

## THIRD DIVISION

**[ A.C. No. 7241 [Formerly CBD Case No. 05-1506],  
October 17, 2011 ]**

**ATTY. FLORITA S. LINCO, COMPLAINANT, VS. ATTY. JIMMY D.  
LACEBAL, RESPONDENT.**

### DECISION

**PERALTA, J.:**

The instant case stemmed from an Administrative Complaint<sup>[1]</sup> dated June 6, 2005 filed by Atty. Florita S. Linco (complainant) before the Integrated Bar of the Philippines (IBP) against Atty. Jimmy D. Lacebal for disciplinary action for his failure to perform his duty as a notary public, which resulted in the violation of their rights over their property.

The antecedent facts are as follows:

Complainant claimed that she is the widow of the late Atty. Alberto Linco (Atty. Linco), the registered owner of a parcel of land with improvements, consisting of 126 square meters, located at No. 8, Macopa St., Phase I-A, B, C & D, Valley View Executive Village, Cainta, Rizal and covered by Transfer Certificate of Title (TCT) No. 259001.

Complainant alleged that Atty. Jimmy D. Lacebal (respondent), a notary public for Mandaluyong City, notarized a deed of donation<sup>[2]</sup> allegedly executed by her husband in favor of Alexander David T. Linco, a minor. The notarial acknowledgment thereof also stated that Atty. Linco and Lina P. Toledo (Toledo), mother of the donee, allegedly personally appeared before respondent on July 30, 2003, despite the fact that complainant's husband died on July 29, 2003.<sup>[3]</sup>

Consequently, by virtue of the purported deed of donation, the Register of Deeds of Antipolo City cancelled TCT No. 259001 on March 28, 2005<sup>[4]</sup> and issued a new TCT No. 29251<sup>[5]</sup> in the name of Alexander David T. Linco.

Aggrieved, complainant filed the instant complaint. She claimed that respondent's reprehensible act in connivance with Toledo was not only violative of her and her children's rights but also in violation of the law. Respondent's lack of honesty and candor is unbecoming of a member of the Philippine Bar.

In his Answer,<sup>[6]</sup> respondent admitted having notarized and acknowledged a deed of donation executed by the donor, Atty. Linco, in favor of his son, Alexander David T. Linco, as represented by Lina P. Toledo.

Respondent narrated that on July 8, 2003, he was invited by Atty. Linco, through an

emissary in the person of Claire Juele-Algodon (Algodon), to see him at his residence located at Guenventille II D-31-B, Libertad Street, Mandaluyong City. Respondent was then informed that Atty. Linco was sick and wanted to discuss something with him.

Respondent pointed out that Atty. Linco appeared to be physically weak and sickly, but was articulate and in full control of his faculties. Atty. Linco showed him a deed of donation and the TCT of the property subject of the donation. Respondent claimed that Atty. Linco asked him a favor of notarizing the deed of donation in his presence along with the witnesses.

However, respondent explained that since he had no idea that he would be notarizing a document, he did not bring his notarial book and seal with him. Thus, he instead told Algodon and Toledo to bring to his office the signed deed of donation anytime at their convenience so that he could formally notarize and acknowledge the same.

On July 30, 2003, respondent claimed that Toledo and Algodon went to his law office and informed him that Atty. Linco had passed away on July 29, 2003. Respondent was then asked to notarize the deed of donation. Respondent admitted to have consented as he found it to be his commitment to a fellow lawyer. Thus, he notarized the subject deed of donation, which was actually signed in his presence on July 8, 2003.

During the mandatory conference/hearing on September 7, 2005, it was established that indeed the deed of donation was presented to respondent on July 8, 2003.<sup>[7]</sup> Respondent, likewise, admitted that while he was not the one who prepared the deed of donation, he, however, performed the notarization of the deed of donation only on July 30, 2003, a day after Atty. Linco died.<sup>[8]</sup>

On November 23, 2005, in its Report and Recommendation,<sup>[9]</sup> the IBP-Commission on Bar Discipline (IBP-CBD) found respondent guilty of violating the Notarial Law and the Code of Professional Responsibility.

The IBP-CBD observed that respondent wanted it to appear that because the donor appeared before him and signed the deed of donation on July 8, 2003, it was just ministerial duty on his part to notarize the deed of donation on July 30, 2003, a day after Atty. Linco died. The IBP-CBD pointed out that respondent should know that the parties who signed the deed of donation on July 8, 2003, binds only the signatories to the deed and it was not yet a public instrument. Moreover, since the deed of donation was notarized only on July 30, 2003, a day after Atty. Linco died, the acknowledgement portion of the said deed of donation where respondent acknowledged that Atty. Linco "personally came and appeared before me" is false. This act of respondent is also violative of the Attorney's Oath "to obey the laws" and "do no falsehood."

The IBP-CBD, thus, recommended that respondent be suspended from the practice of law for a period of one (1) year, and that his notarial commission be revoked and he be disqualified from re-appointment as notary public for a period of two (2) years.