

EN BANC

[A.C. No. 11478, September 05, 2017]

SPOUSES ANDRE CHAMBON AND MARIA FATIMA CHAMBON, COMPLAINANTS, VS. ATTY. CHRISTOPHER S. RUIZ, RESPONDENT.

DECISION

TIJAM, J.:

This administrative case arose from a verified Complaint^[1] for gross violation of Section 2 (b), paragraph 2 of Rule IV and Section 2, paragraphs (a), (d), and (e) of Rule VI of the 2004 Rules on Notarial Practice filed by complainant Spouses Andre and Maria Fatima Chambon (Spouses Chambon) against Atty. Christopher S. Ruiz (respondent) before the Integrated Bar of the Philippines (IBP).

The Facts

Spouses Chambon alleged that they were creditors of a certain Suzette Camasura Auman, also known as Mrs. Suzette Camasura Remoreras (Remoreras). To secure her obligation, Remoreras executed a real estate mortgage^[2] (REM) over a parcel of land with improvements covered by Transfer Certificate of Title (TCT) No. 29490,^[3] which was registered in her maiden name. Said REM was annotated in the Registry of Deeds of Mandaue City in 2006. TCT No. 29490 was handed over to Spouses Chambon.^[4]

As Remoreras failed to pay her loan obligation, Spouses Chambon were prompted to institute an extra-judicial foreclosure proceedings on the subject property before the Ex-Officio Sheriff of Mandaue City. The public auction was set on April 27, 2010.^[5]

In February 2010, counsel for Spouses Chambon learned that the Regional Trial Court (RTC) of Mandaue City, Branch 56, issued an Order^[6] dated March 24, 2008, which directed the issuance of a new Owner's Duplicate Copy of TCT No. 29490. Apparently, a Petition for Issuance of a new Owner's Duplicate Copy of TCT No. 29490, which was grounded on an alleged Notice of Loss/Affidavit of Loss of the subject title, was filed by Remoreras.

Before the scheduled public auction, Remoreras filed a complaint to enjoin the holding of the same on the basis of an alleged execution and delivery of a Release of Mortgage document on the subject property purportedly executed by Spouses Chambon.^[7]

Spouses Chambon discovered that the Notice of Loss/Affidavit of Loss^[8] and the Release of Mortgage^[9] were notarized by the respondent in Cebu City and that certain defects were found in said notarized documents and in the Notarial Register.

In the *jurat* of said Notice, there was no competent evidence of identity of the executor. Also, in said Release, Spouses Chambon denied having executed the same.^[10]

These incidents prompted Spouses Chambon to file a complaint for for gross violation of Section 2 (b), paragraph 2 of Rule IV and Section 2, paragraphs (a), (d), and (e) of Rule VI of the 2004 Rules on Notarial Practice before the IBP.

In his Answer, the respondent denied the existence and notarization of the Release of Mortgage. As to the Notice of Loss/Affidavit of Loss, he admitted its existence and its entry in the Notarial Register. However, he imputed negligence on the part of his secretary as regards certain lapses in his Notarial Register.^[11]

After investigation, the Investigating Commissioner of the IBP-Committee on Bar Discipline (CBD) rendered a Report and Recommendation^[12] dated June 19, 2013, to wit:

Viewed from the foregoing, we recommend that the Respondent's present commission as notary public, if any, be revoked and that he be barred from being commissioned as a notary public for a period of four (4) years.

RESPECTFULLY SUBMITTED.^[13]

In a Resolution^[14] dated October 11, 2014, the Board of Governors of the IBP adopted the findings of the IBP-CBD, but modified the penalty, *viz*:

*RESOLVED TO ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A " and for violation of Rule IV, Section 2 (b), Rule VI, Section (a), par. 4, 5, and 6 and Rule VI, Section (2), par. (e) of the 2004 Rules of [sic] Notarial Practice, Atty. Christopher S. Ruiz's notarial commission if presently commissioned is **immediately REVOKED** Further, he is **DISQUALIFIED from reappointment as notary public for three (3) years and SUSPENDED from the practice of law for three (3) years.***^[15] (Emphasis supplied)

The Issue

Should respondent be administratively disciplined based on the allegations in the complaint and evidence on record?

Our Ruling

By law, a notary public is empowered to perform the following acts: acknowledgments, oaths and affirmations, jurats, signature witnessing, copy certifications, among others.^[16] The duties of a notary public is dictated by public policy and impressed with public interest. It is not a meaningless ministerial act of acknowledging documents executed by parties who are willing to pay the fees for notarization.^[17] For notarization by a notary public 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.^[18]

In this case, We find that the respondent failed to live up with the duties of a notary public as dictated by the 2004 Rules on Notarial Practice.

The subject Notice of Loss/Affidavit of Loss, allegedly executed by Remoreras, was undisputedly notarized by the respondent and entered in his Notarial Register. However, a careful examination of said Notice reveals that violation of the 2004 Rules was committed.

For one, the *jurat* was incomplete in that the competent proof of identity of the executor, Remoreras, was left in blank. Also, reference to the Notarial Register indicates that the entries pertaining to said Notice were also left in blank. The title/description of instrument, name and addresses of parties, competent evidence of identity, date and time of notarization, and type of notarial act were not filled up.

We emphasize that Section 5 of Rule IV of the 2004 Rules provides:

Sec. 5. False or Incomplete Certificate. - A notary public shall not:

(a) execute a certificate containing information known or believed by the notary to be false.

(b) **affix an official signature or seal on a notarial certificate that is incomplete.**

Relevantly, Section 8 defines a notarial certificate as part of, or attachment to, a notarized instrument or document that is completed by the notary public, bears the notary's signature and seal, and states the facts attested to by the notary public in a particular notarization as provided for by these Rules.

In this case, the respondent, affixed his signature and seal on the notarial certificate without verifying the identity of the executor. Such was inferred from the fact that the competent proof of such executor's identity was left in blank. Hence, his act of signing the notarial certificate, notwithstanding the fact that it was incomplete, is a clear violation of the said Rules. No allegation as well that Remoreras is personally known to the respondent to dispense with the presentation of a competent evidence of identity.^[19]

Moreover, entries in the respondent's Notarial Register, which refer to said Notice of Loss/Affidavit of Loss were also not properly accomplished.

RULE VI - NOTARIAL REGISTER

SEC. 1. Form of Notarial Register. - (a) A notary public shall keep, maintain, protect and provide for lawful inspection as provided in these Rules, a chronological official notarial register of notarial acts consisting of a permanently bound book with numbered page.

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