

SECOND DIVISION

[ADM. CASE NO. 7091, October 15, 2008]

JOFEL P. LEGASPI, COMPLAINANT, VS. ATTYS. RAMON LANDRITO AND MAGNO TORIBIO, RESPONDENTS.

RESOLUTION

TINGA, J.:

In a verified Affidavit-Complaint^[1] dated March 2, 2006, Jofel P. Legaspi (Legaspi) charged Attys. Ramon Landrito (Atty. Landrito) and Magno Toribio (Atty. Toribio) with Grave Misconduct, Grave Dishonesty, Use of Falsified Document and Conduct Unbecoming of a Member of the Bar, in relation to the alleged falsification of a Special Power of Attorney (SPA) dated December 27, 2005. The same SPA was also used as the basis of an Affidavit-Complaint for Falsification of Public Document and Use of Falsified Document filed against respondents with the Office of the City Prosecutor of Trece Martires City, Cavite.

According to Legaspi, Atty. Landrito filed an ejectment suit with the Department of Agrarian Reform Adjudication Board (DARAB) of Trece Martires City, docketed as DARAB Case No. 0402-098-05, on behalf of Pedrito Aragon purportedly in representation of his co-heirs, Madonna Aragon Aristorenas (Madonna Aristorenas), Jesusa Aragon, Rafael Aragon, and Danilo Aragon. Atty. Landrito allegedly made it appear that Pedrito Aragon was duly authorized to file the suit and to represent his co-heirs therein by preparing the falsified SPA dated December 27, 2005. However, Madonna Aristorenas and Rafael Aragon could not have executed the SPA as they were then already residing in the United States of America and Canada, respectively. Besides, they did not return to the Philippines in 2005 as certified by the Bureau of Immigration and are not even Filipino citizens. Atty. Landrito allegedly used the falsified SPA as evidence in the DARAB case with full knowledge of its falsity.

Atty. Toribio, for his part, allegedly notarized the SPA without requiring the presence of the principals, and verifying whether the said document was really executed by the latter and that the same was their free and voluntary act and deed.

Citing the Resolution of the City Prosecutor dated April 18, 2006,^[2] Atty. Toribio stated in his Comment,^[3] dated May 31, 2006, that Madonna Aristorenas and Rafael Aragon had attested that the signatures appearing on the questioned SPA are their own and that they voluntarily executed the same in favor of their brother, Pedrito Aragon.

Atty. Landrito, on the other hand, claimed in his Comment^[4] dated June 12, 2006, that he had no participation in the execution of the SPA.

In his Consolidated Reply^[5] dated February 14, 2007, Legaspi pointed out that the

April 18, 2006 Resolution of the Office of the City Prosecutor was not yet final as the Department of Justice (DOJ) had ordered a re-investigation of the case. Moreover, he asserts that the affidavit of Madonna Aristorenas and Rafael Aragon only proves that the latter were not in the country when the SPA was notarized.

The case was referred to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation in the Resolution dated April 16, 2007.^[6]

In a Manifestation^[7] dated November 14, 2007, Atty. Landrito informed the IBP that the DOJ had issued a Resolution dated September 25, 2006 affirming the findings of the City Prosecutor.

The IBP, after due proceedings, submitted a Report and Recommendation dated January 31, 2008, finding Atty. Toribio guilty of violating the Code of Professional Responsibility and the rules on notarial practice and recommending the penalty of six months suspension both as a lawyer and a notary public. The IBP, however, recommended the dismissal of the case against Atty. Landrito for lack of merit.

It is clear from the records that Madonna Aristorenas and Rafael Aragon could not have personally appeared before Atty. Toribio on December 27, 2005 as they were not in the Philippines on this date or thereabouts. A certification^[8] dated January 19, 2006 was issued by the Bureau of Immigration to the effect that as of January 19, 2006, Madonna Aristorenas had traveled to the country only between December 15 and 30, 2003. Another certification^[9] of even date issued by the bureau states that as of January 19, 2006, Rafael Aragon had traveled to the Philippines only from December 15 to 27, 2003.

Moreover, in her Affidavit^[10] acknowledged before the Consulate General of the Philippines in Chicago, Illinois, USA, on February 22, 2006, Madonna Aristorenas stated that she signed the SPA in favor of her brother, Pedrito Aragon, in her residence in the United States. Similarly, in his Affidavit acknowledged before the Consulate General of the Philippines in Vancouver, British Columbia, Canada, on February 23, 2006, Rafael Aragon stated that he signed the SPA in his residence in Canada.

Clearly, although the SPA dated December 27, 2005 was voluntarily executed by the principals, it was notarized in their absence in clear violation of the rules on notarial practice.

It cannot be overemphasized that notarization of documents is not an empty, meaningless or routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. It is through the act of notarization that a private document is converted into a public one, making it admissible in evidence without need of preliminary proof of authenticity and due execution. Indeed, a notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe utmost care in complying with the elementary formalities in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.^[11]

A notary public should not notarize a document unless the persons who signed the