

## FIRST DIVISION

[ A.C. No. 6294, November 17, 2004 ]

**ATTY. MINIANO B. DELA CRUZ, COMPLAINANT, VS. ATTY.  
ALEJANDRO P. ZABALA, RESPONDENT.**

### RESOLUTION

**QUISUMBING, J.:**

In his **Letter-Complaint for Disbarment** filed before the Committee on Bar Discipline of the Integrated Bar of the Philippines, complainant Atty. Miniano B. Dela Cruz charged respondent, Atty. Alejandro P. Zabala, for violating his oath as a notary public.

Complainant alleged that respondent notarized with unknown witnesses, a fake deed of sale allegedly executed by two dead people, in gross violation of his oath as a Commissioned Notary Public in Quezon City.<sup>[1]</sup>

Complainant averred that he was retained by a certain Demetrio C. Marero last December 21, 1996, to finance and undertake the filing of a Petition for the Issuance of a Second Duplicate Original of the Owner's copy of Original Certificate of Title (OCT) No. 4153, in the names of Sps. Pedro Sumulong and Cirila Tapales before the Regional Trial Court of Antipolo City, Branch 72. The court issued an Order approving the said petition on March 10, 1997.<sup>[2]</sup>

On May 20, 1997, complainant purchased the said property from Marero and had the title transferred to him and his wife. OCT No. 4153 was then cancelled and replaced by Transfer Certificate of Title (TCT) No. 330000.<sup>[3]</sup>

The next day, complainant requested a certain Mrs. Adoracion Lososo and Mr. Nestor Aguirre to register the title in the former's name at the Assessor's Office of Antipolo City. However, they were unable to do so because the property was already registered in the name of Antipolo Properties, Inc., under TCT No. N-107359.<sup>[4]</sup>

On May 27, 1997, respondent notarized a Deed of Absolute Sale over the land covered by OCT No. 4153, executed by Cirila Tapales and Pedro Sumulong in favor of the complainant and his wife.<sup>[5]</sup>

On December 9, 1997, Mr. Marero filed a Complaint for Reconveyance of Title of the land, subject of the Deed of Sale which was notarized by respondent, with damages against the complainant and his wife. The Deed of Sale was the same document Marero used when he filed a complaint for Estafa thru Falsification of Public Document docketed as I.S. No. 98-16357 before the Quezon City Prosecutor's Office and in a disbarment case docketed as Adm. Case No. 4963 against complainant.<sup>[6]</sup>

Purportedly, to clear his name, complainant filed this complaint for disbarment against respondent. According to complainant, respondent notarized an irregular document where one of the parties to the transaction was already dead, grossly violating his oath as a notary public.<sup>[7]</sup>

The IBP then required the respondent to file his answer to the said allegations.

Respondent, in his **Answer** alleged that as a notary, he did not have to go beyond the documents presented to him for notarization. In notarial law, he explains, the minimum requirements to notarize a document are the presence of the parties and their presentation of their community tax certificate. As long as these requirements are met, the documents may be notarized. Furthermore, he adds, when he notarized the Deed of Sale, he had no way of knowing whether the persons who appeared before him were the real owners of the land or were merely poseurs.<sup>[8]</sup>

Thereafter, the parties were ordered to appear before the IBP Commission on Bar Discipline on July 31, 2001 and August 21, 2001, and required to submit their position papers.

The IBP Commission on Bar Discipline, in its **Report** dated September 29, 2003, recommended that respondent be reprimanded for violating Canon 5 of the Code of Professional Responsibility.<sup>[9]</sup> The allegations with respect to the prayer for disbarment were recommended for dismissal for insufficiency of evidence. The Commissioner held that complainant failed to establish by convincing proof that respondent had to be disbarred because of his notarial negligence. The alleged failures of respondent did not indicate a clear intent to engage in unlawful, dishonest, immoral or deceitful conduct, according to the Commission's Report.

Noteworthy, however, respondent did not deny that he notarized the cited Deed of Sale under the circumstances alleged by complainant. It appears that there was negligence on respondent's part which, in our view, is quite serious. Thus, we cannot conclude that he did not violate the Notarial Law,<sup>[10]</sup> and our rules regarding Notarial Practice.<sup>[11]</sup> Nor could we agree that, as recommended by the IBP, he should only be reprimanded. At least his commission as Notary Public should be revoked and for two years he should be disqualified from being commissioned as such.

The IBP noted that on its face, the Deed of Sale was not executed by the purported vendee and that only Pedro Sumulong appeared and executed the deed even though the property was co-owned by Pedro Sumulong and Cirila Tapales. In addition, a copy of the title was not attached to the said Deed of Sale when it was presented for notarization. The aforementioned circumstances should have alerted respondent. Given the ease with which community tax certificates are obtained these days, respondent should have been more vigilant in ascertaining the identity of the persons who appeared before him.

We have empathically stressed that notarization is not an empty, meaningless routinary act. It is invested with substantive public interest. It must be underscored that the notarization by a notary public converts a private document into a public document, making that document admissible in evidence without