

## FIRST DIVISION

**[ A.C. No. 10689 [Formerly CBD Case No. 11-3171], January 08, 2018 ]**

**ROMEO A. ALMARIO, COMPLAINANT, VS. ATTY. DOMINICA LLERA-AGNO, RESPONDENT.**

### DECISION

**DEL CASTILLO, J.:**

This administrative case stemmed from a Complaint<sup>[1]</sup> filed by complainant Romeo A. Almario (complainant) before the Commission on Bar Discipline of the Integrated Bar of the Philippines (IBP) seeking to disbar Atty. Dominica L. Agno (respondent lawyer), for notarizing a Special Power of Attorney (SPA) without the personal appearance of one of the affiants therein.

#### ***Factual Background***

On July 5, 2006, a Complaint for Judicial Partition with Delivery of Certificate of Title, docketed as Civil Case No. 06115416<sup>[2]</sup> (civil case), was instituted before the Regional Trial Court (RTC) of Manila by the herein complainant against therein defendants Angelita A. Barrameda and several other persons. It was therein alleged that complainant is the sole surviving registered owner of a parcel of land situated at No. 973 Del Pan Street, San Antonio, Tondo, Manila, covered by Transfer Certificate of Title (TCT) No. 244909, and that the defendants therein are co-owners of that parcel of land by virtue of intestate succession.

Relative to the said civil case, herein respondent lawyer, as counsel for therein defendants, notarized and acknowledged a SPA<sup>[3]</sup> which reads:

#### SPECIAL POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

WE, x x x the HEIRS OF THE LATE VICTORIA ALMARIO, to wit: RONALD A GATDULA, of legal age, Filipino, married, and a resident of 973 Del Pan St., Tondo, Manila and FRANCISCA A. MALLARI, of the same address, do hereby appoint, name and constitute also MA. LOURDES ALMARIO P. PEDIA, above named, to do the following acts and things:

1. To act as our representative and agent in administering our property x x x located at District of Tondo, City of Manila consisting of SEVENTY EIGHT SQUARE METERS AND SIXTY FIVE DECIMETERS (78.65) Square meters, covered by TCT No. T-244909 of the [Register] of Deeds of the City of Manila;

X X X X

HEREBY GIVING AND GRANTING unto our said attorney-in-fact full power and authority, whatsoever requisite to be done in or about the premises, as fully as we might or could lawfully do if personally present and hereby ratifying and confirming all that our said attorney shall do or cause to be done by virtue of these presents until revoked in writing by me.

IN WITNESS WHEREOF, we have signed this instrument on the 26<sup>[th]</sup> day of July 2006 at Muntinlupa City.

X X X X

HEIRS OF THE LATE VICTORIA A. ALMARIO:

(Signed)  
RONALD A. GATDULA

(Signed)  
FRANCISCA A. MALLARI

X X X X

#### ACKNOWLEDGMENT

REPUBLIC OF THE PHILIPPINES) SS.  
CITY OF MUNTINLUPA )

BEFORE ME, a notary public for the City of Muntinlupa, personally appeared the following persons on the 26<sup>[th]</sup> day of July 2006:

X X X X

Ronald A. Gatdula with CTC No. 16785315 issued at Manila on 1-19-06  
***Francisca Mallari with CTC No. 16785314 issued at Manila on 1-19-06***

known to me and to me known to be the same persons who executed the foregoing Special Power of Attorney, consisting of three (3) pages including this page where the acknowledgement is written, signed by the parties and their instrumental witnesses and they acknowledged to me that the same is their own true act and deed.

WITNESS MY HAND AND SEAL.

(Signed)  
DOMINICA L.  
AGNO  
Notary Public  
Until 31 Dec  
2006  
PTR No.  
0007769  
Muntinlupa

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Book No. 11  
Series of 2006

It is complainant's contention: (1) that the said SPA was falsified because one of the affiants therein, Francisca A. Mallari (Mallari),<sup>[4]</sup> could not possibly have executed the same because she was in Japan at the time the SPA was executed, as certified to<sup>[5]</sup> by the Bureau of Immigration (BI); (2) that this SPA was used in the said civil case to perpetrate fraud and deception against complainant resulting in the filing of Criminal Case No. 452612-CR, for violation of Article 172 of the Revised Penal Code (Use of Falsified Document) against Ma. Lourdes Almario Pedia, (Pedia), the attorney-in-fact mentioned in the SPA; (3) that respondent lawyer notarized the SPA although Mallari did not personally appear before her; (4) that in the process of notarizing the SPA, respondent lawyer also accepted a Community Tax Certificate (CTC), which is no longer considered a competent evidence of identity pursuant to the 2004 Rules on Notarial Practice; and (5) that, therefore, respondent lawyer violated Canons 1 and 10 of the Code of Professional Responsibility, which state -

CANON 1 - A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

Rule 1.03 - A lawyer shall not, for any corrupt motive or interest, encourage any suit or proceeding or delay any man's cause.

x x x x

CANON 10 - A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice.

In her Answer,<sup>[6]</sup> respondent lawyer prayed for the dismissal of the complaint and offered the following arguments:

- 1) On July 12, 2006, Pedia sent the SPA to Mallari in Japan and it was brought back to the Philippines on July 25, 2006 by Mallari's son, Roman Mallari-Vestido;
- 2) The SPA was notarized on July 26, 2006 for reasons of expediency, because therein defendants were pressed for time in filing their Answer in the civil case, and