

## EN BANC

[ A.C. No. 8051, April 07, 2009 ]

**EDERLINDA K MANZANO, COMPLAINANT, VS. ATTY. SANTIAGO C. SORIANO, RESPONDENT.**

### D E C I S I O N

#### PER CURIAM:

The law profession is not a trade or a business venture.<sup>[1]</sup> The practice of law—and membership in the bar for that matter—is a high personal privilege burdened with conditions<sup>[2]</sup> and is limited to citizens who show and continue to show the qualifications and character traits required by law for the conferment of such privilege.<sup>[3]</sup> In accordance, therefore, with its constitutional mandate to regulate the legal profession and its authority to discipline its erring members, it behooves the Court to keep an ever watchful eye on, among others, unscrupulous lawyers with a penchant for hoodwinking, at every turn, their trusting clients; and, in general, on those whose misconduct tends to blemish the purity of the legal profession. And if need be, the Court shall remove from the ranks those unable to adhere to the rigid standards of morality and integrity required by the ethics of the legal profession. So it must be in this disciplinary proceeding.

The records of the case disclose the following:

In a verified complaint for disbarment dated March 23, 2006, with enclosures, filed with the Integrated Bar of the Philippines (IBP), complainant Ederlinda K. Manzano charged respondent Atty. Santiago C. Soriano with dishonesty (misappropriation) and misrepresentation and/or usurping the authority of a notary public. The case was docketed as Commission on Bar Discipline (CBD) Case No. 06-1702.

According to complainant, she engaged respondent's services to commence and pursue collection cases from individuals dealing with her construction supply/hardware business. As part of the agreement, respondent was allowed the free use of an office space in the Manzano Complex building in Nabua, Camarines Sur. After a time, complainant noticed that not a single successful collection was ever made, albeit respondent kept on asking for money to cover incidental expenses. Later on, complainant discovered that respondent had succeeded in convincing one of her debtors, Abelino G. Barela, to sell to him, for PhP 65,000, a piece of land and the house standing on it. The condition of the sale was that, out of the proceeds, respondent should deliver PhP 50,000 personally to complainant to Hilly cover Barela's indebtedness. As complainant would later claim, the PhP 50,000 was never turned over to her.

In the light of this unsettling development, complainant severed her client-attorney relationship with respondent and evicted him from his office-space at the Manzano Complex. She, together with Barela, later charged "respondent with *estafa*.

Complainant also allegedly discovered further that respondent had for a time been acting as a notary public for and in the province of Camarines Sur without the necessary notarial commission.

In his answer,<sup>[4]</sup> respondent merely entered a general denial of the inculpatory allegations in the complaint, focusing his sights more on the dismissal of the estafa case that complainant and Barela had earlier filed against him. He alleged that the filing of the instant administrative case was complainant's way of getting back at him for his having charged her and her husband and son with grave coercion.

In the mandatory conference/hearing scheduled on July 6, 2006 and later reset to August 10, 2006, respondent, despite due notice, failed to appear, although he would later submit, albeit belatedly, a conference brief. And despite being accorded, with a warning, several extensions within which to file a position paper, no such paper came from respondent, prompting the IBP CBD to declare him as having waived his right to participate in the proceedings.

In his *Report and Recommendation* dated March 31, 2008, Investigating Commissioner Pedro A. Magpayo, Jr. found respondent guilty of grave misconduct (misappropriating the funds belonging to his client) and malpractice, and recommended his disbarment.

On May 22, 2008, the IBP Board of Governors passed Resolution No. XVIII-2008-237, approving Commissioner Magpayo's report and recommendation with modification insofar as the recommended penalty was concerned, thus:

*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 violation of Canon 1 of the Code of Professional Responsibility, continued violation of the Rule on Notarial Practice, and for failure to comply with his duties as a member of the Bar in good standing by his failure to pay his membership dues since year 2003 up to the present, Atty. Santiago C. Soriano is hereby **SUSPENDED INDEFINITELY** from the practice of law.

The findings of the CBD, as approved by the IBP Board of Governors, on the guilt of respondent, first, for misappropriating his client's money he held in trust and his attempt to hide his fraudulent act, are well supported by the evidence on record and, therefore, commend themselves for concurrence. As aptly observed by the CBD, respondent perverted his position, as complainant's lawyer, and his legal expertise by convincing debtor Barela to sell and transfer to him the latter's house for PhP 65,000 with the understanding that respondent would remit the PhP 50,000 to complainant to offset Barela's debt. Instead of remitting the PhP 50,000 to complainant, respondent, however, misappropriated this amount for his benefit without so much as informing complainant. In net effect, respondent duped both complainant and Barela. And in a vain bid to cover up his grave misdeed,

respondent, via a deed of sale dated August 27, 1996 (Exhibit "F"), made it appear that he acquired the aforesaid property from Barela's mother, Eusebia, for PHP 10,000. On its face, however, the deed had respondent as house/lot buyer and, at the same time, as the notarizing officer, although he was without an appointment as notary public at that time.

As a result of his dishonest but crude maneuvers, respondent was charged by both complainant and Barela with *estafa*, which, contrary to what he wanted to impress on the CBD in his answer, eventually led to the filing of an amended information (Exhibit "B") for that crime with the Regional Trial Court, Branch 37 in Iriga City.<sup>[6]</sup>

Respondent's acts immediately adverted to are reflective of his gross and wanton disregard of the Code of Professional Responsibility, more specifically its Canon 16, which provides that "a lawyer shall hold in trust all money and property collected or received for or from the client."

Time and again, the Court has reminded lawyers that, as an officer of the court, theirs is the duty to obey, respect, and uphold the law and legal processes by not engaging in unlawful, dishonest, immoral, or deceitful conduct.<sup>[7]</sup> An immoral or deceitful conduct necessarily involves moral turpitude.<sup>[8]</sup> Needless to stress, the commission of any of these unlawful acts, which amounts too to a violation of the attorney's oath, is a ground for suspension or disbarment of lawyers.<sup>[9]</sup>

Definitely not lost on the Court with respect to this case is the IBP's documented report about the respondent having been once the subject of an administrative complaint in CBD Case No. 05-1514 lodged by Andrea Balce Celaje, in which the Investigating Commissioner found respondent liable for misapplying the money of his client.<sup>[10]</sup>

The Court agrees too with the other inculpatory finding of malpractice on the part of respondent consisting of exercising the powers of a notary public without having the appropriate commission. The evidence on record shows that the respondent held himself up and acted as notary public for the province of Camarines Sur for Calendar Years 1996, 2005, 2006, and 2007, as evidenced by several documents he notarized for the period, although he was without the proper commission during those times.<sup>[11]</sup> Among these documents listed in the Commission's report and borne out by the records are: (1) Exhibit "H," Affidavit of Loss of Madelina Ayuman; (2) Exhibit "H-1," Affidavit of Heirship for Insurance Benefit; (3) Exhibit "I," Joint Affidavit of Grace Pastoral and Daisy Lomame; (4) Exhibit "I-1," Affidavit of Supplemental Information of Diwane Julianes-Sarmiento; and (5) Exhibit "I-2," Affidavit of Guardianship of Consuelo Alina.

The act of notarizing without the necessary commission is not merely a simple enterprise to be trivialized. So much so that one who stamps a notarial seal and signs a document as a notary public without being so authorized may be haled to court not only for malpractice but also for falsification. *Zoreta v. Simpliciano* elucidated on the importance of notarization and the Court's inclination to whack with a heavy disciplinary stick those who would dare circumvent the Notarial Law: