

SECOND DIVISION

[A.C. No. 6298, May 27, 2004]

FEDERICO D. RICAFORT, COMPLAINANT, VS. ATTY. EDDIE R. BANSIL, RESPONDENT.

R E S O L U T I O N

AUSTRIA-MARTINEZ, J.:

On March 17, 2003, Atty. Federico D. Ricafort filed with the Integrated Bar of the Philippines (IBP), a verified complaint against respondent Atty. Eddie R. Bansil for misconduct and for violation of the Constitution on the right of the people to information on matters of public concern and R.A. No. 6713, otherwise known as the Code of Conduct and Ethical Standards for Public Officials and Employees. The case, docketed as CBD Case No. 03-1071, was referred by the Commission on Bar Discipline to Investigating Commissioner Rebecca Villanueva-Maala for investigation, report and recommendation.

The factual and procedural antecedents are summarized by the Investigating Commissioner as follows:

Complainant alleged that respondent has been commissioned as a Notary Public for Guagua, Pampanga, with the obligation to submit his notarial book and documents every month and each time he applies for a re-commission to the Clerk of Court of the Regional Trial Court of Guagua, Pampanga.

According to the RTC Clerk of Court of Guagua, Atty. Jorge Bacani ('Atty. Bacani'), respondent submitted his notarial book and documents but the same were returned to him for safekeeping considering that there was no space in the Office of the Clerk of Court to accommodate the notarial books and documents. However, they are required to bring them to the Clerk of Court when needed for inspection/verification of documents upon request.

Complainant has requested the Clerk of Court, Atty. Bacani, to send word to respondent that he wanted to verify some documents purportedly notarized by respondent particularly the documents contained in Notarial Book No XV, Series of 2002 and to bring the same to the Office of the Clerk of Court. The request was made to respondent on several occasions, the last of which was on 20 May 2003. Atty. Bacani repeatedly called up respondent regarding the request of complainant but respondent repeatedly failed and refused to heed the request.

On 20 February 2003, complainant sent a formal letter reiterating his request to examine respondent's Notarial Book XV, Series of 2002 for verification purposes at the office of the clerk of court on 28 February

2003. However, despite the fact that respondent received the said letter on 3 March 2003, respondent still failed and refused the request without any justifiable reason and did not even responded (sic) to the said letter. Hence, this complaint.

In his Answer, respondent states that there was no failure and refusal to heed the request, and the reason of inability to bring for verification the said Notarial Book CXV, Series of 2002 is the fact of lost (sic) thereof attributable to heavy flooding from July 6 to 20, 2002.

The letter-request was lately shown to him by a member of his household, however, complainant did not mention any particular document or he could have readily extended the desired help for verification or certification. Respondent contends that he is ready and willing to be of help to complainant if shown the particular document necessitating verification and/or certification.

Complainant claims that how can respondent help verify the genuineness or veracity of the documents notarized by him, if respondent alleged that the same were lost in a flood. Complainant avers that the certification issued as to the existence of flood in Guagua, Pampanga in 6 to 20 July 2002 deals only with the flood in the town proper and did not say that the house of respondent in San Antonio, Guagua, was hit by the flood. The streets were flooded but not the house of respondent which is situated on a higher ground. The town of Guagua, Pampanga has been perennially flooded during rainy season for which reason respondent who had to bring his notarial books at his house in San Antonio, Guagua, could have guarded the same against such contingency. A Notary Public should always place his books and documents in a safe place at his residence, otherwise this could aggravate the suspicion that he was grossly negligent in keeping his books which are public documents and destruction of public documents is punishable by law.

At the hearing held on 4 June 2003 only complainant appeared. Respondent's notice for the reason of his absence was belatedly received by the office. Parties were directed to submit their Position Paper and thereafter the case was submitted for report and recommendation.

In her Report and Recommendation submitted to the IBP Board of Governors, Commissioner Villanueva-Maala found the respondent administratively liable for his failure to attend to the request of complainant to look into his notarial book and recommended that respondent be suspended from the practice of law for a period of one year.

In its resolution dated October 25, 2003, the IBP Board of Governors adopted the findings of Commissioner Villanueva-Maala but reduced the recommended penalty to a mere reprimand; and referred the same to this Court.

Except for the penalty recommended, the Court agrees with the findings of the IBP Board of Governors that respondent should be held administratively liable for not attending to complainant's request to look into his notarial book.