

SECOND DIVISION

[A.C. No. 12551, July 08, 2020]

VALENTINO C. LEANO, COMPLAINANT, VS. ATTY. HIPOLITO C. SALATAN, RESPONDENT.

DECISION

INTING, J.:

This administrative case is rooted on the Affidavit-Complaint^[1] filed by Valentino C. Leano (Leano) before the Office of the Bar Confidant seeking to disbar Atty. Hipolito C. Salatan (Atty. Salatan) and to revoke his notarial - commission for violation of the 2004 Rules on Notarial Practice^[2] (Notarial Rules).

Complainants Position

Leano alleged that he was the defendant in the case of "*Spouses Juanita Tabudlo and Myrna Tabudlo, as represented by Miguel Cauilan and Jorge Cauilan v. Valentino Leano*," filed by Atty. Salatan, plaintiff's counsel before Branch 36, Regional Trial Court, Santiago City for specific performance with damages. He claimed that in said case, Atty. Salatan introduced the affidavit of a certain Teresita Cauilan (Teresita) into evidence before the trial court which, upon closer scrutiny, bore several defects on the face of the document itself: (a) the document had no date of execution; (b) Teresita's competent proof of identity was left blank in the document; and (c) Atty. Salatan's Mandatory Continuing Legal Education (MCLE) compliance number was not indicated therein.^[3]

In addition, Leano stated that the subject affidavit does not appear in Atty. Salatan's notarial register, as evidenced by the Certificate (Lack of Record)^[4] issued by Atty. Jeanna B. Ongan, Clerk of Court VI, Office of the Clerk of Court, Santiago City.^[5]

Respondent's Position

In his Comment,^[6] Atty. Salatan explained that the failure to record Teresita's affidavit in his notarial register was not deliberate but a mere clerical error by his staff, viz.:

19. As a matter of office procedure, it was respondent's office clerk who had been tasked to do the mechanical act of doing the entry and assigning docket numbers of documents in the Notarial Register as testified to by respondent's two former office personnel, x x x;^[7]

x x x x

23. Respondent was not personally involved neither had participation in the mechanical act of listing documents and assigning docket

numbers even as he kept on reminding his office staff to record completely all the notarial acts in the Notarial Register in accordance with Section 2 of Rule VI of the 2004 Rules on Notarial Practice[.]^[8]

Notably, Atty. Salatan did not squarely address the alleged defects in Teresita's affidavit that Leano had enumerated in his Affidavit-Complaint. Instead, Atty. Salatan simply argued that he had "dutifully ascertained that the affiant was sincerely telling the truth in support to the cause of action of the spouses Juanito and Myrna Tabudlo against Valentino Leano," which he deemed "the more important and overarching consideration" in notarizing the document.^[9]

The Issue

The sole issue for the Court's resolution is whether Atty. Salatan violated the Notarial Rules when he notarized Teresita's Affidavit.^[10]

The Court's Ruling

After a careful examination of the records, the Court finds Atty. Salatan administratively liable for violation of the Notarial Rules and the Code of Professional Responsibility (CPR).

Section 2(b), Rule IV of the Notarial Rules states:

SEC. 2. *Prohibitions.* - (a) x x x

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 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.

Aside from the physical presence of the affiant during the notarization of a document, the Notarial Rules also requires the presentation of a competent evidence of the affiant's identity *if* he or she is not personally known to the notary public. "Competent evidence of identity" is defined under Section 12, Rule II of the Notarial Rules as follows:

SEC. 12. *Competent Evidence of Identity.* - The phrase "competent evidence of identity" refers to the identification of an individual based on:

a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual x x x; or

b) the oath or affirmation of one credible witness not privy to the

instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who personally knows the individual and shows to the notary public documentary identification.

Moreover, Section 5(b), Rule IV of the same Rules provides that a notary public shall not affix his official signature or seal on a notarial certificate that is *incomplete*. By definition, a notarial certificate pertains 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."^[11]

In this case, the records show that Atty. Salatan had affixed his official signature and seal on the notarial certificate of Teresita's affidavit without properly identifying the person who signed the document. This conclusion can easily be inferred from the fact that the competent proof of Teresita's identity had been left *blank* on the face of the document itself.^[12] Unfortunately, in his Comment, Atty. Salatan simply claimed that he had "ascertained" that the affiant was the same person executing the document, but he completely failed to explain why Teresita's competent evidence of identity was not indicated in the notarial certificate.^[13] Similarly, there was also no allegation that Teresita is personally known to Atty. Salatan to dispense with the presentation of her competent evidence of identity.

Based on these considerations, there is no question that Atty. Salatan had violated: (a) Section 2(b), Rule IV of the Notarial Rules by notarizing Teresita's affidavit without requiring any competent proof of her identity; and (b) Section 5(b), Rule IV of the same Rules when he affixed his official signature and seal on an *incomplete* notarial certificate.

To make matters worse, it appears that the notarization of the subject affidavit was *not* recorded in Atty. Salatan's notarial register,^[14] which is a clear violation of Section 2(a), Rule VI of the Notarial Rules, *viz.*:

SEC. 2. *Entries in the Notarial Register.* - (a) For every notarial act, the notary shall record in the notarial register at the time of notarization the following:

- (1) the entry number and page number;
- (2) the date and time of day of the notarial act;
- (3) the type of notarial act;
- (4) the title or description of the instrument, document or proceeding;
- (5) the name and address of each principal;
- (6) the competent evidence of identity as defined by these Rule's if the signatory is not personally known to the notary;
- (7) the name and address of each credible witness swearing to or affirming the person's identity;
- (8) the fee charged for the notarial act;
- (9) the address where the notarization was performed if not in the notary's regular place of work or business; and
- (10) any other circumstance the notary public may deem of significance or relevance.