

EN BANC

[A.C. No. 9209, April 18, 2017]

**NENITA DE GUZMAN FERGUSON, COMPLAINANT, ATTY.
SALVADOR P. RAMOS, RESPONDENT.**

DECISION

PER CURIAM:

Before the Court is the Complaint-Affidavit,^[1] filed by Nenita De Guzman Ferguson (*complainant*), seeking the disbarment of Atty. Salvador P. Ramos (*Atty. Ramos*) for falsification, violation of notarial law and engaging in private practice while employed in the government service.

The Antecedents

Complainant alleged that on November 25, 2007, she purchased a house and lot located in San Rafael, Bulacan, for the sum of P800,000.00; that without her knowledge, the seller obtained a Certificate of Land Ownership Award (CLOA) mainly to transfer the title of the said property to her name; that the seller was unaware that the said CLOA was void *ab initio* as the subject land was not an agricultural land and there existed a 10-year prohibition to transfer the subject land; that in 2009, complainant instituted a petition for the cancellation of the CLOA before the DAR Office; that the defendants were represented by Atty. Ramos, who was the Chief Legal Officer of DAR-Provincial Office in Bulacan; that complainant withdrew the petition before the DAR and filed the case before the Regional Trial Court, Branch 12, Malolos City (*RTC*); that upon receipt of the Answer, complainant found out that it was strikingly similar to the one filed by the defendants in the DAR, which was prepared by Atty. Ramos; that complainant discovered that the Deed of Sale^[2] dated April 24, 2009, which became the basis of the transfer of title was fraudulently altered as it only covered the sale of the land, not the house and lot, and the price indicated was only P188,340.00, not the amount of P800,000.00^[3] that she actually paid; that her signature and that of her husband, Douglas Ferguson (*Douglas*), were forged; that Atty. Ramos notarized the deed of sale without their presence; and that complainant and her husband neither appeared, executed nor acknowledged any document before Atty. Ramos as they never met him in person.

In his Comment,^[4] Atty. Ramos denied that he represented the defendants in the case before the DAR but he admitted that he notarized their Answer. With respect to the charge of falsification of the April 24, 2009 Deed of Sale and the notarization of the aforementioned deed, Atty. Ramos likewise denied any participation and countered that his signature as a notary public was forged. Atty. Ramos, nonetheless, admitted that he notarized the "genuine" Deed of Sale,^[5] dated May 12, 2009, executed between vendor Alfredo Inosanto, and vendees complainant and

her spouse, involving the Same property for the amount of P300,000.00.^[6] Atty. Ramos surmised that whoever benefited from such dastardly act could be the culprit in the falsification of the document as the forged deed of sale which indicated a lesser purchase price was the one presented in the Registry of Deeds of Bulacan in order to evade payment of a higher capital gains tax.

In its Resolution,^[7] dated February 29, 2012 the Court referred the complaint to the Integrated Bar of the Philippines (*IBP*) for investigation, report and recommendation.

The case was then set by the Commission on Bar Discipline (*CBD*) of the IBP for mandatory conference. Thereafter, parties were required to submit their respective position papers.

In its Report and Recommendation,^[8] dated November 21, 2014, the CBD found Atty. Ramos guilty of violating the law on notarial practice and recommended that he be suspended from the practice of law for a period of one (1) year and, in case he held a commission as a notary public; that it be revoked and that he be disqualified to act as a notary public for a period of two (2) years to be counted after his suspension. The CBD stated that the defense of forgery, without any corroborative evidence, was not credible. As to the charge. that of engaging in a private practice while employed in the government service against Atty. Ramos, the CBD opined that it should be addressed to the Civil Service Commission for the determination of his appropriate administrative liability.

In its Notice of Resolution No. XXI-2015-458,^[9] dated June 6, 2015, the IBP-Board of Governors adopted and approved with modification the report and recommendation of the CBD, as follows:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", finding the recommendation to be fully supported by the evidence on record and applicable laws and Respondent's notarization of a document in the absence of the parties' in violation of the 2004 Rules on Notarial Practice. Thus, Respondent Atty. Salvador P. Ramos' notarial commission, if presently commissioned, is immediately REVOKED. Furthermore, he is DISQUALIFIED from being commissioned as a Notary Public for two (2) years and is SUSPENDED from the practice of law for six (6) months.

The Court agrees with the findings of the IBP but differs on the imposed penalty.

Section 1, Public Act No. 2103, otherwise known as the Notarial Law states:

The acknowledgment shall be before a notary public or an officer duly authorized by law of the country to take acknowledgements of instruments or documents in the place where the act is done. The notary public or the officer taking the acknowledgment shall certify that the

person acknowledging the instrument or document is known to him and that he is the same person who executed it, acknowledged that the same is his free act and deed. The certificate shall be made under the official seal, if he is required by law to keep a seal, and if not, his certificate shall so state.

The importance of the affiant's personal appearance was further emphasized in Section 2 (b), Rule IV of the Rules on Notarial Practice of 2004 which specifically provides that:

A person shall not perform a notarial act if the person involved as signatory to the instrument or document –

(1) is not in the notary's presence personally at the time of the notarization; and

(2) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

The afore-quoted rules clearly mandate that a notary public, before notarizing a document, should require the presence of the very person who executed the same. Thus, he certifies that it was the same person who executed and personally appeared before him to attest to the contents and truth of what were stated therein.

[10] The presence of the parties to the deed is necessary to enable the notary public to verify the genuineness of the signature of the affiant.[11]

In the present case, Atty. Ramos denied having notarized the April 24, 2009 deed of sale and claimed that his signature was forged. He even alluded that the person who benefited from it could be the forger as the capital gains tax liability was reduced. He, nonetheless, admitted notarizing the "genuine" deed of sale, dated May 12, 2009.

Regardless of who the culprit was and the motive of such forgery, Atty. Ramos cannot be exonerated from liability. A perusal of the record would reveal that Douglas, one of the parties in the deed of sale, was not in the Philippines on May 12, 2009, the day the "genuine" deed of sale was notarized. Complainant presented a copy of Douglas' passport indicating that he entered the Philippines only on May 26, 2001 and left on June 12, 2001. This substantially established that indeed Douglas could not have personally appeared before Atty. Ramos when he notarized the deed.

Moreover, an examination of the April 24, 2009 and May 12, 2009 deeds of sale disclosed that both documents bore the same document number, page number and book number of the notarial registry of Atty. Ramos. If, indeed, the April 24, 2009 deed of sale, which was issued earlier was forged, how would the purported culprit know the detail of Atty. Ramos' notarial registry?

It must be emphasized that notarization is not an empty, meaningless and routinary act. It is imbued with public interest. and only those who are qualified and