

THIRD DIVISION

[A.C. No. 9067, January 31, 2018]

**MARJORIE A. APOLINAR-PETILO, COMPLAINANT, V. ATTY.
ARISTEDES A. MARAMOT, RESPONDENT.**

DECISION

BERSAMIN, J.:

A lawyer is a disciple of truth because he swore upon his admission to the Bar that he would do no falsehood nor consent to the doing of any in court, and that he would conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as well to the courts as to his clients. His violation of the Lawyer's Oath through the commission of falsehood can be condignly sanctioned.

Antecedents

In her complaint-affidavit,^[1] complainant Marjorie A. Apolinar-Petilo (Marjorie) alleges that the respondent consented to, abetted and participated in the illegal act of falsifying a public document in violation of Article 171(4) in relation to Article 172(2) of the *Revised Penal Code*; and that he thereby violated the Lawyer's Oath, Rules 1.01 and 1.02 of Canon 1 and Rule 10.01 of Canon 10 of the *Code of Professional Responsibility*.

The public document in question was the deed of donation^[2] executed in favor of Princess Anne Apolinar-Petilo (Princess Anne) and Ma. Mommayda V. Apolinar (Mommayda) who were only 12 years old and 16 1/2 years old, respectively, at the time of its execution.^[3] Asserting that the respondent had known of the minority of the donees, Marjorie insists that he was thereby guilty of falsification first in his capacity as a lawyer by preparing the deed of donation and indicating therein that both donees were then "of legal age"; and as a notary public by notarizing the document. She claims that he, being Mommayda's counsel in the latter's adoption case, was aware of the untruthful statements he made in the deed of donation because he thereafter submitted the deed of donation as evidence therein.^[4]

In his answer, the respondent states that Margarita Apolinar (Margarita) and her sister-in-law Justina Villanueva-Apolinar (Justina) went to his law office sometime in 2000; that Margarita was a grandaunt who owned a parcel of land in Calapan, Oriental Mindoro that she wanted to donate to Princess Anne, Marjorie's own daughter, and Mommayda, the adopted daughter of Justina; that upon learning of Princess Anne's minority, he advised that she had to be represented by either parent;^[5] that not one to be easily turned down, Margarita persisted, and prevailed over him; that he thereupon prepared the deed of donation but left the date, the document number and page number blank; that he reserved the notarization for later after the parties had signed the document; that he allowed Margarita to bring

the deed of donation to Manila where she was supposedly proceeding in order to procure the signature of Princess Anne thereon and as a way of avoiding additional travel expenses; and that Justina had mentioned to him at the time that Margarita was then suffering from colon cancer and had only a little time to live.

The respondent recalled that a month afterwards Margarita and Justina returned to him with the signed deed of donation; that he then noticed that the document did not bear the signatures of Princess Anne's parents; that Margarita again offered to procure the signatures on the document; and that Margarita and Justina did not anymore return with the document until the time when he had to enter the instrument in his notarial book for his monthly report.

Margarita eventually died on April 13, 2003. Later on, with issues about her properties left unresolved, the relationship among her relatives quickly turned sour, and the deed of donation again came to the fore. In 2004, Justina and her husband Tomas went to see the respondent and confided to him that they were entangled in a court battle with Marjorie, their niece, over Margarita's properties, including the apartment in Manila where they had been occupying since 1980. They then learned from the respondent that because Mommayda's birth certificate had been simulated, they needed to legally adopt her in order to enable her to inherit from them. Hence, they filed a petition for the adoption of Mommayda, which did not sit well with Marjorie.

Claiming that her successional rights as a niece or heir to Tomas vis-a-vis would be adversely affected by the adoption of Mommayda, Marjorie vigorously opposed the petition for adoption, and argued for its dismissal on the basis that Tomas and Justina were not morally capable of adoption as shown by their simulation of the birth of Mommayda. Marjorie also brought several criminal cases in the Office of the Provincial Prosecutor on the ground of the simulation of the birth and falsification of the birth certificate of Mommayda in violation of Articles 347, 359, 183 and 184 of the *Revised Penal Code*.

Marjorie's opposition to the petition for adoption and her criminal charges were dismissed. Also dismissed were her opposition to the petition of Tomas and Justina for the correction of entry in Mommayda's birth certificate, as well as Marjorie's motion to recall the social worker for cross examination in the adoption case. The respondent claims that Marjorie -exasperated and dissatisfied with the outcome - then turned against him and instituted the complaint for his disbarment or suspension from the practice of law.^[6]

The respondent submits that there was nothing illegal in the deed of donation; that as the sole owner of the donated land, Margarita had an absolute right to dispose of her property by donation; that no law prohibited donations to minors; and that the filing of the petition for judicial partition was an express if not implied ratification of the defect in the donation; and that in regard to the submission of the simulated birth certificate in evidence, the purpose of filing the petition for adoption was to rectify the simulation and to convert the relationship between Mommayda and her adopting parents into a legal one.^[7]

During the mandatory conference set by the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, Marjorie admitted that a petition for judicial partition involving the donated land was meanwhile filed; that a compromise agreement^[8] was reached; and that Princess Anne sold her share to Mommayda.^[9]

In his position paper,^[10] the respondent asserts that the complaint was pure harassment calculated only to besmirch and malign his reputation; and that the complaint was also a premeditated tactic to prolong or pre-empt the adoption case considering that a favorable ruling thereat would adversely affect Marjorie's rights as an heir of Mommayda's parents.

In his resolution dated May 22, 2008,^[11] the IBP Commissioner recommended that:

WHEREFORE, in view of the foregoing considerations, the undersigned Commissioner finds respondent Atty. Aristedes A. Maramot to have violated the Notarial Law, his act having undermined the confidence of the public on notarial documents; and, respectfully recommends his suspension from notarial practice for a period of one (1) year while the other complaints against him are recommended dismissed for lack of merit.^[12]

In his motion for reconsideration,^[13] the respondent submitted that he did not employ any falsity because it was only Margarita - the donor - who had in fact attested to the execution of the deed of donation in the notarial acknowledgement of the deed of donation; that it was inconsequential even if Princess Anne had signed the deed of donation not in his presence; that in conveyances, only the person encumbering or conveying needed to personally appear, sign and acknowledge the deed before the notary public; and that Princess Anne and Mommayda's names were placed in the document merely for them to accept the donation.

The respondent pleads for the mitigation of his liability considering that he has exhibited candor in admitting his offense. He represents that his act was not gross enough as to justify suspension; that the complainant had thereby suffered no damage, but had actually benefitted from the act; that he had notarized in good faith; and that with this offense being his first in his 12 years as a law practitioner and as notary public, humanitarian considerations should be considered in his favor because he had children to support and had been his family's sole bread winner.

In her comment on the respondent's motion for reconsideration,^[14] Majorie avers that Princess Anne could not have signed the instrument in Manila because her daughter was then studying in Victoria, Oriental Mindoro.

In Resolution No. XVII-2008-337 dated July 17, 2008, the IBP Board of Governors adopted and approved the report and recommendations of the Commission on Bar Discipline, but modified the penalty by recommending the immediate revocation of the respondent's notarial commission and his disqualification from reappointment as a notary for two years, thus:^[15]

RESOLVED to ADOPT and APPROVE, as it is hereby unanimously 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 violation of the Notarial Law, Atty. Aristedes Maramot is hereby **SUSPENDED** from the practice of law for one (1) year, immediate Revocation of his Notarial Commission if

presently Commissioned and Disqualified from reappointment as Notary Public for Two (2) years.^[16]

The IBP Board of Governors denied the respondent's motion for reconsideration through Resolution No. XIX-2011-424 dated June 26, 2011,^[17] thus:

RESOLVED to unanimously DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Board and it being a mere reiteration of the matters which had already been threshed out and taken into consideration. Thus, for lack of substantial ground or reason to disturb it, the Board of Governors' Resolution No. XVIII-2008-337 dated July 17, 2008 is hereby **AFFIRMED.**^[18]

On September 6, 2011, the respondent filed in this Court his *Comment on the IBP Board of Governor's Resolution No. XVII-2008-337 and No. XIX-2011-424* dated August 16, 2011.^[19]

In its Report dated June 27, 2012,^[20] the Office of the Bar Confidant recommended to treat the comment as a petition for review.

On February 15, 2012, the respondent filed an amended comment dated December 5, 2011.^[21]

On July 23, 2012, the Court resolved: (1) to direct the respondent to furnish the IBP a copy of his amended comment and submit proof of its service within ten (10) days; and (2) to require the complainant to file her comment thereon within 15 days from receipt.^[22]

Accordingly, the complaint submitted her comment on November 9, 2012, opposing the respondent's prayer for reconsideration and asking the Court to uphold the Resolutions of the IBP Board of Governors.

Ruling of the Court

We affirm the Resolutions of the IBP Board of Governors.

A.

As a Lawyer

Every lawyer before entering his duties and responsibilities as a member of the Bar and an officer of the Court, professes as a natural course the promises contained in the Lawyer's Oath, to wit:

I do solemnly swear that I will maintain allegiance to the Republic of the Philippines, I will support the Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; **I will do no falsehood, nor consent to the doing of any in court;** I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, or give aid nor consent to the same; I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients, and I impose upon myself these voluntary obligations

without any mental reservation or purpose of evasion. So help me God.
(Emphasis supplied)

The letter and spirit of the Lawyer's Oath are oftentimes forgotten or taken for granted in the course of the lawyer's practice of law. To give teeth thereto, the Court has adopted and instituted the *Code of Professional Responsibility* to govern every lawyer's relationship with his profession, the courts, the society, and his clients.

Pertinent in this case are Rule 1.01 and Rule 1.02 of Canon 1; and Rule 10.1 of Canon 10, which provide:

CANON 1 - x x x

Rule 1.01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

Rule 1.02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

CANON 10 - x x x

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall he mislead, or allow the Court to be misled by any artifice.

The respondent prepared the deed of donation. At the time of his preparation of the document, he actually knew that Princess Anne was a minor; hence, his claim of having then advised that her parents should represent her in the execution of the document. Mommayda was likewise a minor. His awareness of the latter's minority at the time was not disputed because he was also representing Mommayda in the latter's adoption proceedings aside from being Mommayda's neighbor. Nonetheless, he still indicated in the deed of donation that the donees were of legal age. His doing so, being undeniably dishonest, was contrary to his oath as a lawyer not to utter a falsehood. He thereby consciously engaged in an unlawful and dishonest conduct, defying the law and contributing to the erosion of confidence in the Law Profession.

The respondent's explanation that it was only Margarita who actually acknowledged that the deed of donation was her own free act and deed does not extricate him from responsibility. The deed of donation, whether or not acknowledged by the donees, should not bear any false statement upon a material fact. The ages of the donees were material because they bore on their capacities to render the donation efficacious. That neither Princess Anne nor Mommayda acknowledged the deed of donation did not cure the defect.

The respondent justifies himself by stating that the persistence of the donor Margarita prevailed upon him to prepare the deed of donation as he had done; and adverts to the donor's assurance that she would herself procure the signatures of the parents of Princess Anne on the document. He also submits that the execution of the deed had redounded to the advantage of the minors; and that there was no law that prohibited the donation in favor of minors.

The respondent cannot be relieved by his justifications and submissions. As a lawyer, he should not invoke good faith and good intentions as sufficient to excuse him from discharging his obligation to be truthful and honest in his professional