

EN BANC

[A.C. No. 12455, November 05, 2019]

LEDESMA D. SANCHEZ, COMPLAINANT, VS. ATTY. CARLITO R. INTON, RESPONDENT.

DECISION

PERLAS-BERNABE, J.:

This administrative case stemmed from a complaint-affidavit^[1] filed by Ledesma D. Sanchez (Sanchez) before the Integrated Bar of the Philippines (IBP) against respondent Atty. Carlito R. Inton (respondent) for violation of the 2004 Rules on Notarial Practice (Notarial Rules).^[2]

The Facts

In her complaint, Sanchez alleged that on September 15, 2016, respondent notarized a document denominated as "*Kontrata ng Kasunduan*" (*Kasunduan*),^[3] which she purportedly executed and signed at the latter's office in Cabanatuan City. She, however, vehemently denied having appeared before respondent on said date, claiming that she was at her store located at Fairview Center Mall in Quezon City,^[4] and to corroborate such assertion, presented a *Sinumpaang Salaysay*^[5] of her employee Jennen De Leon. Moreover, Sanchez averred that on February 10, 2017, she presented a document denominated as *Acknowledgment of Legal Obligation With Promissory Note (Acknowledgment)*^[6] for respondent's notarization. She was surprised when respondent's secretaries, presumably acting in his behalf, did not ask the whereabouts of the signatory of the said document, and worse, immediately asked for the payment and affixed respondent's signature thereon.^[7]

In his Answer,^[8] respondent admitted having notarized the *Kasunduan* on September 15, 2016, but argued that Sanchez had also admitted such fact before the Prosecutor's Office during the preliminary investigation in the case filed against her by one Dennis Garcia, the other signatory to the document. As regards the *Acknowledgment*, he denied having notarized the same, and instead, claimed that it does not appear in his notarial book. Lastly, respondent appealed to Sanchez considering that he is already seventy (70) years old, and the complaint may aggravate his sickness leading to his untimely death.^[9] In support of his arguments, respondent attached a *Sinumpaang Salaysay*^[10] dated April 4, 2017, executed by his secretaries Rose Anne Hazel D. Samson and Lannie E. Sorza.

The Action and Recommendation of the IBP

In a Report and Recommendation^[11] dated March 8, 2018, the IBP Investigating Commissioner (IBP-IC) found respondent administratively liable for failure to comply

with the Notarial Rules, and accordingly, recommended that respondent's commission as notary public, if existing, be immediately revoked, and that he be barred from being commissioned as a notary public for a period of two (2) years.^[12]

The IBP-IC found respondent negligent in failing to verify the identities of the signatories to the *Kasunduan*, which he admitted having notarized on September 15, 2016, by requiring the presentation of their respective competent evidence of identity pursuant to Section 6,^[13] in relation to Section 12,^[14] Rule II of the Notarial Rules. In this regard, the IBP-IC pointed out that regardless of whether Sanchez personally appeared before respondent, the latter still failed to indicate in said document the parties' respective competent evidence of identity as required by the Rules. As regards the *Acknowledgment*, the IBP-IC likewise found respondent negligent considering that it is respondent's name which appears on the document as the notarizing officer and it was his secretaries who prepared and signed his signature on the same.^[15]

In a Resolution^[16] dated June 28, 2018, the IBP Board of Governors adopted the above findings and recommendation of the IBP-IC, with modification, recommending respondent's disqualification from being appointed as notary public for a period of one (1) year, instead of two (2) years, and the immediate revocation of his notarial commission if subsisting.

The Issue Before the Court

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

The Court's Ruling

The Court affirms and adopts the findings and recommendations of the IBP with modifications, as will be explained hereunder.

Time and again, the Court has emphasized that notarization is not an empty, meaningless or routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.^[17] In this light, the Court has ruled that notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.^[18]

In this case, the Court finds that respondent failed to live up with the duties of a notary public as dictated by the Notarial Rules.

First, in notarizing the *Kasunduan*,^[19] respondent failed to confirm the identity of the person claiming to be Sanchez through the competent evidence of identity required by the Rules. Section 2 (b), Rule IV of the Notarial Rules provides that a

notary public should not notarize a document unless the signatory to the document is in the notary's presence personally at the time of the notarization, and personally known to the notary public or otherwise identified through competent evidence of identity.^[20] The physical presence of the affiant ensures the proper execution of the duty of the notary public under the law to determine whether the former's signature was voluntarily affixed. On the other hand, the submission of competent evidence of identity as defined under Section 12, Rule II of the Notarial Rules ensures that the affiant is the same person who he or she claims to be. Section 12 reads:

Section 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 each personally knows the individual and shows to the notary public documentary identification. (Emphasis and underscoring supplied)

Further, Section 5 (b),^[21] Rule IV of the Notarial Rules prohibits a notary public from notarizing a document that contains an incomplete notarial certificate. A notarial certificate, as defined in Section 8,^[22] Rule II of the Notarial Rules, requires a statement of the facts attested to by the notary public in a particular notarization. This includes the *jurat* or the act by 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 in the 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.^[23]

Pursuant to the foregoing, the Court had consistently held that "a notary public must not notarize a document unless the persons who signed it are the very same persons who executed the same, and personally appeared before him to attest to the truth of the contents thereof. The purpose of this requirement is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free and voluntary act and deed."^[24]

Here, it is undisputed that respondent notarized the *Kasunduan* on September 15, 2016 and that he did not personally know Sanchez. While he insisted, however, that Sanchez and a Dennis Garcia appeared in his office and presented their respective identification cards on said date of notarization, the document itself belies this claim for as the records bear out, there is no mention at all of any competent evidence of identity of either party, including in the *jurat* thereof which remained incomplete, thus:

"SA KATUNAYAN NG LAHAT NG ITO, ang magkabilang panig ay lumagda ngayong ika- SEP 15 2016 dito sa Lungsod ng Ka[]banatuan.

[Signed]
DENNIS C. GARCIA
Unang Panig

[Signed]
LEDESMA D. SANCHEZ
Ikalawang Panig

x x x x

SA HARAP KO BILANG ISANG NOTARYO PUBLIKO, dito sa Lungsod ng Kabanatuan, ngayong ika SEP 15 2016 ay personal na lumagda ang mga taong nabanggit sa ibabaw ng kanilang mga pangalan, at kanilang pinatutunayan sa akin na ang kanilang paglagda ay Malaya at kusang loob nilang ginawa."^[25]

As the IBP aptly observed, respondent was remiss in the faithful observance of his duties as a notary public when he failed to confirm the identity of the person claiming to be Sanchez through the competent evidence of identity required by the Notarial Rules.

Second, respondent also violated the Notarial Rules when he allowed his secretaries to perform notarial acts in his behalf. Section 7, Rule II of the Notarial Rules defines "notarization" or "notarial act" as any act that a notary public is empowered to perform under said Rules. A "notary public" is any person commissioned to perform official acts under the same Rules.^[26] In performing a notarial act, a notary public is required to, among others: sign by hand on the notarial certificate; and affix his official signature only at the time the said act is performed.^[27] Hence, it has been settled that "[s]ince a notarial commission is personal to each lawyer, the notary public must also personally administer the notarial acts that the law authorizes him to execute. This important duty is vested with public interest. Thus, no other person, other than the notary public, should perform it."^[28]

In this case, it has been established that respondent allows his secretaries to perform notarial acts in his stead, and even forge his signature for such purpose, as what happened on February 10, 2017 when respondent's secretaries "notarized" the *Acknowledgment* and affixed his signature therein. As a notary public and their employer, respondent is responsible for their acts which include implementing such reasonable measures that would preclude opportunities for the abuse of his prerogative authority as notary public by his secretaries and enable them to copy his signature and perform notarial acts on his behalf. Evidently, respondent is guilty of negligence in the performance of his notarial duty which the Court cannot countenance.

It must be stressed that a notary public carries with him a duty imbued with public interest. At all times, a notary public must be wary of the duties pertaining to his office. Thus, those who are not qualified to live up with the mandate of such office must, in absolute terms, be stripped off with such authority.^[29]

Furthermore, it is well to note that in the realm of legal ethics, a breach of the Notarial Rules would also constitute a violation of the Code of Professional Responsibility (CPR), considering that an erring lawyer who is found to be remiss in