

SECOND DIVISION

[A.C. No. 10249, September 07, 2020]

VIRGILIO C. RIGON, JR., COMPLAINANT, VS. ATTY. ERIC P. SUBIA, RESPONDENT.

D E C I S I O N

DELOS SANTOS, J.:

Before the Court is an Affidavit Complaint^[1] dated November 11, 2013 filed by Virgilio Cayetano Rigon, Jr. (Virgilio, Jr.), seeking the disbarment of Atty. Eric P. Subia (Atty. Subia) for violation of the 2004 Rules on Notarial Practice (Notarial Rules).

Facts

Complainant Virgilio Jr., authorized by a Special Power of Attorney^[2] (SPA) by the heirs of Placido Rigon (Placido), alleged in his Affidavit Complaint that Placido is the registered owner of a parcel of land (subject land) located at Cabatuan, Isabela covered under the Original Certificate of Title No. T-20, which was later on registered under Transfer Certificate of Title (TCT) No. T-30352.^[3] Such title was reconstituted in 1976 and the land is now registered under TCT No. T-99481.^[4]

On June 24, 2011, in the City of Cauayan, Isabela, a Deed of Absolute Sale^[5] (subject Deed) covering a portion of the subject land was allegedly executed between Placido, with the conformity of his wife Telesfora Aczon^[6] (Telesfora), and one Pete Gerald L. Javier (Javier). The questioned subject Deed was notarized before Atty. Subia. Virgilio, Jr. alleged that Atty. Subia made it appear that the vendor, Placido, and his wife Telesfora, were signatories thereto when, in truth and in fact, the spouses were already dead prior to the execution of the subject Deed. Placido already passed on as early as February 5, 1940, while Telesfora died on December 8, 1961.^[7]

The subject Deed indicated that it is docketed as Document (Doc.) No. 20, Page No. 04, Book No. 06, Series of 2011 under the Notarial Register of Atty. Subia.^[8] However, upon verification with the Office of the Clerk of Court (OCC) of Cauayan City, Isabela, the docket number pertained to a Joint Affidavit of Two Disinterested Persons, and not the subject Deed allegedly executed by Placido.^[9]

The subject Deed caused the transfer of the title of a portion of the subject land from Placido to Javier under a new title - TCT No. T-397909.^[10]

Aggrieved, the heirs of Placido authorized Virgilio, Jr. to file an administrative and disbarment case against Atty. Subia for violation of the Notarial Rules by notarizing

a deed of absolute sale without verifying that the vendor and his wife stated therein were already long dead, and without the presence of the required two (2) witnesses.

On March 17, 2014, Atty. Subia filed his Comment^[11] to the Affidavit Complaint and belied the allegations against him. Atty. Subia claimed that he did not prepare such document, and that someone falsified and copied his signature. In fact, the Certification^[12] from the OCC of Cauayan, Isabela declared that based on his notarial reports, the document under Doc. No. 20, Page No. 04, Book No. 06, Series of 2011 is the Joint Affidavit of Two Disinterested Persons executed by Jenny A. Foronda and Grace Omanito, and not the subject Deed allegedly executed by Placido.

On July 7, 2014, the Court issued a Resolution^[13] referring the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

On October 7, 2014, the Court received a handwritten letter^[14] from Virgilio B. Rigon, Sr. (Virgilio, Sr.), the father of Virgilio, Jr., informing this Court that the latter died on August 13, 2014 due to a gunshot wound. In the same letter, Virgilio, Sr. manifested that he would continue to follow-up the case on behalf of his deceased son.

On December 1, 2014, Atty. Subia filed before the IBP Commission on Bar Discipline (CBD) a Comment^[15] asserting that the death of Virgilio, Jr. warrants the dismissal of the case. Virgilio, Sr. cannot substitute his son in the present case as the SPA of Virgilio, Jr. cannot be extended to other persons. Atty. Subia likewise raised the issue that the principals of the SPA, which granted Virgilio, Jr. the authority to file the disbarment case, were indicated as heirs of Cornelio Rigon (Cornelio) and not of Placido. Cornelio is one of the heirs of Placido.^[16]

The IBP's Report and Recommendation

In an undated Report and Recommendation^[17] made by Commissioner Ramsey M. Quijano (Commissioner Quijano), Atty. Subia was found to have violated the Notarial Rules. Mere denial of having notarized the subject Deed shows Atty. Subia's negligence in preserving the substantive public interest in the act of notarization considering that his seal appears on the document.^[18]

On February 22, 2018, the IBP Board of Governors (Board) issued a Resolution^[19] on CBD Case No. 14-4378 adopting the findings of fact and recommendation of Commissioner Quijano in his undated report. The IBP Board recommended the revocation of Atty. Subia's notarial commission, and the disqualification of Atty. Subia from being commissioned as notary public for a period of two (2) years. The IBP Board likewise recommended the suspension of Atty. Subia from the practice of law for six (6) months.^[20]

The Issue Before the Court

The sole issue for the Court's resolution is whether or not the IBP correctly found

Atty. Subia liable for violation of the Notarial Rules.

The Court's Ruling

At the outset, it bears to stress that the death of the complainant, Virgilio, Jr., is not a hindrance in the proceedings of this case. As the Court has held, disciplinary and disbarment proceedings against lawyers are considered *sui generis* in nature with the main aim of preserving the integrity of the legal profession. The proceedings, which the Court may even *motu proprio* initiate, have neither plaintiffs nor prosecutors.^[21] The Court will look into the conduct and behavior of lawyers in order to determine if they are fit to exercise the privileges of the legal profession. If found guilty, the erring lawyers shall be dealt with accordingly and will be held accountable for any misconduct or misbehavior, committed in violation of the Code of Professional Responsibility.^[22]

Furthermore, the case will still proceed despite the defect found in the SPA, wherein the persons who vested authority upon Virgilio, Jr. to institute the complaint were indicated as heirs of Cornelio instead of Placido.

As provided for in Section 1, Rule 139-B of the Rules of Court, as amended:

Section 1. *How Instituted.* - Proceedings for disbarment, suspension or discipline of attorneys may be taken by the Supreme Court *motu proprio*, or by the Integrated Bar of the Philippines (IBP) upon the verified complaint of any person. The complaint shall state clearly and concisely the facts complained of and shall be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

The IBP Board of Governors may, *motu proprio* or upon referral by the Supreme Court or by a Chapter Board of Officers, or at the instance of any person, initiate and prosecute proper charges against erring attorneys including those in the government service; *Provided, however*, that all charges against Justices of the Court of Tax Appeals and the *Sandiganbayan*, and Judges of the Court of Tax Appeals and lower courts, even if lawyers are jointly charged with them, shall be filed with the Supreme Court; *Provided, further*, that charges filed against Justices and Judges before the IBP, including those filed prior to their appointment in the Judiciary, shall immediately be forwarded to the Supreme Court for disposition and adjudication.

Six (6) copies of the verified complaint shall be filed with the Secretary of the IBP or the Secretary of any of its chapters who shall forthwith transmit the same to the IBP Board of Governors for assignment to an investigator.

From the foregoing, the following must be present in the institution of disbarment and disciplinary proceedings of attorneys:

- (a) verified complaint of any person;
- (b) the complaint must state clearly and concisely the act complained of;

- (c) the complaint must be supported by affidavits of persons having personal knowledge of the facts therein alleged and/or by such documents as may substantiate said facts.

In the present case, Virgilio, Jr., herein complainant, was able to comply with the needed requisites. A verified Affidavit Complaint was filed and attached thereto were: (1) a copy of the questioned subject Deed bearing the seal and signature of Atty. Subia;^[23] (2) a certified true and correct copy of TCT No. T-99481;^[24] (3) copies of Negative Certification of Death of Placido and Telesfora;^[25] and (4) a copy of the Certification from the OCC of Cauayan, Isabela.^[26]

Now to the issue on whether the IBP correctly found Atty. Subia to have violated the Notarial Rules.

After a judicious review of the records, the Court hereby affirms and adopts the recommendation of the IBP-CBD.

Time and time again, the Court has stressed that the duties of notaries public are dictated by public policy and the act of notarization is imbued with substantial public interest.^[27] As such, a notary public is expected to observe a high degree of diligence and prudence in complying with the parameters set forth under the Notarial Rules.

In the case at bench, Atty. Subia failed to faithfully comply with Sections 6 and 8 of Rule II, and Sections 2 and 5 (b) of Rule IV of the Notarial Rules, which state that:

RULE II

SEC. 6. *Jurat*. - "Jurat" refers to an act in which an individual on a single occasion:

(a) **appears in person before the notary public** and presents an instrument or document;

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

(c) **signs the instrument or document in the presence of the notary**; and

(d) **takes an oath or affirmation before the notary public** as to such instrument or document.

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SEC. 8. *Notarial Certificate*. - "Notarial Certificate" refers to the part of, or attachment to, a notarized instrument or document that is completed by the notary public, bears the notary's signature and seal, and **states the facts attested to by the notary public in a particular notarization as provided for by these Rules**.

RULE IV