

## SECOND DIVISION

[ A.C. No. 8559, July 27, 2020 ]

**SUSANA G. DE GUZMAN, COMPLAINANT, VS. ATTYS. FEDERICO T. VENZON AND GLENN B. PALUBON, RESPONDENTS.**

### DECISION

**PERLAS-BERNABE, J.:**

For the Court's resolution is the administrative Complaint/Petition<sup>[1]</sup> dated December 16, 2009 filed by complainant Susana G. De Guzman (complainant) seeking the disbarment of respondents Atty. Federico T. Venzon (Atty. Venzon) and Atty. Glenn B. Palubon (Atty. Palubon; collectively, respondents).

#### The Facts

The complainant alleged that she was the registered owner in fee simple of a 13,225-square meter parcel of land located at Bulualto, San Miguel, Bulacan, covered by TCT EP No. 674420<sup>[2]</sup> (subject land). On November 17, 2005, Atty. Venzon notarized a *Sinumpaang Salaysay*<sup>[3]</sup> purportedly executed by complainant waiving her rights over the subject land. Using said document, the siblings Hernando L. Santos and Imelda Santos-Garma (Santos Siblings), through the assistance of Atty. Palubon, instituted DARAB Case. No. DCN R-03-02-2288'05 for the cancellation of complainant's title to the subject land (DARAB Case), which was eventually resolved against complainant, thus, resulting in the loss of her land. Aggrieved, complainant filed the instant Complaint/Petition against respondent. Verily, complainants ascribe malpractice on the part of respondents, in that: (a) Atty. Venzon notarized the *Sinumpaang Salaysay* without requiring any competent evidence of identity from the affiants; and (b) Atty. Palubon knowingly used the fraudulent document in the DARAB Case, thereby causing the loss of her propriety interests over her own land.<sup>[4]</sup>

In defense, Atty. Venzon recalled that on the date alluded to by complainant, an elderly couple appeared before him to have a *Sinumpaang Salaysay* notarized, and that he no longer required any competent evidence of identity considering their ages. Nonetheless, he maintained that his act of notarization was done according to law and in good faith.<sup>[5]</sup> For his part, Atty. Palubon denied being the Santos Siblings' counsel on record in the DARAB Case, averring that he only began representing the Santos Siblings when complainant filed a criminal case against them in connection with the purportedly falsified *Sinumpaang Salaysay*.<sup>[6]</sup> Further, both respondents similarly pointed out that the DARAB Case was resolved not solely on the basis of the *Sinumpaang Salaysay*, but on other evidence on record as well.<sup>[7]</sup>

#### The IBP's Report and Recommendation

In a Report and Recommendation<sup>[8]</sup> dated June 11, 2013 the Integrated Bar of the Philippines (IBP) Investigating Commissioner recommended that Atty. Venzon be suspended as a notary public for a period of six (6) months, while the complaint be dismissed as against Atty. Palubon.<sup>[9]</sup>

The IBP Investigating Commissioner found that Atty. Venzon committed various irregularities in notarizing the *Sinumpaang Salaysay*, such as: (a) simply executing a Jurat and not an Acknowledgement, considering that the document involved a transfer of real rights over a property; and (b) not requiring any competent evidence of identity from those who appeared before him to have the said document notarized. As such, he must be held administratively liable therefor.<sup>[10]</sup>

On the other hand, the IBP Investigating Commissioner found no substantial evidence to hold Atty. Palubon administratively liable, as the evidence on record patently shows that he was not the Santos Siblings' counsel of record in the DARAB Case they instituted against complainant. Neither was complainant able to show that Atty. Palubon was any way involved in such case. Hence, it was recommended that the administrative complaint be dismissed as against him.<sup>[11]</sup>

In a Resolution<sup>[12]</sup> dated August 8, 2014, the IBP Board of Governors adopted and approved the Report and Recommendation of the IBP Investigating Commissioner. However, upon complainant's motion for reconsideration,<sup>[13]</sup> the IBP Board of Governors issued another Resolution<sup>[14]</sup> dated June 6, 2015 recommending that the following penalties be meted on Atty. Venzon: (a) the immediate revocation of his notarial commission, if presently commissioned; (b) disqualification from being commissioned as a notary public for a period of two (2) years; and (c) suspension from the practice of law for a period of six (6) months. Aggrieved, Atty. Venzon moved for reconsideration but the same was denied by the IBP Board of Governors in a Resolution<sup>[15]</sup> dated October 28, 2017. As per the case records, no petition for review has been filed as of the present time.<sup>[16]</sup>

### **The Issue Before the Court**

The essential issue for the Court's resolution is whether or not respondents should be held administratively liable.

### **The Court's Ruling**

The Court concurs with the findings and recommendations of the IBP to impose administrative liability on Atty. Venzon and to dismiss the complaint as against Atty. Palubon.

It is settled that "notarization is not an empty, meaningless routinary act, but one invested with substantive public interest. Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined."

[17] To this end, the 2004 Rules on Notarial Practice (2004 Notarial Rules) impose on duly-commissioned notaries public the duty and obligation of ensuring the sanctity of notarized documents by, *inter alia*: (a) performing a notarial act only if the person involved as signatory to the document or instrument is in his/her personal presence at the time of notarization;<sup>[18]</sup> and (b) requiring the person having said document or instrument notarized to produce a competent evidence of identity to ensure that he/she is indeed the one who executed the same.<sup>[19]</sup> The purpose of these requirements is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act and deed.<sup>[20]</sup>

In this case, Atty. Venzon himself admitted that on the date alluded to by complainant, he indeed notarized a document denominated as a *Sinumpaang Salaysay* which was brought to him by an elderly couple, and that he no longer required the presentation of any competent evidence of their identities due to their age.<sup>[21]</sup> As a lawyer commissioned as a notary public, Atty. Venzon was mandated to exercise the function of his office and must have observed with utmost care the basic formalities of his office and requisites in the performance of his duties.<sup>[22]</sup> When Atty. Venzon affixed his signature and notarial seal on the *Sinumpaang Salaysay*, he certified that the party purportedly executing the same, *i.e.*, herein complainant, personally appeared before him, and attested to the truth and veracity of its contents - even if it appears that it was not complainant who had the document notarized before him. Verily, such conduct on Atty. Venzon's part was fraught with dangerous possibilities considering the conclusiveness on the due execution of a document that the courts and the public accord on notarized documents.<sup>[23]</sup> Hence, it is only proper that Atty. Venzon be held administratively liable therefor.

In this regard, it is well to point out that in the realm of legal ethics, a breach of the 2004 Notarial Rules would also constitute a violation of the Code of Professional Responsibility (CPR) - particularly, Canon 1 and Rule 1.01<sup>[24]</sup> thereof — considering that an erring lawyer who is found to be remiss in his functions as a notary public is considered to have violated his oath as a lawyer as well. He does not only fail to fulfill his solemn oath of upholding and obeying the law and its legal processes, but he also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.<sup>[25]</sup>

As Atty. Venzon's administrative liability has been established by the required threshold of evidence, the Court now determines the appropriate penalty to be imposed on him. In the cases of *Malvar v. Baleros*<sup>[26]</sup> *Ko v. Uy-Lampasa*,<sup>[27]</sup> *Ocampo-Ingcoco v. Yrreverre, Jr.*,<sup>[28]</sup> therein respondent lawyers-notaries public were all found guilty of notarizing documents without the presence of the executing parties, and thus, were uniformly meted with the penalties of immediate revocation of their notarial commissions, disqualification from being commissioned as notaries public for a period of two (2) years, and suspension from the practice of law for a period of six (6) months. Guided by the foregoing pronouncements, the Court hereby metes the same penalties to Atty. Venzon, as correctly recommended by the IBP Board of Governors.

Finally, suffice it to say that the IBP correctly dismissed the complaint as against