

THIRD DIVISION

[A.C. NO. 6648, September 21, 2005]

JOSEFINA P. SORIANO COMPLAINANT, VS. ATTY. HUMBERTO B. BASCO, RESPONDENT.

RESOLUTION

GARCIA, J.:

Atty. Humberto B. Basco is charged by Josefina P. Soriano in a complaint^[1] for disbarment dated May 5, 2003, filed with the Committee on Bar Discipline, Integrated Bar of the Philippines ("IBP"), with violation of Sections 245 and 246 of the Revised Administrative Code, Title IV, Chapter II, known as the Notarial Law.

In her Report, IBP Investigating Commissioner Milagros V. San Juan summarized the allegations of complainant as well as the answer of respondent in the following wise:

In her verified complaint, complainant made the following allegations: That on June 30, 2000, respondent Atty. Humberto B. Basco, Notary Public of Manila testified before the Regional Trial Court of Manila, Branch 35, stating among others, that he allegedly notarized a Deed of Sale allegedly executed by complainant Josefina P. Soriano. He further testified that Josefina Soriano personally appeared before him when he notarized the Deed of Sale. Since complainant had never appeared before Notary Public Humberto B. Basco, had not seen much less received copy of the alleged contract, complainant requested for a copy of the alleged contract from the Office of the Clerk of Court and *Ex-Officio* Sheriff, Regional Trial Court of Manila concerning the aforementioned Deed of Sale. Clerk of Court VII Jennifer H. Dela Cruz-Buendia, issued a Certification dated February 11, 2003 certifying that the alleged Deed of Sale involving Josefina P. Soriano as vendor alleged to have been acknowledged before Notary Public Humberto B. Basco was not among the document submitted to said office (Annex "A" of Complaint). Complainant also received a certified true copy of the notarial register of Notary Public Basco which disclosed his failure to indicate the names of the witnesses, fees charged, the respective residence certificates of the parties to the documents which he notarized (Annex "B" of Complaint). Although Atty. Basco was duty bound to furnish to complainant a certified true copy of the alleged deed, he failed to do so despite demand therefor.

Respondent filed his Answer on June 10, 2003. In his defense, respondent declared that on January 17, 1997, herein complainant together with her son, Marcial P. Soriano went to his office located at 234 City Hall Bldg. both carrying with them a duly pre-drafted deed of sale, contents whereof signified that complainant did convey to the son valuable property. Respondent further stated that he instructed his staff

secretary, Ms. Elizabeth Roque-Sanchez, to effect the clerical entry of notarial particulars of the original and copies of the said mutually executed deed of sale. Respondent claim that his staff secretary of course, retained a copy for our file and advised complainant and her son to immediately return or call the office to furnish their respective Community Tax Certificate.

On October 7, 2004, the IBP Board of Governors passed *CBD Resolution No. XVI-2004-402*^[2], adopting the report of the Investigating Commissioner and approving the latter's recommendation that respondent's notarial commission be revoked and respondent be reprimanded and warned that a breach of his professional duties shall be dealt with more severely. Says the said report:

The issue to be resolved in this case is whether or not the respondent is guilty of dereliction of duty as a notary public.

The certification issued by the Clerk of Court, Jennifer H. Dela Cruz-Buendia clearly show that the questioned document purportedly acknowledged before the respondent on 17 January 1997 and entered as Doc. No. 424 Page No. 21, Book No. 67, Series of 1997, was not among the documents submitted by said office (Annex "A" of the Complain).

The certified true copy of the notarial register of respondent disclosed that there is no entry regarding the names of the witnesses to the documents neither were the respective Community Tax Certificates of the parties indicated in the notarial register of respondent (Annex "B" of Complaint).

The respondent failed to furnish the complainant a copy of the alleged Deed of Sale despite the fact that respondent admitted having retained a copy of the document for their office file.

Respondent delegated to his secretary the clerical entry to his records, evidently he failed to check the sufficiency of the notarial entries which explains the absence of the names of the witnesses and other pertinent data.

Notably, the allegations of the complainant remain uncontroverted by the respondent. It is very evident that respondent in discharging the duties as notary public failed to exercise diligence in his performance of his responsibilities as such. Thus, it is recommended that respondent's notarial commission be revoked and the respondent be reprimanded and warned that a breach of his professional duties shall be dealt with more severely.^[3]

The IBP Board of Governors' Resolution No. XVI-2004-402, now before the Court for final action, is well-taken.

The Notarial Law is explicit on the obligations and duties of a notary public. Sections 245 and 246 of the Revised Administrative Code respectively provide:

Sec. 245. Notarial Register. – Every notary public shall keep a register to be known as the notarial register, wherein record shall be made of all his