

FIRST DIVISION

[A.C. No. 7184, September 17, 2014]

FELIPE B. ALMAZAN, SR., COMPLAINANT, VS. ATTY. MARCELO B. SUERTE-FELIPE, RESPONDENT.

R E S O L U T I O N

PERLAS-BERNABE, J.:

This is an administrative case against respondent Atty. Marcelo B. Suerte-Felipe (respondent) for malpractice as a notary public, among others.

The Facts

In a Complaint^[1] dated April 27, 2006, complainant Felipe B. Almazan, Sr. (complainant) charged respondent, previously of the Public Attorney's Office,^[2] for malpractice and gross negligence in the performance of his duty as a notary public and/or lawyer, alleging that the latter, despite not having been registered as a notary public for the City of Marikina, notarized the acknowledgment of the document entitled "Extrajudicial Settlement of the Estate of the Deceased Juliana P. Vda. De Nieva"^[3] dated "25th day of 1999" (subject document), stating that he is a "notary public for and in the City of Marikina."^[4] Said document was one of the attachments to the Amended Complaint^[5] dated August 14, 2003 filed in Civil Case No. 03-849-MK entitled "*Esperanza Nieva Dela Cruz* [(as represented by respondent)] v. *Brita T. Llantada* [(as represented by complainant)]." To prove his claim, complainant attached a Certification^[6] dated May 26, 2005 issued by the Office of the Clerk of Court of the Regional Trial Court (RTC) of *Marikina City*, certifying that per the court's record, respondent is not a commissioned notary public for the City of Marikina from March 30, 1994 to the date of issuance.

In a Resolution^[7] dated July 5, 2006, the Court required respondent to file his Comment^[8] which he eventually submitted on February 13, 2007 after proper service. In said pleading, respondent admitted that he indeed notarized the acknowledgment of the subject document but denied that he was not commissioned as a notary public at that time.^[9] To prove his defense, he attached a Certification^[10] dated August 23, 2006 issued by the Office of the Clerk of Court of the RTC of *Pasig City*, certifying the fact of his appointment as *notary public for the City of Pasig* and in the Municipalities of Taguig, Pateros, San Juan, and Mandaluyong for the years 1998-1999 under Appointment No. 98.^[11] Further, respondent, thru the comment, incorporated his own administrative complaint against complainant for malpractice and harassment of a fellow lawyer in view of the filing of the instant administrative case against him.^[12]

In response, complainant filed a Reply^[13] dated April 26, 2007 asserting that he has

the legitimate right to file the administrative complaint against respondent for his unlawful act of notarization, which is not an act of harassment as respondent claims. He also draws attention to the fact that the subject document was incompletely dated and yet notarized by respondent.^[14]

In a Resolution^[15] dated July 11, 2007, the Court, *inter alia*, referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report, and recommendation. Eventually, both parties appeared during the mandatory conference held on April 30, 2008.^[16]

The Report and Recommendation of the IBP

In a Report and Recommendation^[17] dated September 22, 2008, the IBP Investigating Commissioner found respondent guilty for violating the Notarial Law and the lawyer's oath, reasoning that he could not notarize the acknowledgment of the subject document in Marikina City as it was outside the territorial limits of his jurisdiction. To this end, the Investigating Commissioner pointed out that in the acknowledgment of the subject document, it was categorically stated that respondent is a notary public for and in the City of Marikina, Province of Rizal, of which he was not, hence, violating the Notarial Law. Moreover, respondent likewise violated the lawyer's oath, specifically its mandate for lawyers, to obey the laws and do no falsehood.^[18]

In view of the foregoing, it was thus recommended that respondent be suspended for a period of two (2) years from the practice of law. However, since it does not appear that he was still commissioned as a notary public, the Investigating Commissioner did not recommend that he be disqualified as such.^[19]

In a Resolution^[20] dated October 9, 2008, the IBP Board of Governors adopted and approved the Report and Recommendation of the Investigating Commissioner with modification, decreasing the penalty of suspension to one (1) year, with immediate revocation of notarial commission if presently commissioned, and disqualification from being commissioned as a notary public for two (2) years.

On reconsideration,^[21] the IBP Board of Governors, in a Resolution^[22] dated March 8, 2014, modified the penalty stated in its previous resolution, imposing, instead, the penalty of reprimand with warning, and disqualification from being commissioned as a notary public for the decreased period of one (1) year.

The Issue Before the Court

The essential issue in this case is whether or not respondent should be held administratively liable.

The Court's Ruling

The Court concurs with the findings of the IBP except as to the penalty.

As the Investigating Commissioner correctly observed, respondent, who himself admitted that he was commissioned as notary public only in the City of Pasig and

the Municipalities of Taguig, Pateros, San Juan, and Mandaluyong for the years 1998-1999, could not notarize the subject document's acknowledgment in the City of Marikina, as said notarial act is beyond the jurisdiction of the commissioning court, i.e., the RTC of Pasig. The territorial limitation of a notary public's jurisdiction is crystal clear from Section 11, Rule III of the 2004 Rules on Notarial Practice:^[23]

Sec. 11. *Jurisdiction and Term* – A person commissioned as notary public may perform notarial acts in any place **within the territorial jurisdiction of the commissioning court** for a period of two (2) years commencing the first day of January of the year in which the commissioning court is made, unless either revoked or the notary public has resigned under these Rules and the Rules of Court. (Emphasis supplied)

Said principle is equally echoed in the Notarial Law found in Chapter 12, Book V, Volume I of the Revised Administrative Code of 1917, as amended,^[24] of which Section 240, Article II states:

Sec. 240. Territorial jurisdiction. – The jurisdiction of a notary public in a province shall be **co-extensive with the province**. The jurisdiction of a notary public in the City of Manila shall be co-extensive with said city. **No notary shall possess authority to do any notarial act beyond the limits of his jurisdiction.** (Emphases supplied)

For misrepresenting in the said acknowledgment that he was a notary public for and in the City of Marikina, when it is apparent and, in fact, uncontroverted that he was not, respondent further committed a form of falsehood which is undoubtedly anathema to the lawyer's oath. Perceptibly, said transgression also runs afoul of Rule 1.01, Canon 1 of the Code of Professional Responsibility which provides that "[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct."

In the case of *Tan Tiong Bio v. Atty. Gonzales*,^[25] citing *Nunga v. Atty. Viray*,^[26] the Court instructively expounded on infractions similar to that of respondent:

While seemingly appearing to be a harmless incident, respondent's act of notarizing documents in a place outside of or beyond the authority granted by his notarial commission, partakes of malpractice of law and falsification. While perhaps not on all fours because of the slight dissimilarity in the violation involved, what the Court said in *Nunga v. Viray* is very much apropos:

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**