

## FIRST DIVISION

[ A.C. NO. 6649, June 21, 2005 ]

**MARINA C. GONZALES, COMPLAINANT, VS. ATTY. CALIXTO B. RAMOS, RESPONDENT.**

### D E C I S I O N

**YNARES-SANTIAGO, J.:**

Notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. The notarization by a notary public converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. A notarial document is, by law, entitled to full faith and credit upon its face. A notary public must observe with utmost care the basic requirements in the performance of their duties; otherwise, the public's confidence in the integrity of the document would be undermined.<sup>[1]</sup>

This is a complaint for disbarment filed by Marina C. Gonzales against Atty. Calixto B. Ramos because of the latter's alleged misconduct in notarizing a Deed of Absolute Sale involving the complainant. In her Affidavit-Complaint<sup>[2]</sup> filed before the Commission on Bar Discipline of the Integrated Bar of the Philippines, the complainant alleged that the respondent lawyer notarized a Deed of Sale on March 27, 1996,<sup>[3]</sup> where the complainant and her husband, Francisco T. Gonzales, allegedly sold in favor of the spouses Henry and Mila Gatus a piece of land with a building thereon located at Paranaque City and covered by Transfer Certificate of Title (T.C.T.) No. (30643) 17223.<sup>[4]</sup> Due to the execution of the Deed of Sale, T.C.T. No. (30643) 17223 was cancelled and T.C.T. No. 108589 was issued in the name of spouses Henry and Mila Gatus.

The complainant, however, maintained that she and her husband never appeared before the respondent to acknowledge the Deed of Sale on March 27, 1996.

When ordered<sup>[5]</sup> to file his Answer,<sup>[6]</sup> the respondent lawyer countered that the complainant's act was motivated by malice. He alleged that sometime in January 1995, Francisco T. Gonzales went to his office at the Adamson University Legal Aid Office, accompanied by a couple who were introduced to him as Henry and Mila Gatus. Francisco showed the respondent a Deed of Sale consisting of two (2) pages and requested him to notarize it. The respondent, however, noticed that the Deed of Sale did not contain a technical description of the property being sold, so he prepared another set of Deed of Absolute Sale. Thereafter, Francisco and the spouses Gatus, together with a witness, Ms. Eva Dulay, signed the second Deed of Absolute Sale in his presence. He then instructed Francisco to bring his wife, herein complainant, to his office so she can sign the Deed of Absolute Sale in his presence.

When Francisco returned to his office, he brought with him the Deed of Absolute

Sale signed by Marina C. Gonzales. At first, he was hesitant to notarize the document because he did not see the complainant sign the same, but due to Francisco's insistence and knowing them personally, he eventually notarized the deed.

Respondent compared the signatures of Marina C. Gonzales on the Deed of Absolute Sale with her other signatures in his files, the spouses Gonzales being his clients from way back. Convinced that the signature on the Deed of Absolute Sale was indeed the signature of complainant Marina C. Gonzales, respondent notarized the Deed of Absolute Sale on March 27, 1996.<sup>[7]</sup>

During the mandatory conference before the Commission on Bar Discipline of the IBP, the respondent admitted that the complainant never appeared before him to affirm the genuineness and authenticity of her signature in the Deed of Absolute Sale dated March 27, 1996.<sup>[8]</sup>

On July 30, 2004, the Commission on Bar Discipline submitted its Report<sup>[9]</sup> recommending thus:

In view of the foregoing, it is recommended that Respondent be suspended for a period of three (3) to six (6) months for failing to act more diligently and prudently when he notarized the subject documents. It is further recommended that Respondent's commission as notary public be suspended for a period of six (6) months, with a warning that a repetition of the same or similar negligent act in the future will be dealt with more severely by this Commission.<sup>[10]</sup>

The Board of Governors of the IBP adopted the findings of the Commission on Bar Discipline but modified its recommendation, to wit:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution as Annex "A"; and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, and for Respondent's failure to act more diligently and prudently when he notarized the documents, Atty. Calixto B. Ramos commission as notary public is hereby **SUSPENDED** for six (6) months with a **Warning** that a repetition of the same or similar negligent act in the future will be dealt with more severely.<sup>[11]</sup>

On February 7, 2005, the parties were required to manifest whether they are willing to submit the case for resolution based on the pleadings filed.<sup>[12]</sup> To date, only complainant submitted her manifestation<sup>[13]</sup> hence, the filing thereof was deemed waived by the respondent.

A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before the said notary public to attest to the contents and truth of what are stated therein. The presence of the parties to the deed making the acknowledgment will enable the notary public to verify the genuineness of the signature of the affiant. A notary public is enjoined from notarizing a fictitious or spurious document. The function of