

SECOND DIVISION

[A.C. No. 10695, March 18, 2015]

CRESCENCIANO M. PITOGO, COMPLAINANT, VS. ATTY. JOSELITO TROY SUELLO, RESPONDENT.

R E S O L U T I O N

LEONEN, J.:

Crescenciano M. Pitogo (Pitogo) purchased a motorcycle from Emcor, Inc. However, Emcor, Inc. allegedly failed to cause the registration of the motorcycle under his name. Pitogo, thus, filed a Civil Complaint before the Regional Trial Court against EMCOR, Inc.^[1]

The motorcycle was eventually registered in Pitogo's name based on three (3) documents notarized by respondent Atty. Joselito Troy Suello (Suello).^[2] The documents indicate that they are registered in Suello's notarial register as follows:

1. Deed of Assignment between Maria P. Ponce / Rogelio Ponce and EMCOR, Inc.	Doc. No. 436; Book No. 83; Page No. 88; Series of 2009 ^[3]
2. Deed of Sale with Assumption of Mortgage between Maria P. Ponce and Mariza G. Ono-on	Doc. No. 437, Page No. 88; Book No. 83, Series of 2009 ^[4]
3. Deed of Sale with Assumption of Mortgage between Mariza G. Ono-on and Crescenciano M. Pitogo	Doc. No. 235; Page No. 85; Book No. 83; Series of 2009 ^[5]

Pitogo obtained a copy of the three (3) documents from the Land Transportation Office, Danao City, Cebu. On August 3, 2009, he went to Suello's office to have them certified. Pitogo claims that when he called Suello the next day to tell him about the importance of these documents to his civil case, Suello "disowned the documents."^[6] Suello instead ordered his secretary to give Pitogo a copy of his notarial register.^[7]

In the letter dated August 7, 2009, Pitogo reiterated to Suello that the documents were important in his civil case pending before the Regional Trial Court. He requested Suello to certify the authenticity and veracity of the three (3) documents he obtained from the Land Transportation Office.^[8] He wanted to determine if the documents were duly notarized by Suello or were merely fabricated.^[9] Pitogo did

not receive a reply from Suello.^[10]

On September 10, 2009, Pitogo filed his Affidavit-Complaint against Suello before the Cebu Chapter of the Integrated Bar of the Philippines. Pitogo alleges that there were discrepancies between the three (3) documents notarized by Suello and Suello's entries in his notarial register.^[11]

Specifically, Pitogo claims that Suello's notarial register showed that the above entries pertain to the following documents:

- a. Doc. No. 436: Deed of Absolute Sale of Mr. Roel D. Rago;^[12]
- b. Doc. No. 437: Deed of Absolute Sale of Mrs. Conchita Pitogo Tautho;
^[13]
- c. Doc. No. 235: Contract to Sell of BF Property Development Corporation.^[14]

In his Answer to the Affidavit-Complaint, Suello denies having notarized the three (3) documents obtained from the Land Transportation Office.^[15] He denies the allegation that he disowned the documents.^[16] He admits that he certified the documents as true copies.^[17]

In his Position Paper, Suello explains that it was his secretary who certified Pitogo's documents on August 3, 2009.^[18] Pitogo called Suello the next day to ask for a certification.^[19] When he advised Pitogo that he can get it at his office after verifying the documents, Pitogo informed him that his secretary already certified them as true copies.^[20] Suello told Pitogo that his secretary was not given such authority.^[21]

Suello also claims that Pitogo threatened to file an administrative case against him if he did not issue a certification stating whether the documents were really notarized by him or were fabricated.^[22] According to Suello, Pitogo needed the certification that the three (3) documents used to register the motorcycle under his name were fabricated so he could claim P1.7 million in damages for EMCOR, Inc.'s alleged non-registration of his motorcycle.^[23] Pitogo's claim against EMCOR, Inc. was apparently mooted by the registration of the motorcycle under his name.

On January 10, 2012, Commissioner Hector B. Almeyda of the Commission on Bar Discipline of the Integrated Bar of the Philippines recommended Suello's suspension from the active practice of law for six (6) months, as well as the revocation of his commission as a notary public. He also recommended Suello's disqualification as notary public for two (2) years.^[24]

On April 15, 2013, the Integrated Bar of the Philippines Board of Governors issued the Resolution adopting and approving the findings of Commissioner Almeyda's recommendation but further recommended to increase the penalty of disqualification as notary public to four (4) years, thus:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously 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 finding the recommendation fully supported by evidence on record and the applicable laws and rules and considering respondent violated the Rule 1.01, Canon 1 of the Code of Professional Responsibility, Atty. Joselito Troy Suello's Notarial Commission is hereby **REVOKED immediately** if presently commissioned and **DISQUALIFIED from reappointment as Notary Public for four (4) years.***^[25] (Emphasis in the original)

Suello filed a Motion for Reconsideration of the April 15, 2013 Integrated Bar of the Philippines Board of Governors Resolution based on the ground that the penalty imposed on him was excessive:

1. That the sanction imposed is excessive. The respondent realizes that the mere existence of those documents with his notarization makes him inevitably answerable for them. Regardless how unaware he may be of how these came about, he is still the only one to answer for them. Not the complainant and not any party who may have access to his office implements to do this. It made him aware of the need review his procedure to avoid these mistakes. Respondent however finds the sanction against him is much too excessive and respectfully invokes the following, to wit:

- A. This is the first infraction lodged against him in his 15 years of practice.
 - B. The respondent is not in bad faith and has no dishonest or selfish motive.
 - C. There is no actual or potential injury caused to any private party;
- ^[26]

Suello also apologized for his oversight:

2. That substantial justice has not been done. The respondent completely understands that this matter only pertains to him and his liability and not about anybody or anything else. His indignation distracted him to the mistaken belief that the complainant's dubious motives would not merit his complaint attention because he did not come with clean hands. After being properly reminded, the respondent realizes his mistake and respectfully apologizes for his oversight to this Honorable Commission. The respondent finds it however grossly unjust that he is imposed with such sanction for resisting to accommodate and be a part of the unscrupulous undertaking sought to be accomplished motivating the complaint which is much bigger wrong.^[27]

On May 3, 2014, the Integrated Bar of the Philippines Board of Governors issued the

Resolution partially granting Suello's Motion for Reconsideration, thus:

RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and the resolution subject of the motion, it being a mere reiteration of the matters which had already been threshed out and taken into consideration under Resolution No. XX-2013-416 dated April 15, 2013. However the Board DEEMED it judicious to reduce the penalty imposed on Atty. Joselito Troy Suello from DISQUALIFICATION from reappointment as Notary Public from four (4) years to two (2) years. The IMMEDIATE REVOCATION of his Notarial Commission, if existing, under said Resolution stands.^[28] (Emphasis in the original)

After reviewing the case records and considering the parties' submissions, this court adopts the findings of the Integrated Bar of the Philippines Board of Governors in its May 3, 2014 Resolution but modifies the penalties imposed upon respondent Atty. Joselito Troy Suello.

Respondent is administratively liable for his negligence in keeping and maintaining his notarial register. Recording every notarial act in the notarial register is required under Rule VI the Notarial Rules,^[29] thus:

Sec. 2. *Entries in the Notarial Register.* – (a) For every notarial act, the notary shall record in the notarial register at the time of the notarization the following:

- (1) The entry number and page number;
- (2) The date and time of day of the notarial act;
- (3) The type of notarial act;
- (4) The title or description of the instrument, document or proceeding;
- (5) The name and address of each principal;
- (6) The competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;
- (7) The name and address of each credible witness swearing to or affirming the person's identity;
- (8) The fee charged for the notarial act;
- (9) The address where the notarization was performed if not in the notary's regular place of work or business; and
- (10) Any other circumstance the notary public may deem of significance or relevance.

. . . .

(e) The notary public shall give to each instrument or document executed, sworn to, or acknowledged before him a number corresponding to the one in his register, and shall also state on the instrument or document the page/s of his register on which the same is recorded. No blank line shall be left between entries.