

EN BANC

[A.C. NO. 5864, April 15, 2005]

**ARTURO L. SICAT, COMPLAINANT, VS. ATTY. GREGORIO E.
ARIOLA, JR., RESPONDENT.**

R E S O L U T I O N

PER CURIAM:

In an affidavit-complaint,^[1] complainant Arturo L. Sicat, a Board Member of the *Sangguniang Panglalawigan* of Rizal, charged respondent Atty. Gregorio E. Ariola, the Municipal Administrator of Cainta, Rizal, with violation of the Code of Professional Responsibility by committing fraud, deceit and falsehood in his dealings, particularly the notarization of a Special Power of Attorney (SPA) purportedly executed by a one Juanito C. Benitez. According to complainant, respondent made it appear that Benitez executed the said document on January 4, 2001 when in fact the latter had already died on October 25, 2000.

He alleged that prior to the notarization, the Municipality of Cainta had entered into a contract with J.C. Benitez Architect and Technical Management, represented by Benitez, for the construction of low-cost houses. The cost of the architectural and engineering designs amounted to P11,000,000 and two consultants were engaged to supervise the project. For the services of the consultants, the Municipality of Cainta issued a check dated January 10, 2001 in the amount of P3,700,000, payable to J.C. Benitez Architects and Technical Management and/or Cesar Goco. The check was received and encashed by the latter by virtue of the authority of the SPA notarized by respondent Ariola.

Complainant further charged respondent with the crime of falsification penalized under Article 171 of the Revised Penal Code by making it appear that certain persons participated in an act or proceeding when in fact they did not.

In his Comment,^[2] respondent explained that, as early as May 12, 2000, Benitez had already signed the SPA. He claimed that due to inadvertence, it was only on January 4, 2001 that he was able to notarize it. Nevertheless, the SPA notarized by him on January 4, 2001 was not at all necessary because Benitez had signed a similar SPA in favor of Goco sometime before his death, on May 12, 2000. Because it was no longer necessary, the SPA was cancelled the same day he notarized it, hence, legally, there was no public document that existed. Respondent prayed that the complaint be dismissed on the ground of forum-shopping since similar charges had been filed with the Civil Service Commission and the Office of the Deputy Ombudsman for Luzon. According to him, the complaints were later dismissed based on findings that the assailed act referred to violations of the implementing rules and regulations of PD 1594,^[3] PD 1445,^[4] RA 7160^[5] and other pertinent rules of the Commission on Audit (COA). He stressed that no criminal and administrative charges were recommended for filing against him.

In a Resolution dated March 12, 2003,^[6] the Court referred the complaint to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. On August 26, 2003, the IBP submitted its investigation report:

x x x it is evident that respondent notarized the Special Power of Attorney dated 4 January 2001 purportedly executed by Juanito C. Benitez long after Mr. Benitez was dead. It is also evident that respondent cannot feign innocence and claim that he did not know Mr. Benitez was already dead at the time because respondent, as member of the Prequalification and Awards Committee of the Municipality of Cainta, personally knew Mr. Benitez because the latter appeared before the Committee a number of times. It is evident that the Special Power of Attorney dated 4 January 2001 was part of a scheme of individuals to defraud the Municipality of Cainta of money which was allegedly due them, and that respondent by notarizing said Special Power of Attorney helped said parties succeed in their plans.^[7]

The IBP recommended to the Court that respondent's notarial commission be revoked and that he be suspended from the practice of law for a period of one year.^[8]

After a careful review of the records, we find that respondent never disputed complainant's accusation that he notarized the SPA purportedly executed by Benitez on January 4, 2001. He likewise never took issue with the fact that on said date, Benitez was already dead. His act was a serious breach of the sacred obligation imposed upon him by the Code of Professional Responsibility, specifically Rule 1.01 of Canon 1, which prohibited him from engaging in unlawful, dishonest, immoral or deceitful conduct. As a lawyer and as an officer of the court, it was his duty to serve the ends of justice,^[9] not to corrupt it. Oath-bound, he was expected to act at all times in accordance with law and ethics, and if he did not, he would not only injure himself and the public but also bring reproach upon an honorable profession.^[10]

In the recent case of *Zaballero v. Atty. Mario J. Montalvan*,^[11] where the respondent notarized certain documents and made it appear that the deceased father of complainant executed them, the Court declared the respondent there guilty of violating Canon 10, Rule 10.01 of the Code of Professional Responsibility.^[12] The Court was emphatic that lawyers commissioned as notaries public should not authenticate documents unless the persons who signed them are the very same persons who executed them and personally appeared before them to attest to the contents and truth of what are stated therein. The Court added that notaries public must observe utmost fidelity, the basic requirement in the performance of their duties, otherwise the confidence of the public in the integrity of notarized deeds and documents will be undermined.

In the case at bar, the records show that Benitez died on October 25, 2000. However, respondent notarized the SPA, purportedly bearing the signature of Benitez, on January 4, 2001 or more than two months after the latter's death. The notarial acknowledgement of respondent declared that Benitez "appeared before him and acknowledged that the instrument was his free and voluntary act." Clearly, respondent lied and intentionally perpetuated an untruthful statement. Notarization