

THIRD DIVISION

[A.C. No. 6505, September 11, 2008]

**JESSICA C. UY, COMPLAINANT, VS. ATTY. EMMANUEL P. SAÑO,
RESPONDENT.**

DECISION

NACHURA, J.:

This is a disbarment case filed^[1] by complainant Jessica C. Uy against respondent Atty. Emmanuel P. Saño for allegedly notarizing several documents despite the expiration of his commission.

Respondent was the counsel for a certain Pablo Burgos, an intervenor in a civil case docketed as EJF-01-03-10 for *Foreclosure of Real Estate Mortgage*.^[2] In the course of the proceedings, respondent introduced before the trial court, certain documents, including a *Deed of Absolute Sale*^[3] which he notarized on December 7, 2001 under Doc. No. 376, Page No. 73, Book No. V, Series of 2001.

It appeared, however, in a letter^[4] dated February 9, 2004 of Atty. Blanche Astilla-Salino, Clerk of Court VI, that no notarial commission was issued to respondent for the years 2000-2001 and 2001-2002. Hence, the instant administrative case.

Respondent, for his part, admitted that he was not issued a notarial commission during the aforesaid period; yet, he performed notarial works. He, however, explained that he applied, through a representative, for a notarial commission in the year 1998 and was commissioned as such from 1998 to 1999.^[5] In 2000, he applied for the renewal of his commission, again through an office aide, who later informed him that his application was approved.^[6] By virtue of said representation, respondent resumed his notarial work; only to find out later that he was not given a new commission.^[7] He exerted earnest efforts in locating the whereabouts of the office aide but to no avail. Having acted on the mistaken belief that he still had his notarial commission, respondent pleaded that he be excused and given clemency for this fiasco and be allowed to correct and make amends.^[8]

In a Resolution^[9] dated December 8, 2004, we referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation.

On September 1, 2005, Commissioner Rebecca Villanueva-Maala submitted her report and recommendation,^[10] the pertinent portion of which reads:

CONCLUSION AND RECOMMENDATION:

From the facts and evidence presented, we find sufficient proof to warrant disciplinary action against the respondent. Notarizing documents

after the lawyer's commission as notary public had expired is malpractice and gross misconduct (Flores vs. Lozada, 21 SCRA 1267). Respondent's explanation that he was made to believe by his agent that his commission has been filed and approved cannot be accepted for to rule otherwise will be to enable irresponsible lawyers to avoid disciplinary action by simply attributing the problem to his aide/secretary or employee (Gutierrez vs. Zulueta, 187 SCRA 607).

WHEREFORE, premises considered, we hereby recommend that respondent ATTY. EMMANUEL SAÑO be SUSPENDED for a period of SIX MONTHS from receipt hereof from the practice [of] his profession as a lawyer and as a member of the Bar.

RESPECTFULLY SUBMITTED.^[11]

Per Resolution No. XVII-2006-115 dated March 20, 2006, the IBP Board of Governors modified the report and recommendation of Commissioner Villanueva-Maala by increasing the recommended period of suspension from six (6) months to one (1) year. In addition, the Board resolved to revoke respondent's notarial commission and disqualified him from reappointment as notary public for a period of two (2) years.

We agree with the IBP's conclusion, finding respondent guilty of malpractice, warranting disciplinary action. We, however, find the penalty recommended by the Board of Governors to be too harsh; instead, we sustain the Investigating Commissioner's recommendation.

At the threshold, it is worth stressing that the practice of law is not a right but a privilege bestowed by the State on those who show that they possess, and continue to possess, the qualifications required by law for the conferment of such privilege. Membership in the bar is a privilege burdened with conditions.^[12]

The bar should maintain a high standard of legal proficiency as well as of honesty and fair dealing. A lawyer brings honor to the legal profession by faithfully performing his duties to society, to the bar, to the courts and to his clients. To this end, a member of the legal fraternity should refrain from doing any act which might lessen, in any degree, the confidence and trust reposed by the public in the fidelity, honesty and integrity of the legal profession.^[13]

Apropos to the case at bar, it has been emphatically stressed that notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified and authorized may act as notaries public. It must be underscored that the act of notarization by a notary public converts a private document into a public document making it admissible in evidence without further proof of authenticity. A notarial document is, by law, entitled to full faith and credit upon its face. For this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties.^[14]

Respondent admitted that he applied for a notarial commission in 1998. Such application, according to him, was facilitated by a representative. In renewing his commission for 2000 until 2002, he again relied on the assistance offered by an