

## **EN BANC**

**[ A.C. No. 12154, September 17, 2019 ]**

**ATTY. ROGELIO N. VELARDE, PETITIONER, VS. ATTY. RUBEN M. ILAGAN, RESPONDENT.**

### **DECISION**

**REYES, J. JR., J.:**

In a Complaint-Affidavit,<sup>[1]</sup> commission of violation of the 2004 Rules on Notarial Practice was imputed against Atty. Ruben M. Ilagan (respondent) for allegedly notarizing several Deeds of Absolute Sale by a deceased affiant.

#### **The Relevant Antecedents**

The case stemmed from a parcel of land (subject land), originally dedicated for parks and playgrounds, situated in Ma. Cristina Village covering an area of 1,467 square meters. The subject land was registered in the name of Narciso Salas (Narciso) under Transfer Certificate of Title (TCT) No. NT-229061, but was owned in common by all the lot owners and lot buyers of the village, all of whom held undivided interest thereon. Among the lot owners is Atty. Rogelio N. Velarde (complainant).<sup>[2]</sup>

On May 6, 2010, Narciso died.<sup>[3]</sup> However, it appeared that the subject land was successfully subdivided into eight smaller lots three years thereafter. These lots were in the name of Narciso and his surviving spouse Lina Domingo Salas (Lina).<sup>[4]</sup>

Out of the eight lots, five lots which were covered by TCT Nos. 041-201300813 to 041-2013008117, were allegedly sold by Narciso and Lina to: (1) the spouses Jasper Nagayo and Aprilyn M. Nagayo evidenced by a Deed of Absolute Sale<sup>[5]</sup> dated December 13, 2013; (2) the spouses Nelson M. Sta. Maria and Marites N. Sta. Maria evidenced by a Deed of Absolute Sale<sup>[6]</sup> dated February 28, 2014; (3) the spouses Leopoldo G. Atacador, Jr. and Bebelyn M. Atacador evidenced by a Deed of Absolute Sale<sup>[7]</sup> dated May 15, 2014; (4) Joshua E. Gonzales evidenced by a Deed of Absolute Sale<sup>[8]</sup> dated September 1, 2014; and (5) spouses Raynaldy Cruz Marin and Marivic C. Marin evidenced by a Deed of Absolute Sale<sup>[9]</sup> dated September 1, 2014. It is ostensible that said Deeds were notarized by respondent three to four years after the death of the purported vendor Narciso.<sup>[10]</sup>

Asserting that respondent violated the 2004 Rules on Notarial Practice, complainant alleged that respondent falsely attested on Narciso's personal appearance before him. As a direct consequence of such act, complainant and his co-owners in Ma. Cristina Village have been deprived of their right and enjoy the benefits derived from the subject land.<sup>[11]</sup>

In his Answer,<sup>[12]</sup> respondent offered the defense of general denial and maintained that his signatures in the purported deeds of sale were forged.

The Integrated Bar of the Philippines (IBP) issued a Notice of Mandatory Conference Hearing<sup>[13]</sup> dated April 17, 2015. However, in an Order<sup>[14]</sup> dated June 5, 2015, the IBP observed respondent's non-appearance to the hearing.

Consequently, the IBP issued another Notice of Mandatory Conference<sup>[15]</sup> dated October 29, 2015, requiring once again the attendance of all the parties.

In an Order<sup>[16]</sup> dated December 7, 2015, the IBP noted that only the complainant attended the hearing. It then required the parties to submit their respective position papers.

In his Position Paper,<sup>[17]</sup> complainant reiterated the allegations in his complaint, *i.e.*, that respondent notarized several deeds of absolute sale by a deceased vendor.

On the other hand, respondent failed to file his Position Paper.

In a Report and Recommendation<sup>[18]</sup> dated May 23, 2016, the IBP-Commission on Bar Discipline (CBD) found that respondent committed misconduct by certifying under oath several deeds of sale, knowing fully well that one of the vendors was already dead. Thus, the IBP-CBD recommended the penalty of suspension of respondent from the practice of law for a period of two years, revocation of his notarial commission, and disqualification from being a notary public for two years, to wit:

WHEREFORE, premises considered, it is hereby recommended that Respondent ATTY. RUBEN M. ILAGAN be SUSPENDED from the practice of law for two (2) years, REVOKES his incumbent notarial commission, if any, and DISQUALIFIES him from being commissioned as notary public for two (2) years. Respondent is also STERNLY WARNED that more severe penalties will be imposed for any further breach of the Canons in the Code of Professional Responsibility.

RESPECTFULLY SUBMITTED.

The IBP-Board of Governors adopted the findings of fact and recommendation of the IBP-CBD *in toto* in a Resolution<sup>[19]</sup> dated June 17, 2017, *viz.*:

*RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner imposing the penalty of revocation of Notarial Commission, and disqualification from being commissioned as Notary Public for two (2) years; and suspension of two (2) years from the practice of law.*

### **The Issue**

Whether or not respondent's conduct warrants an imposition of penalty to be meted

out against him.

### **The Court's Ruling**

We agree with the findings of the IBP-CBD and the IBP-Board of Governors that respondent failed to live up with the duties of a notary public as dictated by the 2004 Rules on Notarial Practice.

The pronounced nature of notarization cannot be overemphasized. It is not a meaningless ministerial act of acknowledging documents executed by parties who are willing to pay the fees for the same.<sup>[20]</sup> For notarization converts a private document into a public document, making the same admissible in evidence without further proof of authenticity; thus, a notarial document is, by law, entitled to full faith and credit upon its face.<sup>[21]</sup>

To ensure that the noble consequences of notarization would be achieved while protecting the public, Rule IV, Section 1(b) and (c) of the Notarial Rules provide for the following guidelines, among others:

(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.

The importance of personal appearance was highlighted as one of the prohibitions under the Rules, to wit:

#### *Section 2. Prohibitions.*

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.

Based on the records of the case, it is apparent that respondent notarized several Deeds of Absolute Sale, purporting to convey several parcels of land by deceased Narciso to several individuals long *after* the former's demise. By notarizing a document without the appearance of the affiant, respondent failed to ascertain not only the genuineness of his signature but also the due execution of the document.<sup>[22]</sup>

In the case of *Dela Cruz-Silano v. Pangan*,<sup>[23]</sup> we had the occasion to explain the