

EN BANC

[A.C. No. 8968, September 26, 2017]

MA. VILMA F. MANQUIZ, COMPLAINANT, V. ATTY. DANILO C. EMELO, RESPONDENT.

DECISION

PERALTA, J.:

This is an administrative complaint filed by Ma. Vilma Maniquiz against Atty. Danilo C. Emelo, for notarizing a fictitious Deed of Absolute Sale and in the absence of the required notarial commission.

The procedural and factual antecedents of the case are as follows:

Maniquiz alleged that Emelo violated his lawyer's oath and the Code of Professional Responsibility (*CPR*) when he willfully notarized a fictitious Deed of Absolute Sale containing a falsified signature of her sister-in-law, Mergelita Sindanom Maniquiz, as vendor of a parcel of land in favor of spouses Leonardo and Lucena Torres, as the vendees. Even worse, Emelo notarized said document without being authorized to act as a notary public for Cavite.

On January 11, 2011, a person connected with the Spouses Torres gave Maniquiz a copy of said deed of sale. When she showed it to Mergelita, the latter was surprised and denied that she ever signed the same. Also, they noticed that the document did not show the names of the witnesses but only their signatures and the purported vendees failed to present any government-issued identification documents. Emelo's notarial commission and roll of attorneys number were likewise not indicated in the document. Thus, Maniquiz went to Emelo's residence to confirm if he indeed notarized said deed of sale. Emelo told them that he did notarize said document based on a photocopy of Mergelita's passport which was shown to him by his *kumpare*, Leonardo Torres, who personally appeared before him at that time.

Emelo, for his part, denied the accusations against him. In his belatedly filed Comment on July 26, 2012, he argued that he was not remiss in his obligations as a notary public when he notarized the subject deed of absolute sale since the parties actually appeared before him. He likewise attested that a woman introduced herself to him as Mergelita Maniquiz, as evidenced by her passport. As regards the issue of absence of notarial commission, he explained that for the year 2007, he could not retrieve orders of his commission as they may have been destroyed when his residential house was inundated by the typhoon Milenyo on September 28, 2006. He admitted the notarization of said document without notarial commission and begged for clemency, kind consideration, and forgiveness for the same.

On June 18, 2013, the Commission on Bar Discipline of the Integrated Bar of the Philippines (*IBP*) recommended Samson's suspension from the practice of law for two (2) years.^[1] On October 10, 2014, the IBP Board of Governors passed

Resolution No. XXI-2014-729,^[2] which adopted and approved, with modification, the aforementioned recommendation, hence:

*RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, **with modification**, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A ", and considering that Respondent is liable for deceit, gross misconduct and dishonesty, Atty. Danilo C. Emelo is hereby **SUSPENDED from the practice of law for two (2) years and his notarial commission, if presently commissioned, is REVOKED. Further, he is DISQUALIFIED from being commissioned as notary public for two (2) years.***

The Court's Ruling

The Court upholds the findings and recommendations of the IBP that Emelo should be held liable for the questioned act.

Notarization is the act that ensures the public that the provisions in the document express the true agreement between the parties. Transgressing the rules on notarial practice sacrifices the integrity of notarized documents. The notary public is the one who assures that the parties appearing in the document are indeed the same parties who executed it. This obviously cannot be achieved if the parties are not physically present before the notary public acknowledging the document since it is highly possible that the terms and conditions favorable to the vendors might not be included in the document submitted by the vendee for notarization. Worse, the possibility of forgery becomes real.^[3] It should be noted that a notary public's function should not be trivialized; a notary public must always discharge his powers and duties, which are impressed with public interest, with accuracy and fidelity, and with carefulness and faithfulness. Notaries must, at all times, inform themselves of the facts they certify to. And most importantly, they should not take part or allow themselves to be part of illegal transactions.^[4]

Where the notarization of a document is done by a member of the Philippine Bar at a time when he has no authorization or commission to do so, the offender may be subjected to disciplinary action. For one, performing a notarial act without such commission is a violation of the lawyer's oath to obey the laws, more specifically, the Notarial Law. Then, too, by making it appear that he is duly commissioned when he is not, he is, for all legal intents and purposes, indulging in deliberate falsehood, which the lawyer's oath similarly proscribes. It cannot be overemphasized that notarization is not an empty, meaningless, routinary act. Notarization is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Hence, the requirements for the issuance of a commission as notary public are treated with a formality definitely more than casual.^[5]

These violations fall squarely within the prohibition of Rule 1.01 of Canon 1 of the CPR. Canon 1 and Rule 1.01 of the CPR provide:

CANON 1 - A LAWYER SHALL UPHOLD THE CONSTITUTION, OBEY THE LAWS OF THE LAND AND PROMOTE RESPECT FOR LAW AND LEGAL PROCESSES.