

## EN BANC

[ **A.C. No. 11545 (Formerly CBD case No. 12-3439), January 24, 2017** ]

**SUSAN LOBERES-PINTAL, COMPLAINANT, V. ATTY. RAMONCITO B. BAYLOSIS, RESPONDENT.**

### DECISION

#### PER CURIAM:

This case stemmed from a verified complaint<sup>[1]</sup> for disbarment filed by complainant Susan Loberes-Pintal (*complainant*) before the Integrated Bar of the Philippines (*IBP*) against respondent Atty. Ramoncito B. Baylosis (*Atty. Baylosis*) for gross violation of the 2004 Rules on Notarial Practice.

#### *The Antecedents:*

Complainant filed a complaint for disbarment against Atty. Baylosis for committing perjury, falsification of public documents and the use of falsified documents. She alleged that Roldan C. Pintal (*Roldan*) filed a Petition for Declaration of Nullity of Marriage, entitled *Roldan C. Pintal v. Susan Loberes-Pintal*, docketed as Civil Case No. C-22815 (2011) before the Regional Trial Court of Caloocan City (*RTC*); that Atty. Baylosis conspired with Roldan by making it appear in the petition that he was a resident of Caloocan City when, in truth and in fact, he was a resident of Quezon City; and that Atty. Baylosis notarized the verification and certification against non-forum shopping of the petition on May 13, 2011, but, at that time, Roldan was out of the country. Complainant submitted a Certification<sup>[2]</sup> from the Barangay Chairman of Barangay 12, Zone 1, District II of Caloocan City, attesting that Roldan was not a resident thereof and a Certification<sup>[3]</sup> from the Bureau of Immigration showing that he was out of the country from April 10, 2011 to September 8, 2011.

In his Answer,<sup>[4]</sup> Atty. Baylosis denied the accusation and insisted that when Roldan went to his office in January 2011, he personally interviewed him and asked him to submit documents such as his marriage certificate, birth certificate and a personal write-up narrating his personal history, courtship history and marital history; that Roldan provided him a Certification<sup>[5]</sup> from the Chairman of Barangay 12, Zone 1, District II of Caloocan City, attesting that he was a resident thereof for six (6) years; that after the interview, he referred Roldan to a clinical psychologist for evaluation and testing; that due to financial difficulties, it was only in March 2011 that Roldan was able to pay his acceptance fee; that it was also around that time that Roldan read and reviewed the allegations in the petition and affixed his signature in the Verification and Certification portion thereof; that Roldan personally appeared before him, swore in accordance with law and verified his petition in accordance with the Rules of Court; that due to typographical errors in the psychological report, Atty. Baylosis returned the report for correction; that it was only on May 13, 2011, that the corrected report was returned to his office; and that he immediately gave the

final draft of the petition together with the report and other documents to his secretary for filing. Atty. Baylosis further averred that the date of recording on May 13, 2011 of the Verification and Certification of the petition was an honest mistake and excusable error on the part of his staff but his claim that Roldan personally appeared before him to attest to the truthfulness of the verification and certification was true.

The Commission on Bar Discipline (CBD) set the case for mandatory conference but before its conclusion, on September 7, 2012, complainant filed an Affidavit of Desistance<sup>[6]</sup> manifesting that she was no longer interested in continuing with the complaint and that she was withdrawing it.

For said reason, the CBD in its Report and Recommendation,<sup>[7]</sup> recommended the dismissal of the complaint against Atty. Baylosis.

In its Notice of Resolution No. XXI-2014-610,<sup>[8]</sup> dated September 27, 2014, the IBP-Board of Governors *reversed* and *set aside* the report and recommendation of the CBD. In its Extended Resolution,<sup>[9]</sup> the IBP-Board of Governors found Atty. Baylosis guilty of violating the 2004 Rules on Notarial Practice when he made it appear that Roldan was present during the notarization of the petition on May 13, 2011 and recommended the immediate revocation of his notarial commission and his disqualification from being commissioned as notary public for two (2) years.

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

The Court agrees with the findings of the IBP except as to its recommended penalty.

Rule IV, Section 2(b) of the 2004 Rules on Notarial Practice specifically provides:

Section 2. Prohibitions. a) 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 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.

Without a quibble, Atty. Baylosis was negligent in the performance of his duty as a notary public when he notarized the petition for declaration of the nullity of marriage without the presence of Roldan. This was evidenced by the Certification issued by the Bureau of Immigration that Roldan was not in the Philippines on May 13, 2011 as he had left the Philippines on April 10, 2011 and came back only on September 8, 2011. Atty. Baylosis' contention that he personally interviewed Roldan when the latter went into his office and personally read and signed the petition cannot be accorded a shred of credence.

In notarizing a document in the absence of a party, Atty. Baylosis violated not only the rule on notarial practice but also the Code of Professional Responsibility which proscribes a lawyer from engaging in any unlawful, dishonest, immoral, or deceitful conduct.<sup>[10]</sup> By affixing his signature and notarial seal on the document, he attested