

## EN BANC

[ A.C. No. 4738, February 06, 2002 ]

**VIOLETA FLORES ALITAGTAG, COMPLAINANT, VS. ATTY.  
VIRGILIO R. GARCIA, RESPONDENT.**

### R E S O L U T I O N

#### PER CURIAM:

Now before us is a petition for disbarment<sup>[1]</sup> against respondent Atty. Virgilio R. Garcia for the falsification of a deed of donation and notarizing the same.

The facts, as found by the Investigating Commissioner of the Integrated Bar of the Philippines,<sup>[2]</sup> are as follows:

"Upon a thorough and careful review of the records of this case, including the testimonial and documentary evidence adduced by the parties, we have noted the following undisputed facts, to wit:

1. Cesar B. Flores was a retired military officer who had two (2) families, namely:
  - (a) His legitimate family with his lawful spouse Veronica Don from whom he was legally separated on January 28, 1959, and with whom he had eight (8) children including complainant Violeta Flores-Alitagtag.
  - (b) His second family with one Magdalena Gamad with whom he had four children including Maria Eugenia Flores, who is the wife of respondent Atty. Virgilio Garcia.
2. In the questioned Deed of Donation covering a parcel of land in Bagong Ilog, Pasig, covered by TCT No. 326475 of the Register of Deeds of Pasig, the following persons were privy thereto as parties or participants in varying capacities, thus:
  - (a) Cesar B. Flores - as the alleged Donor;
  - (b) Gregorio Gamad Flores - the brother of Maria Eugenia, hence, the brother-in-law of respondent Atty. Virgilio Garcia, as the DONEE;
  - (c) Ma. Eugenia Gamad Flores Garcia - the wife of respondent Atty. Virgilio Garcia, as a witness to the Deed of Donation;

- (d) Magdalena Gamad Flores - the mother of Gregorio and Maria Eugenia and the mother-in-law of respondent Atty. Virgilio Garcia, as a witness to the Deed of Donation;
  - (e) Respondent Atty. Virgilio Garcia – as the Notary Public who notarized the Deed of Donation.
3. Respondent Atty. Virgilio Garcia was later on appointed as attorney-in-fact of the Donee, his brother-in-law Gregorio, who upon acquiring title in his name over the property, authorized respondent Atty. Virgilio Garcia to administer the property, and, later by a second special power of attorney, to sell the property.
  4. The PNP Crime Laboratory's Questioned Document Report No. 128-96 certified that the questioned signature in the Deed of Donation and the standard signatures of the late Cesar B. Flores **"WERE NOT WRITTEN BY ONE AND THE SAME PERSON."**
  5. Under date of October 1, 1999, the Regional Trial court of Pasig, Branch 71, in Civil Case No. 65883 entitled "Heirs of Cesar Flores, et al. vs. Gregorio Flores, et al.," an action brought to nullify the Deed of Donation, rendered its decision [declaring the deed of donation falsified and hence, null and void] xxx."

Notwithstanding his findings, investigating commissioner Victor V. Fernandez recommended the dismissal of the charges. However, the Board of Governors, Integrated Bar of the Philippines, in Resolution No. XIV-2001-272, dated June 30, 2001 recommended the suspension of Atty. Virgilio G. Garcia from the practice of law for two (2) years.<sup>[3]</sup>

We find the facts narrated above to be fully supported by the evidence. However, the penalty recommended is not acceptable. Respondent's conduct warrants his severance from the legal profession for life.

Act 2103, Section 1<sup>[4]</sup> provides that a notary public "shall certify that the person acknowledging the instrument or document is known to him and that he is the same person who executed it, and acknowledged that the same is his free act and deed." Respondent submitted that the deed of donation is authentic. He assisted his father-in-law, the donor, in executing the same. By notarizing the document, he likewise acknowledged that the signature therein is the donor's true signature.

The evidence revealed the contrary. After examining several specimen signatures, the PNP Crime Laboratory, Questioned Documents Section,<sup>[5]</sup> found that the signature in the deed of donation is different from the usual signature of the donor, Cesar Flores.

Respondent as notary did not submit a copy of the notarized deed of donation to the Office of the Clerk of Court, Pasig City,<sup>[6]</sup> as required. His explanation that his "secretary at the time could have misplaced it inadvertently as it was she who has