

SECOND DIVISION

[A.C. No. 4801, February 27, 2003]

**MENA U. GERONA, COMPLAINANT, VS. ATTY. ALFREDO
DATINGALING, RESPONDENT.**

D E C I S I O N

MENDOZA, J.:

This is a complaint for disbarment filed by Mena U. Gerona against Atty. Alfredo Datingaling for allegedly falsifying a document and notarizing it afterwards.

The complaint, which is in the form of an affidavit, concerns a document entitled "Consent to Quarry" purporting to be an agreement whereby complainant Mena U. Gerona and her party, composed of Lucila Umali Magboo, Feliciano U. Umali, Marife Umali, Jovita Umali Galicia, P.J. Galicia, Wendy Sunshine Umali, and Aurelia Umali Miranda, allegedly agreed to allow Ronald Reagan Hernandez, represented by Engr. Bayani N. Melo, of legal age, Filipino, of Alangilan, Batangas City, his heirs, successors, and assigns, to enter or occupy a portion of their property in Anilao East, Mabini, Batangas and engage in a "QUARRY" business and related activities.^[1]

Complainant stated:

1. That I am filing a case for disbarment against ATTY. ALFREDO DATINGALING of Batangas City whose house is at the back of the Provincial Jail;
2. That I am constrained to file such disbarment case for the reason that the said ATTY. ALFREDO DATINGALING in notarizing the attached document, Annexes A and A-1, he made it appear that I together with my brother and sisters appeared before him on July 2, 1997 when in truth and in fact we did not and in the said document Atty. Alfredo Datingaling said, and I quote:

BEFORE ME, A NOTARY PUBLIC FOR AND IN THE CITY OF
BATANGAS PERSONALLY APPEARED THE FOLLOWING PERSONS,
NAMELY:

RONALD REAGAN HERNANDEZ, represented by: ENGR.
BAYANI MELO
LUCILLE U. MAGBOO
MENA U. ENRIQUEZ GERONA
FELICIANO UMALI
JOVITA U. GALICIA
WENDY SUNSHINE UMALI
AURELIA UMALI MIRANDA

KNOWN TO ME AND TO ME KNOWN TO [BE] THE SAME PERSONS WHO EXECUTE[D] THE FOREGOING INSTRUMENT AND THEY ACKNOWLEDGED TO [HAVE] MADE THE SAME AS THEIR FREE AND VOLUNTARY ACT AND DEED.

THE FOREGOING INSTRUMENT RELATES TO A CONSENT TO QUARRY AGREEMENT, CONSIST[ING] OF TWO (2) PAGES, INCLUDING THE PAGE IN WHICH THE ACKNOWLEDGEMENT [IS] WRITTEN AND HAS BEEN SIGNED BY THE PARTIES TOGETHER WITH THEIR INSTRUMENTAL WITNESSES ON EACH AND EVERY PAGE THEREOF.

WITNESS MY HAND AND SEAL THIS 2ND DAY OF JULY 1997 AT BATANGAS CITY, PHILIPPINES.

3. That aside from the fact that not one of us appeared before Notary Public Alfredo Datingaling at Batangas City on July 2, 1997 and we have individual daily time records as we are working in Metro Manila, we have signed each and every document of Annexes A and A-1 before him as stated by him in his acknowledgement and clearly page 1 which is Annex A has not been signed by any of us and the name WENDY SUNSHINE UMALI refers to two persons which are my nieces, Wendy is nine (9) years old and Sunshine is twelve (12) years old and both of them have no legal personality to appear before a Notary Public to sign any legal document and moreover RONALD REAGAN HERNANDEZ who appears to have a Residence Certificate No. 8988196 is a son of Elvira Atienza and is only nine (9) years of age and the first page, Annex A has been written on a different typewriter and inserted to the document as the front page and allegedly signed on July 3, 1997 at Batangas City ahead of the notarization of the document which was on July 2, 1997. In short, Atty. Alfredo Datingaling falsified the whole document and he aggravated such act of falsification when he notarized the same; that moreover, it refers to a parcel of land which has never been agreed by the parties;
4. That for such acts of falsification, I have filed with the City Fiscal's Office of Batangas City a falsification case against Atty. Alfredo Datingaling and his clients, Elvira Atienza, Bayani Melo and Apolonia Bonado.^[2]

Complainant charged that despite knowledge of the falsity of the document, respondent, as notary public for Batangas City, notarized it on July 3, 1997.

This Court required respondent Atty. Alfredo Datingaling to comment on the administrative complaint filed against him. In his counter-affidavit dated March 2, 1998, respondent claimed that the complaint is "baseless, out of focus, an afterthought, childish and in the nature of self-indictment."^[3] Respondent denied the allegations against him and claimed that complainant had signed the documents on July 2, 1997 in Quezon City and had it notarized by respondent the next day (July 3, 1997) in Batangas City. Respondent stated in his counter-affidavit:

The document was already prepared when it was brought to my law office by Bayani Melo and company who signed in our office on July 03, 1997. It was my secretary who stamped my name as Notary Public on the bottom of the "Acknowledgement" ready for my signature, but through inadvertence she overlooked that date July 02, 1997 thereof as the date of the actual notarization. It bears emphasis that such date (July 02, 1997) was typewritten beforehand which could easily be reformed if the parties so desire. So why does the complainant want to create trouble?

Explaining a little further, the negotiation or transaction between the group of Ronald Hernandez represented by Bayani Melo on the one hand (my client), and the group of Mena Umali Gerona on the other took place at the residence of Mena Umali Gerona in Quezon City where the document in question was prepared on July 2, 1997, and the parties agreed to meet each other in Batangas City, the following day July 3, 1997 for purposes of notarization at the office of the Notary Public ATTY. ALFREDO R. DATINGALING.^[4]

Attached to the counter-affidavit were the affidavits of Bayani Melo and Matias Magnaye (marked Annexes A and B, respectively),^[5] corroborating respondent's allegations. Bayani Melo had signed as the representative of Ronald Reagan Hernandez, while Matias Magnaye as a witness to the "Consent to Quarry."

In reply, complainant submitted an affidavit, dated April 23, 1998, received by this Court the following day. Respondent was required to file a rejoinder within 10 days, but he did not do so.

In her reply-affidavit, complainant submitted a copy of the resolution of the provincial prosecutor of Batangas in I.S. No. 97-3353 (for falsification of public document), finding probable cause against respondent and recommending the filing of an information for falsification of a public document against all the respondents named in the case, including herein respondent Atty. Alfredo Datingaling. The prosecutor stated:

After a painstaking study and careful analysis of the evidence presented by both parties, the undersigned has observed the following striking dissimilarities on the two copies of the document "Consent to Quarry" (Authorization) which would clearly distinguish one from the other, to wit:

Page 1 of the unnotarized consent to quarry dated July 2, 1997 reveals that it has that blank space for the technical description of a parcel of land subject of their agreement; it is undated; it is signed by Bayani Melo at the bottom but unsigned by Lucila Umali Magboo and it has insertions and modifications thereon.

On the other hand, page 1 of the notarized copy of that consent to quarry reveals that the technical description refers to two parcels of land located at Anilao, Mabini, Batangas described in Tax Declaration No. 003-00097 and in the approved plan/"Application for Small Scale Mining Permit for Quarry"; it is dated July 3, 1997, it has two signatures of Bayani Melo and one signature of Ronald Reagan Hernandez and it is also

unsigned by Lucila Umali Magboo.

Page 2 of the unnotarized consent to quarry dated July 2, 1997 shows the signatures of Mena U. Gerona, Feliciano Umali and Aurelia Miranda as well as the signatures of witnesses Rosemarie, Matias, Geronimo and Apolonia before the acknowledgment portion; a signature of Lucila N. Magboo at the acknowledgment portion; blank as to the Notary Public and the Doc., Page No., Book No., and Series of.

Page 2 of the notarized copy of the Consent to Quarry bears the signatures of Mena, Feliciano, and Aurelia as well as the witnesses before the acknowledgment portion; it is dated July 2, 1997 and signed by Notary public A.R. Datingaling and it is docketed as Doc. No. 3473, Page No. 67, Book No. XXVII, Series of 1997.

It has been also established that the said document was brought to Mena's residence on July 2, 1997 ready for signatures and in fact it was signed there by Mena, Feliciano, Aurelia and Bayani Melo in the presence of those witnesses. After the signing of said document, a copy was left with Mena and the other copies were brought by the group of Bayani Melo, which copies were notarized by Atty. Alfredo R. Datingaling on July 3, 1997. The issue now is whether the crime of falsification has been committed by the respondents?

From the glaring dissimilarities between the copies of the document consent to quarry and the testimony of the complainant and his brother Feliciano, the undersigned honestly believes that indeed the crime of falsification had been committed by the respondents in conspiracy with one another. The evidence is clear that Mena Umali and her brother and sisters had not presented themselves or appeared before said Notary Public for the acknowledgment of said document as their free act and voluntary deed and that the lots described in the notarized document are different from the lot they intended to be the subject of their agreement. From the unnotarized copy dated July 2, 1997 which bears the proposed insertions/modifications, the land intended to be described as the subject of that agreement is but a parcel of land while in the notarized copy, it describes two parcels of land. Further, had the complainant and her brother and sisters appeared before the Notary Public for notarization of said document, then there is no reason why Lucila Magboo, Mena Umali, Feliciano Umali and Aurelia Miranda would not be required to sign on the first page of the document. In fact, Bayani Melo signed again the said document on the first page while Ronald Reagan Hernandez who is already represented by Bayani Melo was required to sign said document on the first page. Hence, there is sufficient ground to hold respondents for trial for the said offense under I.S. No. 97-3353.

. . . .

WHEREFORE, in view of the foregoing, it is respectfully recommended that an information for Falsification of Public Document be filed against all the respondents under I.S. No. 97-3353 [6]