

SECOND DIVISION

[A.C. No. 6927, March 14, 2018]

**TOMAS N. OROLA AND PHIL. NIPPON AOI INDUSTRY, INC.,
COMPLAINANTS, VS. ATTY. ARCHIE S. BARIBAR, RESPONDENT.**

DECISION

PERALTA, J.:

The case stemmed from a Complaint^[1] dated October 17, 2005 filed before this Court by complainants Tomas N. Orola (*Orola*) and Phil. Nippon AOI Industry, Inc. (*Phil. Nippon*) against Atty. Archie S. Baribar (*Baribar*), for allegedly inventing numerous offenses against them, procuring documents with forged signatures, representing a person not his client, and notarizing a document without the person appearing before him as required by law, in violation of his lawyer's oath and Rule 138, Section 20 (c), (d) and (g) of the Rules of Court.

Complainants alleged that Baribar filed a baseless labor case on behalf of his twenty-four (24) clients against them. Orola denied any connection with AOI Kogyo Company Ltd.-Japan which was allegedly not paying labor benefits. In the appeal filed before the National Labor Relations Commission (*NLRC*), Baribar included certain individuals who were not original complainants. Complainants further averred that Baribar notarized the Motion for Reconsideration on September 19, 2005 without the personal appearance of Docufredo Claveria (*Claveria*) since the records of the Bureau of Immigration show that he was overseas at that time. It was also mentioned that Baribar has a prior administrative case, which demonstrates his penchant for committing acts inimical to the image of the legal profession.

In his Comment,^[2] Baribar denied all the allegations against him. He claimed that the administrative complaint was a mere harassment suit filed by a political opponent's brother whose wounded family pride caused them to pursue imaginary causes of action against him. During the campaign for 2004 congressional elections, Orola's family's employees approached him to represent them; however, he suggested that they file the case after the elections to avoid misinterpretation. The labor complaint was not baseless since it was supported by a joint affidavit of his clients against Orola and Phil. Nippon.

Sometime in March 2004, he prepared an "Authority to Represent" document. He requested Claveria, Apolonio Akol, Jr. (*Akol*) and Connie Labrador (*Labrador*) to obtain the signatures of the others who live in different municipalities of Negros Occidental. On September 6, 2004, he personally met 24 of the 27 signatories, asked them to produce their residence certificates and confirm their signature in the document. He confirmed the identities of the others who were unable to bring their residence certificates through their leaders. He overlooked the notarization of the document and was only able to notarize the same on April 15, 2005 because of the

renovation of their law office from October 2004 to February 2005. He averred that his mistake to strike through the names of four individuals in the Authority to Represent and verification of the labor complaint left the impression that the latter were parties to the appeal.

Akol and Labrador signed the verification of the motion for reconsideration in his presence. He then asked them to secure Claveria's signature. Thereafter, he received the verification on the last day of filing, and did not hesitate to notarize the same since he personally knew Claveria and was familiar with the latter's signature. He claimed that he acted in the best interest of his client and in good faith.

In a Resolution^[3] dated November 22, 2006, the Court referred the case to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation or decision.

On October 30, 2008, IBP Commissioner Rico A. Limpingo (*Commissioner Limpingo*) submitted his Report recommending, thus:

Given the foregoing circumstances, it is therefore recommended that respondent Atty. Archie Baribar be REPRIMANDED, that his incumbent notarial commission, if any, be REVOKED, and that he be prohibited from being commissioned as a notary public for three (3) years, effective immediately, with a stern warning that [a] repetition of the same or similar conduct in the future will be dealt with more severely.^[4]

In his report, Commissioner Limpingo stated that an attorney should not be administratively sanctioned for filing a suit on behalf of his client, or for availing of proper procedural remedies, since the choice of legal strategy or theory is his sole concern. Complainants may or may not be liable in the labor case, but the administrative proceeding is not the proper forum to resolve the issue. An examination of the joint affidavit reveals that one Romulo Orola merely stated that he did not authorize any lawyer to represent him, and that he never appeared before Baribar to subscribe any document. Thus, it was not established that he procured documents with forged signatures. Baribar was careless in failing to remove the names of four individuals in the pleadings. He and his clients could not have gained any kind of possible benefit or advantage to the said error.

Lastly, Baribar did not deny that Claveria was not present when he notarized the document on September 19, 2005. When he asked Akol and Labrador to obtain the signature for him, he effectively admitted that it was not his intent to require Claveria's personal presence before him. The Notarial Law mandates that a notary public shall not perform a notarial act if the person involved as a signatory to the instrument is not in his presence personally at the time of notarization.

The Board of Governors adopted the findings of the IBP Commissioner, but modified the recommendation in Resolution No. XVIII-2009-17, to wit:

RESOLVED to *ADOPT* and *APPROVE*, as it is hereby *ADOPTED* and *APPROVED*, **with modification**, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution [as] Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules,

and for performing a notarial act without requiring the personal appearance of the person involved as signatory to the document at the time of the notarization, Atty. Archie S. Baribar is hereby **SUSPENDED** from the practice of law for one (1) year and **DISQUALIFICATION** from being commissioned as notary public for two (2) years.^[5]

Baribar moved for the reconsideration of the above decision, but the same was denied. Resolution No. XX-2012-619 reads:

RESOLVED to unanimously *DENY* Respondent's Motion for Reconsideration there being no cogent reason to reverse the findings of the Commission and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, Resolution No. XVIII-2009-17 dated February 19, 2009 is hereby **AFFIRMED**.

The Court's Ruling

The Court agrees with the recommendation of the IBP Board of Governors.

In this case, the Bureau of Immigration certified that Claveria departed from the Philippines on April 27, 2005, and that his name did not appear in its database file of Arrival from April 28, 2005 to October 17, 2005.^[6] Baribar also readily admits that Claveria was not present when he notarized the Motion for Reconsideration on September 19, 2005. He explained that he asked the other two affiants, Akol and Labrador, to obtain Claveria's signature. He notarized the signed verification he received as he personally knew Claveria and was familiar with his signature.

Notarization is not an empty, meaningless, or routinary act. It is impressed with substantial public interest, and only those who are qualified or authorized may act as such. It is not a purposeless ministerial act of acknowledging documents executed by parties who are willing to pay fees for notarization.^[7] Notarization of documents ensures the authenticity and reliability of a document. Notarization of a private document converts such document into a public one, and renders it admissible in court without further proof of its authenticity. Courts, administrative agencies and public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.^[8]

A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein.^[9] It is his duty to demand that the document presented to him for notarization be signed in his presence.^[10] The purpose of the requirement of personal appearance by the acknowledging party before the notary public is to enable the latter to verify the genuineness of the signature of the former. It may be added, too, that only by such personal appearance may the notary public be able to ascertain from the acknowledging party himself that the instrument or document is his own free act and deed.^[11]

The 2004 Rules on Notarial Practice stresses the necessity of the affiant's personal appearance before the notary public. Rule II, Section 1 and Rule IV, Section 2 (b) provide: