup>32</sup>

Section 1(a) of Act No. 2103 specifically states:

SECTION 1. x x x

(a) The acknowledgment shall be made before a notary public or an officer duly authorized by law of the county to take acknowledgments of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgment shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, and acknowledged that the same is his free act and deed. The certificate shall be made under his official seal, if he is by law required to keep a seal, and if not, his certificate shall so state.

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<sup>26</sup> Id. at 194 to 195, citing *Frias v. Bautista-Lozada*, 523 Phil. 17, 19 (2006).

<sup>27</sup> *Ferguson v. Ramos*, A.C. No. 9209, April 18, 2017, 823 SCRA 59, 66.

<sup>28</sup> See id.

<sup>29</sup> *Heirs of Alilano v. Examen*, supra note 25 at 200.

<sup>30</sup> REVISED ADMINISTRATIVE CODE OF 1917 (March 10, 1917).

<sup>31</sup> Otherwise known as the "Notarial Law."

<sup>32</sup> An Act Providing for the Acknowledgment and Authentication of Instruments and Documents Without the Philippine Islands (January 26, 1912).

In *Cabanilla v. Cristal-Tenorio*,<sup>33</sup> the Court aptly explained the nature of acknowledging an instrument before a notary public, viz.:

Under Section 1(a) of Act 2103, a notary public taking the acknowledgment in a document or instrument is mandated to certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it and acknowledged that the same is his free act and deed. **To "acknowledge before" means to avow; to own as genuine, to assert, to admit; and "before" means in front or preceding in space or ahead of. A party acknowledging must appear before the notary public.**

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**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 the said notary public to attest to the contents and truth of what are stated therein.** The presence of the parties to the deed making the acknowledgment will enable the notary public to verify the genuineness of the signature of the affiant. A notary public is enjoined from notarizing a fictitious or spurious document. The function of a notary public is, among others, to guard against any illegal deed.<sup>34</sup> (Emphasis supplied)

In this case, Atty. Vargas notarized five deeds of donation, involving 10 parcels of land with a total area of more or less 18 hectares. As a notary public, Section 1(a) of Act No. 2103 required Atty. Vargas to notarize the deeds only if Rebecca Zaballero was physically present before him to attest to the genuineness of her signature and to the voluntariness of her execution thereof.<sup>35</sup> However, the evidence clearly established that it was improbable for Rebecca Zaballero to have been physically present in Lucena City on May 12, 1993, considering that she was hospitalized at the Philippine Heart Center in Quezon City from March 25, 1993 to May 24, 1993. As such, she could not have personally appeared before Atty. Vargas at the time he notarized the deeds of donation.

Concomitant to his functions as a notary public, Atty. Vargas is likewise duty-bound as a lawyer to exercise these functions in conformity with its basic formalities and requisites. By virtue of his

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<sup>33</sup> A.C. No. 6139 (Formerly CBD 02-954), November 11, 2003, 415 SCRA 353.

<sup>34</sup> Id. at 360-361.

<sup>35</sup> See *Gamido v. New Bilibid Prisons Officials*, G.R. No. 114829, March 1, 1995, 242 SCRA 83, 86; *Coronado v. Felongco*, A.C. No. 2611, November 15, 2000, 344 SCRA 565; *Anudon v. Cefra*, A.C. No. 5482, February 10, 2015, 750 SCRA 231, 241.

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failure to observe the governing notarial rules, Atty. Vargas also breached his duties as a lawyer, specifically, Rule 1.01, Canon 1 of the Code of Professional Responsibility:

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

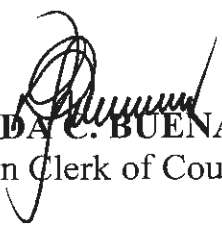
Rule 1.01 — A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

As to the proper penalty to be imposed on Atty. Vargas, the Court agrees with the recommendation of the IBP to: (a) immediately revoke his notarial commission; (b) disqualify him from being commissioned as a notary public; and (c) suspend him from the practice of law. Following the Court's recent rulings on similar cases involving lawyers who fail to properly discharge their duties as notaries public, it is correct to disqualify Atty. Vargas from obtaining a notarial commission for a period of two (2) years, and to suspend him from the practice of law for one (1) year.<sup>36</sup>

**WHEREFORE**, the Court finds respondent Atty. Jorge B. Vargas **GUILTY** of violating Section 1(a) of Act No. 2103 and Rule 1.01, Canon 1 of the Code of Professional Responsibility. He is hereby **SUSPENDED** from the practice of law for one (1) year. His incumbent commission as a notary public, if any, is **REVOKED**, and he is **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years, effective immediately. He is **WARNED** that a repetition of the same offense or similar acts in the future shall be dealt with more severely.

**SO ORDERED.”**


**By authority of the Court:**

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

by:

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

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<sup>36</sup> *Sappayani v. Gasmen*, 768 Phil. 1 (2015).

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