

FIRST DIVISION

[A.C. No. 12709, September 08, 2020]

LILIA YUSAY-CORDERO, COMPLAINANT, VS. ATTY. JUANITO AMIHAN, JR., RESPONDENT.

DECISION

LOPEZ, J.:

We determine in this case the administrative liability of a lawyer who notarized a document without a notarial commission.

ANTECEDENTS

In 1976, Spouses Hector Cordero (Hector) and Lilia Yusay-Cordero (Lilia) executed a special power of attorney authorizing Lilia's father, Quirico Yusay Sr. (Quirico, Sr.), to sell and mortgage a land registered under Transfer Certificate of Title No. T-102992.

[1] Accordingly, Quirico, Sr. mortgaged the property to the bank and surrendered the certificate of title. On January 22, 2004, Hector passed away. In 2015, Lilia finished paying the loan and received back the certificate of title from the bank. However, Lilia noticed that there is an annotation [2] on the title pertaining to a "Deed of Portion Sale" between her, as seller, represented by her father Quirico Sr., and Quirico Y. Yusar, Jr. and Alberto Y. Yusay, as buyers. The deed was notarized on December 11, 2003 by Atty. Juanito S. Amihan, Jr. (Atty. Amihan, Jr.). [3]

Upon verification, however, Lilia discovered that Atty. Amihan, Jr. is not a commissioned notary public in 2003 and that no copy of the deed was recorded with the Office of the Clerk of Court of the Regional Trial Court (RTC). [4] Accordingly, Lilia filed an administrative complaint [5] against Atty. Amihan, Jr. before the Integrated Bar of the Philippines (IBP) for violation of the Lawyer's Oath and the Canons of Professional Responsibility (CPR). As evidence, Lilia presented the corresponding certifications from the clerk of court. On the other hand, Atty. Amihan, Jr. claimed that he is authorized to notarize documents in 2003. Atty. Amihan, Jr. presented imprints of his rubber stamps indicating the details of his notarial commission for the year 2003, [6] the recommendation letter stating that his appointment expired on December 31, 2003, [7] and the oath of office [8] and appointment as notary public in 2004. [9] Nevertheless, Lilia maintained that the rubber stamps do not establish that Atty. Amihan, Jr. has a valid commission in 2003. [10]

On November 21, 2018, the Commission on Bar Discipline found that Atty. Amihan, Jr. is not a commissioned notary public in 2003, absent a certificate of authority and notarial reports/register for that year. Moreover, it gave credence to the certification of the clerk of court over the recommendation letter and the rubber stamps which do not prove a valid commission. The investigating commissioner also confirmed with the RTC that Atty. Amihan, Jr. has no notarial commission in 2003. As such,

Atty. Amihan, Jr. committed deliberate falsehood in violation of the Lawyer's Oath and Rule 1.01 of the CPR. The Commission recommended a penalty of immediate revocation of notarial commission, disqualification from being commissioned as a notary public for two years, and suspension from practice of law for two years, thus:

Contrary to his claim, Respondent does not appear that he was commissioned as a notary public for and in the City of Bacolod. **The Respondent, for his part, has been completely unable to submit any kind of proof of his claim that he had a commission as a notary public for and in the City of Bacolod in 2003, or of his submission of notarial reports and notarial register during the said period.** Respondent has only presented the imprints of his rubber stamps indicating his notarial commission details for the year 2003. **He failed to establish that he was certainly commissioned as a notary public nor he wasn't [sic] able to produce his Certificate Authority issued by the Executive Judge which evidences the authenticity of his commission.**

Respondent's claim that his authority to notarize documents is confirmed thru the Recommendation issued by the Regional Trial Court of Bacolod City does not hold water. **It is the Certificate of Notarial Act and not the Recommendation of the court which authorizes and commission a lawyers as a notary public.**

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Finally, undersigned Commissioner went out of her way to inquire with the Regional Trial Court of Bacolod City if Respondent was indeed issued a notarial commission for 2003. She was [in fact] able to confirm that Respondent had no notarial commission.^[11] (Emphases supplied.)

On February 15, 2019, the IBP Board of Governors reduced the penalty of suspension from the practice of law from two years to one year, viz.:

RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, with modification, to impose upon the Respondent the penalty of ONE (1) YEAR SUSPENSION FROM THE PRACTICE OF LAW and TWO (2) YEARS DISQUALIFICATION to hold commission as Notary Public, and if currently so engaged, be immediately decommissioned as such.^[12]

RULING

The Court adopts the IBP's findings with modification as to the penalty.

Notarization ensures the authenticity and reliability of a document. It converts a private document into a public one, and renders the document admissible in court without further proof of its authenticity. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument. Moreover, notarization is not an empty routine. On the contrary, it engages public interest in a substantial degree and the protection of that interest requires preventing those who are not qualified or