

## FIRST DIVISION

[ A.C. No. 10783, October 14, 2015 ]

**ATTY. BENIGNO T. BARTOLOME, COMPLAINANT, VS. ATTY.  
CHRISTOPHER A. BASILIO, RESPONDENT.**

### DECISION

**PERLAS-BERNABE, J.:**

This administrative case stems from a complaint<sup>[1]</sup> filed by complainant Atty. Benigno T. Bartolome (Bartolome) on May 19, 2009 before the Integrated Bar of the Philippines (IBP) against respondent Atty. Christopher A. Basilio (Basilio) for violation of the 2004 Rules on Notarial Practice<sup>[2]</sup> (Notarial Rules).

#### The Facts

In the complaint, Bartolome alleged that Basilio, a notary public in Tarlac City, notarized a document entitled "Joint Affidavit of Non-Tenancy and Aggregate Landholdings"<sup>[3]</sup> (Joint Affidavit) purportedly subscribed and sworn to before him by Loreto M. Tañedo (Tanedo) and Ramon T. Lim on January 15, 2006, and supposedly recorded as Doc. No. 375, Page No. 75, Book No. X, Series of 2007 in his notarial register,<sup>[4]</sup> despite the fact that Tañedo had already passed away as early as December 1, 2003.<sup>[5]</sup>

In his Answer/Comment<sup>[6]</sup> dated June 24, 2009, Basilio admitted having notarized the Joint Affidavit but claimed that, prior to the notarization, he verified the identities of the persons who appeared before him through their respective Social Security System (SSS) identification cards and driver's licenses. He further denied any knowledge that the one who appeared before him misrepresented himself as Tañedo and that the latter was already dead as of December 1, 2003.<sup>[7]</sup>

During the clarificatory hearing, Basilio, who undisputedly notarized the Joint Affidavit, admitted his failure to: (a) record the subject document in his notarial book; (b) submit a copy of the same to the Regional Trial Court of Tarlac City (RTC); and (c) have the notarization revoked or recalled.<sup>[8]</sup>

#### The IBP's Report and Recommendation

In a Report and Recommendation<sup>[9]</sup> dated June 10, 2010 submitted by IBP Investigating Commissioner Randall C. Tabayoyong (Investigating Commissioner), Basilio was found to have manifested gross negligence and a complete disregard of the Notarial Rules. The Investigating Commissioner pointed out that contrary to Section 8, in relation to Section 6, Rule II of the Notarial Rules, Basilio failed to indicate in the Joint Affidavit the details of the SSS identification card and driver's license which were allegedly shown as competent evidence of identity of the persons

who appeared before him. Thus, his claim that he verified the identities of the persons who subscribed the Joint Affidavit could not be given credence. Basilio also failed to record in his notarial register his notarial act on the Joint Affidavit in violation of Section 2 (a), Rule VI of the Notarial Rules. Lastly, the Investigating Commissioner found that Basilio failed to submit a copy of the Joint Affidavit to the Clerk of Court of the RTC, contrary to Section 2 (h), Rule VI of the Notarial Rules. [10] Accordingly, he recommended that Basilio's notarial commission, if still existing, be revoked; he be disqualified from obtaining a notarial commission for a period of one (1) year and suspended from the practice of law for six (6) months. [11]

In a Resolution [12] dated December 29, 2012, the IBP Board of Governors adopted and approved the Investigating Commissioner's Report and Recommendation. Dissatisfied, Basilio filed a motion for reconsideration, which was denied in a Resolution [13] dated September 27, 2014.

### **The Issue Before the Court**

The sole issue for the Court's resolution is whether or not the IBP correctly found Basilio liable for violation of the Notarial Rules.

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

The act of notarization is impressed with public interest. [14] As such, a notary public must observe the highest degree of care in complying with the basic requirements in the performance of his duties in order to preserve the confidence of the public in the integrity of the notarial system. [15]

In the present case, Basilio, as duly found by the IBP, failed to faithfully comply with his duties as a notary public.

Section 5 (b), Rule IV of the Notarial Rules clearly states that:

*SEC. 5. False or Incomplete Certificate.* — A notary public shall **not**:

x x x x

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

A notarial certificate, as defined in Section 8, Rule II of the Notarial Rules, requires a statement of the facts attested to by the notary public in a particular notarization, *viz.*:

*SEC. 8. Notarial Certificate.* — "Notarial Certificate" refers to the 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**. (Emphasis supplied)

Meanwhile, a *jurat* is, among others, an attestation that the person who presented the instrument or document to be notarized is personally known to the notary public or **identified by the notary public through competent evidence of identity** as defined by the Notarial Rules:<sup>[16]</sup>

SEC. 6. *Jurat*. — "Jurat" refers to an act in which an individual on a single occasion:

(a) appears in person before the notary public and presents an instrument or document;

(b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;

(c) signs the instrument or document in the presence of the notary; and

(d) takes an oath or affirmation before the notary public as to such instrument or document. (Emphasis supplied)

As the records bear out, Basilio affixed his official signature and seal on the notarial certificate of the Joint Affidavit without properly identifying the person/s who signed the same. His claim that he verified the identities of the affiants through their respective SSS identification cards and driver's licenses cannot be given any credence considering the ostensible lack of their details on the face of the certificate. Neither was he able to provide the fact of identification in any way. On the other hand, it has been established that one of the named signatories to the Joint Affidavit was already dead when he notarized the aforesaid document. Hence, it is sufficiently clear that Basilio had indeed affixed his official signature and seal on an incomplete, if not false, notarial certificate.

Moreover, by the same account, Basilio violated Section 2 (b), Rule IV of the Notarial Rules which prohibits the notarization of a document if the person involved is not personally known to the notary public or has not identified himself through competent evidence of identity:

SEC. 2. Prohibitions. - x x x

x 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.** (Emphasis supplied)