



Republic of the Philippines
Supreme Court
Manila

EN BANC

**FIRE OFFICER I DARWIN S.
SAPPAYANI,**

Complainant,

- versus -

ATTY. RENATO G. GASMEN,
Respondent.

A.C. No. 7073

Present:

SERENO, C.J.,
CARPIO,
VELASCO, JR.,
LEONARDO-DE CASTRO,
BRION,
PERALTA,
BERSAMIN,
DEL CASTILLO,
VILLARAMA, JR.,
PEREZ,
MENDOZA,
REYES,*
PERLAS-BERNABE,
LEONEN, and
JARDELEZA, JJ.

Promulgated:

September 1, 2015

X-----*Perlas-Bernabe*-----X

RESOLUTION

PERLAS-BERNABE, J.:

This instant administrative case arose from a Complaint-Affidavit¹ dated February 6, 2006 filed by complainant Fire Officer I Darwin S. Sappayani (Sappayani), which was endorsed by the Public Attorney's Office, Maguindanao District to this Court,² and was referred to the Integrated Bar of the Philippines (IBP) on July 1, 2008,³ against respondent Atty. Renato G. Gasmen (Atty. Gasmen), a notary public.

* On leave.

¹ *Rollo*, pp. 4-6.

² Received on February 16, 2006; *id.* at 2.

³ Through a Court Resolution signed by Clerk of Court Ma. Luisa D. Villarama; *id.* at 55.

The Facts

In his Complaint-Affidavit, Sappayani alleged that Atty. Gasmen notarized documents which he purportedly executed, particularly, a Special Power of Attorney⁴ (SPA) in favor of one Newtrade Goodwill Corporation (NGC) through Romeo N. Maravillas (Maravillas) and an Application for Loan and Promissory Note (loan application) with Air Materiel Wing Savings and Loan Association, Inc. (AMWSLAI). The SPA, which was notarized by Atty. Gasmen on March 29, 2000, authorized NGC through Maravillas to complete the loan application with AMWSLAI and thereafter, receive its proceeds. Thus, by virtue of said notarized documents, AMWSLAI released to Maravillas, as representative of NGC, a loan amounting to ₱157,301.43.

However, Sappayani denied executing said documents, claiming that his signature found on the SPA was forged as he did not know Maravillas. Neither did he authorize Maravillas to enter into any transaction on his behalf. Sappayani added that it was physically impossible for him to personally appear before Atty. Gasmen and execute the documents at the AMWSLAI office in Quezon City, as he was then training as a new recruit at the Bureau of Fire Protection at General Santos City.⁵

After more than two (2) years, Atty. Gasmen filed his Comment⁶ dated May 26, 2008 and claimed, among others, that the notarization of the SPA and loan application was done only after the release of the proceeds of the loan to Maravillas, who then released the same to one Zenaida C. Razo (Razo), the marketing representative of NGC for Region V. According to Atty. Gasmen, Razo was also the one responsible for taking the purported loan of Sappayani, the proceeds of which the latter never received. Moreover, he asserted that prior to notarization, Sappayani's signature on the SPA was compared with his signature specimen cards with AMWSLAI, of which he was an honorary member. Finally, he claimed that by practice, notarization of loan applications at AMWSLAI was done "on a ministerial basis" albeit with "proper safeguards," and that documents were notarized only after the loan is released and the AMWSLAI President has approved the same. As such, notarization was merely a way of completing the loan documentation requirements of the Bangko Sentral ng Pilipinas (BSP).

After several re-settings of the mandatory conference and the repeated failure of Atty. Gasmen to appear, the IBP Commissioner terminated the mandatory conference and ordered the parties to submit their respective Position Papers for resolution.

⁴ Id. at 84.

⁵ Id. at 4-5.

⁶ Id. at 41-42.

The IBP's Report and Recommendation

In a Report and Recommendation⁷ dated March 5, 2010, IBP Commissioner Atty. Albert P. Sordan, EnP (Commissioner Sordan) found Atty. Gasmen guilty of violating Section 2 (b), Rule IV of the 2004 Rules on Notarial Practice (Notarial Rules), Section 20 (a) Rule 138 of the Rules of Court, and Rule 1.01, Canon 1 and Rule 10.01, Canon 10 of the Code of Professional Responsibility (CPR). Accordingly, he recommended that Atty. Gasmen be suspended from the practice of law for a period of six (6) months and that his incumbent notarial commission be revoked. In addition, he should be disqualified from being commissioned as a notary public for a period of one (1) year, with a stern warning that a repetition of the same or similar offense shall be dealt with more severely.

Commissioner Sordan found that the signature of Sappayani on the SPA was forged, and that Atty. Gasmen failed to exercise reasonable diligence or that degree of vigilance expected of a *bonus pater familias*. Thus, when he notarized a forged SPA and untruthfully certified that Sappayani was the very same person who personally appeared before him, he violated the Notarial Rules and, as a lawyer, the CPR.⁸

In a Resolution⁹ dated May 11, 2013, the IBP Board of Governors *adopted and approved* the IBP Commissioner's Report and Recommendation.¹⁰ Atty. Gasmen moved for reconsideration,¹¹ which was denied in a Resolution¹² dated August 9, 2014.

The Issue Before the Court

The issue for the Court's resolution is whether or not the IBP correctly found Atty. Gasmen liable for violation of the Notarial Rules and the CPR.

The Court's Ruling

The findings of the IBP are well taken.

The Court notes that both the SPA and the loan application subject of this case were notarized in 2000, during which Act No. 2711¹³ of the

⁷ Id. at 97-107.

⁸ Id. at 6-7.

⁹ See Notice of Resolution signed by National Secretary Nasser A. Marohomsalic; id. at 96, including dorsal portion.

¹⁰ Id. at 96.

¹¹ Not attached to the *rollo*.

¹² Id. at 119.

¹³ Entitled "AN ACT AMENDING THE ADMINISTRATIVE CODE" (October 1, 1917).

Revised Administrative Code of 1917, Title IV, Chapter 11, otherwise known as the “Notarial Law,” in addition to Act No. 2103,¹⁴ governed the rules on notaries public.

Section 1 (a) of Act No. 2103 provides:

Section 1. x x x

(a) The acknowledgement shall be made before a notary public or an officer duly authorized by law of the country to take acknowledgements of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgement 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.

One of the obligations of a notary public is to authenticate documents acknowledged before him, certifying the truth thereof under his seal of office.¹⁵ When acknowledging a document, it is required that the person who signed or executed the same, *appears in person* before the notary public and represents to the latter that the signature on the document was voluntarily affixed by him for the purposes stated in the document, declaring the same as his free and voluntary act and deed.¹⁶ Thereafter, the notary public affixes his notarial seal on the instrument which certifies the due execution of the document, and resultantly, converts a private document into a public document which on its face, is entitled to full faith and credit.¹⁷

In the discharge of his powers and duties, the notary public’s certification is one impressed with public interest, accuracy and fidelity¹⁸ such that he owes it to the public to notarize only when the person who signs the document is the same person who executed it and personally appeared before him to attest to his knowledge of the contents stated therein. Thus, the Court has repeatedly emphasized the necessity of an affiant’s personal appearance and makes the failure to observe such rule punishable. In fact, such necessity has been further stressed in Section 2 (b) of Rule IV of the Rules on Notarial Practice of 2004, which provides:

¹⁴ Entitled “AN ACT PROVIDING FOR THE ACKNOWLEDGMENT AND AUTHENTICATION OF INSTRUMENTS AND DOCUMENTS WITHOUT THE PHILIPPINE ISLANDS” (January 26, 1912).

¹⁵ Section 241, Title IV, Chapter 11, Article II of the Administrative Code provides:
SEC. 241. Powers of notary public. – Every notary public shall have power to administer all oaths and affirmations provided for by law, in all matters incident to his notarial office, and in the execution of affidavits, depositions, and other documents requiring an oath x x x and such other writings as are commonly proved or acknowledged before notaries x x x and to make declarations and certify the truth thereof under his seal of office, concerning all matters done by him by virtue of his office.

¹⁶ See also Section 1, Rule II of the 2004 Rules on Notarial Practice.

¹⁷ *Gonzales v. Ramos*, 499 Phil. 345, 350 (2005).

¹⁸ *Id.*

SEC. 2. Prohibitions. – 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.

In *Dela Cruz-Sillano v. Pangan*,¹⁹ the Court suspended a lawyer both from the practice of law and from his notarial commission for notarizing an SPA without the personal appearance of the affiant. It held that a lawyer commissioned to be a notary public is mandated to discharge his sacred duties and observe faithfully the legal solemnity of an oath in an acknowledgement or *jurat*. Similarly, the Court has meted out penalties on erring notaries for notarizing a document despite the non-appearance of one of the signatories. It is settled that such practice constitutes unlawful, dishonest, immoral, or deceitful conduct.²⁰

In this case, Atty. Gasmen claimed that before the SPA and loan application were notarized, the proceeds were already released to NGC by AMWSLAI, thus, dispensing with the need for notarization. Moreover, he insisted that the notarization of said documents was merely done on a *ministerial* basis, with proper safeguards, and that it cannot be expected of him to require the personal appearance of every loan applicant considering the hundreds of loan applications brought to him for signing.²¹

The Court is not persuaded.

Notarization is not an empty, meaningless, or routinary act.²² It is impressed with substantial public interest, and only those who are qualified or authorized may act as such. It is not a purposeless ministerial act of acknowledging documents executed by parties who are willing to pay fees for notarization.²³ Moreover, notarization of a private document, such as an SPA in this case, converts the document into a public one which, on its face, is given full faith and credit. Thus, the failure of Atty. Gasmen to observe the utmost care in the performance of his duties caused not only damage to those directly affected by the notarized document,²⁴ but also undermined the integrity of a notary public and tainted the function of notarization.²⁵

¹⁹ 592 Phil. 219 (2008).

²⁰ *Caalim-Verzonilla v. Pascua*, 674 Phil. 550, 563 (2011).

²¹ *Rollo*, pp. 41-42.

²² *Dela Cruz-Sillano v. Pangan*, supra note 19, at 227.

²³ *Isenhardt v. Real*, 682 Phil. 19, 26 (2012).

²⁴ *Agbulos v. Viray*, A.C. No. 7350, February 18, 2013, 691 SCRA 1, 8.

²⁵ *Dela Cruz-Sillano v. Pangan*, supra note 19, at 228.

Further, as a lawyer, Atty. Gasmen is expected at all times to uphold the integrity and dignity of the legal profession and refrain from any act or omission which might erode the trust and confidence reposed by the public in the integrity of the legal profession. By notarizing the subject documents, he engaged in unlawful, dishonest, immoral, or deceitful conduct which makes him liable as well for violation of the pertinent rules of the CPR, particularly Rule 1.01, Canon 1 which provides:

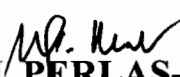
CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.

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

As to the proper penalty, the Court finds the need to modify the penalty recommended by the IBP. The Court has ruled that a notary public who fails to discharge his duties as such is meted out the following penalties: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law – the terms of which vary based on the circumstances of each case. In this case, while the IBP Commissioner found the absence of bad faith and considered Atty. Gasmen as a first time offender, the Court finds that the penalties of disqualification from being commissioned as notary public for a period of two (2) years and suspension from the practice of law for one (1) year are proper.²⁶ On this score, the Court observes that Atty. Gasmen did not deny notarizing the documents without the presence of Sappayani and indirectly admitted doing the same with other similar documents and affiants. Thus, such practice, he evidently countenanced fraud.

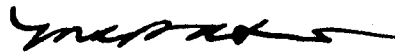
WHEREFORE, the Court finds respondent Atty. Renato G. Gasmen **GUILTY** of violation of the Notarial Law and the Code of Professional Responsibility. Accordingly, the Court hereby **SUSPENDS** him from the practice of law for one (1) year; **REVOKES** his incumbent commission as a notary public; and **PROHIBITS** him from being commissioned as a notary public for 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.

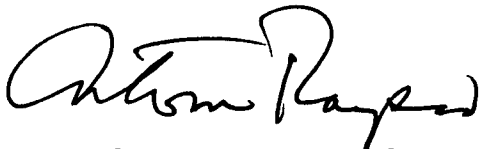

ESTELA M. PERLAS-BERNABE
Associate Justice

²⁶ *Agbulos v. Viray*, supra note 24, at 9.

WE CONCUR:



MARIA LOURDES P. A. SERENO
Chief Justice



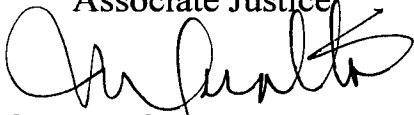
ANTONIO T. CARPIO
Associate Justice



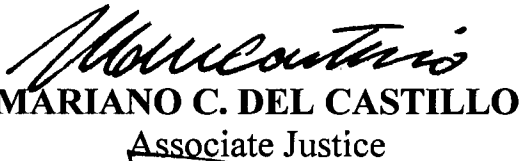
PRESBITERO J. VELASCO, JR.
Associate Justice



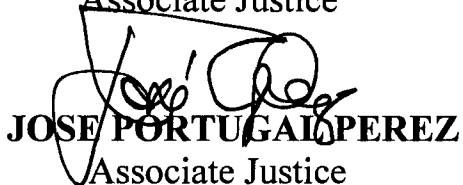
TERESITA J. LEONARDO-DE CASTRO
Associate Justice



DIOSDADO M. PERALTA
Associate Justice



MARIANO C. DEL CASTILLO
Associate Justice

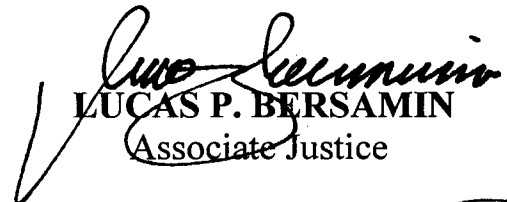


JOSE PORTUGAL PEREZ
Associate Justice

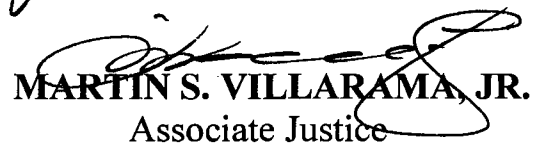
On Leave
BIENVENIDO L. REYES
Associate Justice



ARTURO D. BRION
Associate Justice



LUCAS P. BERSAMIN
Associate Justice



MARTIN S. VILLARAMA, JR.
Associate Justice



JOSE CATRAL MENDOZA
Associate Justice



MARVIC M. V. F. LEONEN
Associate Justice



FRANCIS H. JARDELEZA
Associate Justice