



Republic of the Philippines  
Supreme Court  
Manila

FIRST DIVISION

MELANIO S. SALITA,  
Complainant,

A.C. No. 8101

Present:

- versus -

SERENO, C.J., Chairperson,  
LEONARDO-DE CASTRO,  
BERSAMIN,  
PEREZ, and  
PERLAS-BERNABE, JJ.

ATTY. REYNALDO T.  
SALVE,  
Respondent.

Promulgated:

**FEB 04 2015**

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RESOLUTION

PERLAS-BERNABE, J.:

This instant administrative case arose from an Affidavit-Complaint<sup>1</sup> filed by complainant Melanio S. Salita (Salita) against respondent Atty. Reynaldo T. Salve (Atty. Salve) in connection with the latter's alleged falsification of public documents.

The Facts

On December 14, 2002, Salita – the registered owner of a parcel of land located at Visayan Village, Tagum City<sup>2</sup> with Transfer Certificate of Title No. T-67850<sup>3</sup> (subject property) – applied for a loan from one Jocelyn Rodriguez (Rodriguez) in the amount of ₱50,000.00 and, in such regard,

<sup>1</sup> *Rollo*, pp. 2-8

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

<sup>3</sup> *Id.* at 9-11.

signed blank documents, including an “incomplete” Promissory Note (PN).<sup>4</sup> Subsequently, he restructured the aforesaid loan and further signed several documents prepared by the latter, including two (2) Real Estate Mortgage Agreements dated November 9, 2005<sup>5</sup> and November 18, 2005<sup>6</sup> (REM instruments), and a pre-formed Deed of Absolute Sale<sup>7</sup> covering the subject property as collateral.<sup>8</sup>

On November 15, 2006, Salita was able to pay his loan in full as evidenced by a Release of Real Estate Mortgage<sup>9</sup> executed by Rodriguez before Notary Public Buenaventura Melendres, which was later duly entered in the Register of Deeds of Davao Del Norte.<sup>10</sup>

Notwithstanding such full payment, Rodriguez, on September 17, 2007, instituted an ejectment complaint<sup>11</sup> against Salita before the Office of the Barangay of Visayan Village, Tagum City, presenting in furtherance of his cause the pre-formed Deed of Absolute Sale and the two (2) REM instruments signed by the latter.<sup>12</sup> Upon checking the said documents, Salita discovered that the Deed of Absolute Sale had already been notarized<sup>13</sup> by Atty. Salve and his Community Tax Certificate Numbers were allegedly falsified.<sup>14</sup> During a Barangay Conciliation proceeding, Rodriguez presented the same documents to reinforce her claims. Salita, for his part, noticed that one copy of the Deed of Sale was purportedly notarized on August 12, 2007,<sup>15</sup> while another was notarized a month later, or on September 12, 2007.<sup>16</sup> Thus, Salita went on to conclude that because of the foregoing events, it appeared as if he had sold the subject property to Rodriguez and executed the same before Atty. Salve.<sup>17</sup> Aggrieved, Salita filed a criminal case for falsification of public documents against Rodriguez<sup>18</sup> and Atty. Salve.<sup>19</sup> Salita likewise filed the instant administrative case against Atty. Salve.

In his defense,<sup>20</sup> Atty. Salve vehemently denied that he falsified the Deed of Absolute Sale. He averred that the said document was regular on its face except the month of sale, *i.e.*, August 12, 2007 instead of September 12, 2007, which is a mere clerical error due to “sheer” inadvertence on the part

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<sup>4</sup> Dated December 2, 2002 (id. at 12). See also id. at 2.

<sup>5</sup> Id. at 15.

<sup>6</sup> Id. at 16.

<sup>7</sup> Dated August 12, 2007. (Id. at 61-62.)

<sup>8</sup> Id. at 3.

<sup>9</sup> Id. at 17.

<sup>10</sup> Id. at 3.

<sup>11</sup> Id. at 22.

<sup>12</sup> Id. at 4.

<sup>13</sup> See id. at 19.

<sup>14</sup> Id. at 4.

<sup>15</sup> Id. at 18-19.

<sup>16</sup> Id. at 20-21.

<sup>17</sup> See id. at 5-6.

<sup>18</sup> See Affidavit-Complaint dated December 10, 2007; id. at 94-96.

<sup>19</sup> See Supplemental Affidavit-Complaint dated January 8, 2008; id. at 113-117.

<sup>20</sup> See Comment dated April 22, 2009; id. at 208-218.

of his secretary. Accounting for such, Atty. Salve claimed that the date stamp accidentally slid to August instead of September as it was also being used by three (3) other office clerks and two (2) lawyers for other office documents.<sup>21</sup> Atty. Salve further narrated that both Salita and Rodriguez went to him and brought the PN and other loan documents executed by Salita himself. He also clarified that the PN was notarized in their presence on December 12, 2002 and both got a copy right after. Atty. Salve then inferred that it was Salita who erased the PN's machine printed numbers using his own handwriting and thereafter photocopied it to make it appear that the document was not among the notarial documents he submitted to the Office of the Clerk of Court of Tagum City for the year 2002.<sup>22</sup> Finally, Atty. Salve averred that the certified electronic copies of the PN in the Office of the Clerk of Court of Tagum City and the ones in his law office are identical and the same, while Salita's alleged falsified photocopy is totally different.<sup>23</sup>

### **The IBP Report and Recommendation**

In a Report and Recommendation<sup>24</sup> dated January 4, 2010, the Integrated Bar of the Philippines (IBP) Investigating Commissioner dismissed Salita's complaint for lack of merit.<sup>25</sup> He found that Salita was not able to obtain the required quantum of proof to hold Atty. Salve administratively liable, especially considering that Salita's criminal complaint was dismissed for lack of probable cause.<sup>26</sup>

In a Resolution<sup>27</sup> dated December 29, 2012 (December 29, 2012 Resolution), the IBP Board of Governors adopted and approved the IBP Investigating Commissioner's Report and Recommendation dismissing the case for lack of merit.

On reconsideration,<sup>28</sup> however, the IBP Board of Governors issued a Resolution<sup>29</sup> dated March 8, 2014 (March 8, 2014 Resolution) setting aside its December 29, 2012 Resolution and accordingly, recommended the suspension of Atty. Salve's notarial commission for a period of three (3) months. It, however, failed to state the reasons for imposing the suspension.

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<sup>21</sup> Id. at 209-210.

<sup>22</sup> Id. at 210-211.

<sup>23</sup> See id. at 211.

<sup>24</sup> Id. at 393-398. Signed by Commissioner Salvador B. Hababag.

<sup>25</sup> Id. at 398.

<sup>26</sup> See id. at 397-398.

<sup>27</sup> See Notice of Resolution in Resolution No. XX-2012-639 signed by National Secretary Nasser A. Marohomsalic; id. at 392.

<sup>28</sup> See Motion for Reconsideration dated April 15, 2013; id. at 399-405.

<sup>29</sup> See Notice of Resolution in Resolution No. XX-2014-66; id. at 485.

### The Issue Before the Court

The sole issue for the Court's resolution is whether or not Atty. Salve should be held administratively liable.

### The Court's Ruling

The Court rules in the affirmative.

Before delving on the merits, the Court finds it proper to first call out the IBP for failing to articulate the reasons behind its resolution. Section 12 (a), Rule 139-B of the Rules of Court mandates that the decision of the IBP Board of Governors shall clearly and distinctly state the facts and the reasons on which it is based:

SEC. 12. *Review and decision by the Board of Governors.* – (a) Every case heard by an investigator shall be reviewed by the IBP Board of Governors upon the record and evidence transmitted to it by the Investigator with his report. **The decision of the Board upon such review shall be in writing and shall clearly and distinctly state the facts and the reasons on which it is based.** It shall be promulgated within a period not exceeding thirty (30) days from the next meeting of the Board following the submittal of the Investigator's Report. (Emphasis supplied)

Section 12 (b), Rule 139-B of the Rules of Court further states that:

SEC. 12. *Review and decision by the Board of Governors.* – x x x

x x x x

(b) If the Board, by the vote of a majority of its total membership, determines that the respondent should be suspended from the practice of law or disbarred, **it shall issue a resolution setting forth its findings and recommendations which, together with the whole record of the case, shall forthwith be transmitted to the Supreme Court for final action.** (Emphasis supplied)

Notably, although the IBP's recommendation only covers herein respondent's notarial commission and not his license to practice law, still, in view of the necessary connection between the two (for only members of the Bar in good standing may be commissioned as notaries public<sup>30</sup>), the Court

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<sup>30</sup> Section 1 (4) , Rule III of the 2004 Rules of Notarial Practice (A.M. No. 02-8-13-SC) provides:

RULE III  
COMMISSIONING OF NOTARY PUBLIC

SECTION 1. *Qualifications.* - A notarial commission may be issued by an Executive Judge to any qualified person who submits a petition in accordance with these Rules.

equally exhorts compliance with the preceding provision requiring the IBP Board of Governors to set forth its findings, both of fact and law, and its recommendations in the resolution it submits to this Court for final action.

With its March 8, 2014 Resolution barren of any reason to support the proffered recommendation, said body had clearly failed to comply with the foregoing provisions. Thus, it is strongly prompted to be ever-mindful of the above-mentioned rules.

Be that as it may, the Court takes up the cudgels and explains the reasons warranting the suspension of Atty. Salve's notarial commission.

To recount, records reveal that Rodriguez used, among others, the Deed of Absolute Sale notarized by Atty. Salve to file an ejectment complaint against Salita. However, it must be remembered that Salita was merely made to sign such document as collateral for his loan and that he had already fully paid the same, as evidenced by the notarized Release of Real Estate Mortgage executed by Rodriguez herself. **Considering the circumstances, it is simply unfathomable for Salita to appear before Atty. Salve to have the said document notarized, as it will be detrimental to his own interests.** Hence, the Court finds that Atty. Salve notarized the pre-formed Deed of Absolute Sale **without Salita's presence before him.**

Verily, 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 the truth of what are stated therein.** These acts of the affiants cannot be delegated because what are stated therein are facts they have personal knowledge of and are personally sworn to. Otherwise, their representative's names should appear in the said documents as the ones who executed the same.<sup>31</sup>

The function of a notary public is, among others, to guard against any illegal or immoral arrangements. By affixing his notarial seal on the instrument, he converted the Deed of Absolute Sale, from a private document into a public document. In doing so, Atty. Salve, as borne from the records of this case, effectively proclaimed to the world that: (a) all the parties therein personally appeared before him; (b) they are all personally

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To be eligible for commissioning as notary public, the petitioner:

x x x x

(4) must be a member of the Philippine Bar in good standing with clearances from the Office of the Bar Confidant of the Supreme Court and the Integrated Bar of the Philippines; x x x

x x x x

<sup>31</sup> *Villarin v. Atty. Sabate, Jr.*, 382 Phil. 1, 6 (2000).

known to him; (c) they were the same persons who executed the instruments; (d) he inquired into the voluntariness of execution of the instrument; and (e) they acknowledged personally before him that they voluntarily and freely executed the same.<sup>32</sup> As a lawyer commissioned to be a notary public, Atty. Salve is mandated to discharge his sacred duties with faithful observance and utmost respect for the legal solemnity of an oath in an acknowledgment or *jurat*. Having failed in this regard, he must now accept the commensurate consequences of his professional indiscretion. His act of certifying under oath an irregular Deed of Absolute Sale without requiring the personal appearance of the persons executing the same constitutes gross negligence in the performance of duty as a notary public.<sup>33</sup>

In the case of *Atty. Dela Cruz v. Atty. Zabala*,<sup>34</sup> the Court revoked the errant lawyer's notarial commission and disqualified him from being commissioned as such for **a period of two (2) years** for similarly committing gross negligence in the performance of his duty as a notary public through his failure to ascertain the identities of the persons executing the Deed of Absolute sale he notarized.<sup>35</sup> Thus, due to the infractions' relative comparability, the Court finds it apt to impose the same against Atty. Salve, thereby effectively modifying the suspension initially recommended by the IBP.

As a final point, it bears noting that unlike the aforesaid misdeed – which palpably appears from the records – the Court expresses its concurrence with the IBP Investigating Commissioner's finding that Atty. Salve should nevertheless be absolved from the falsification charges against him. Suffice it to state that Salita failed to prove the allegations against Atty. Salve, especially considering the resolutions in the criminal case against the latter finding no probable cause to indict him of the crime of Falsification of Public Documents.<sup>36</sup> That being said, only Atty. Salve's administrative liability for gross negligence in his conduct as a notary public stands.

**WHEREFORE**, respondent Atty. Reynaldo T. Salve is found **GUILTY** of gross negligence in his conduct as a notary public. His notarial commission, if still existing, is hereby **REVOKED** and he is **DISQUALIFIED** from being commissioned as a notary public for a period of two (2) years.

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<sup>32</sup> *Arrieta v. Llosa*, 346 Phil. 932, 937 (1997).

<sup>33</sup> See *Atty. Dela Cruz v. Atty. Zabala*, 485 Phil. 83, 89 (2004).

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*


<sup>36</sup> "In administrative proceedings, the complainant has the burden of proving, by substantial evidence, the allegations in the complaint. Substantial evidence has been defined as such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. For the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof. Considering the serious consequence of the disbarment or suspension of a member of the Bar, this Court has consistently held that clear preponderant evidence is necessary to justify the imposition of the administrative penalty." (See *Bunagan-Bansig v. Celera*, A.C. No. 5581, January 14, 2014.)

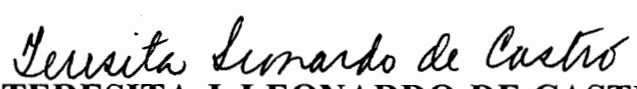
Let copies of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Further, let copies of this Resolution be furnished the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

**SO ORDERED.**

  
**ESTELA M. BERLAS-BERNABE**  
Associate Justice

**WE CONCUR:**

  
**MARIA LOURDES P. A. SERENO**  
Chief Justice  
Chairperson

  
**TERESITA J. LEONARDO-DE CASTRO**  
Associate Justice

  
**LUCAS P. BERSAMIN**  
Associate Justice

  
**JOSE PORTUGAL PEREZ**  
Associate Justice