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Castro, C.J., Fernando, Teehankee, Barredo, Makasiar, Antonio, Muñoz Palma, Aquino, and *Martin, JJ.*, concur.

Concepcion, Jr., J., is on leave.

SECOND DIVISION

[A.C. No. 1637. July 6, 1976]

***IN RE:* ATTY. RUFILLO D. BUCANA,** *respondent.*

SYLLABUS

1. **CIVIL LAW; PERSONS AND FAMILY RELATIONS; MARRIAGE, NATURE OF.** — Marriage is an inviolable social institution in the maintenance of which in its purity the public is deeply interested, for it is the foundation of the family and of society, without which there could be neither civilization nor progress.

2. **ID.; ID.; ID.; CONTRACT THAT INDUCES BIGAMY IS NOT ONLY IMMORAL BUT IN EFFECT ABETS COMMISSION OF CRIME.** — Where the contract, in substance, purports to formulate an agreement between the husband and the wife to take unto himself a concubine and the wife to live in adulterous relations with another man without opposition from either one, induces each party to commit bigamy, the same is not only immoral but in effect abets the commission of a crime.

3. **REMEDIAL LAW; NOTARY PUBLIC; NATURE AND DUTY OF OFFICE.** — A notary public, by virtue of the nature of his office, is required to exercise his duties with due care and with due regard to the provision of existing law. It is for the notary to inform himself of the facts to which he intends to certify, and to take in no illegal enterprise.

4. **ID.; ID.; DUAL RESPONSIBILITY OF NOTARY PUBLIC.** — The notary public is usually a person who has been admitted to the practice of law, and as such, in the commingling of his duties

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as notary and lawyer, must be held responsible for both. A member of the bar who as a notary public, performs an act of a disgraceful or immoral character may be held to account by the court even to the extent of disbarment.

RESOLUTION

ANTONIO, *J.:*

Acting upon the letter of Mrs. Angela Drilon Baltazar, Barangay Captain of Victorias, Dumangas, Iloilo, dated February 26, 1976, respondent Notary Public Rufillo D. Bucana was required by this Court in its Resolution of March 23, 1976, to show cause within ten (10) days from notice, why he should not be disciplinarily dealt with for having notarized on November 10, 1975 at Dumangas, Iloilo an Agreement executed by the spouses Gonzalo Baltazar and Luisa Sorongon wherein the afore-mentioned spouses agreed therein that "in case anyone of them will remarry both parties offer no objection and waive all civil and criminal actions against them" and that the afore-mentioned Agreement was "entered into for the purpose of agreement to allow each and everyone of them to remarry without objection or reservation ***," which affidavit is contrary to law because it sanctions an illicit and immoral purpose.

On April 21, 1976, respondent submitted his explanation, admitting that he notarized the afore-mentioned document and that the Agreement is "immoral and against public policy," but in mitigation he asserted that the document in question was prepared by his clerk, Lucia D. Doctolero without his previous knowledge; that when said document was presented to him for signature after it was signed by the parties, he vehemently refused to sign it and informed the parties that the document was immoral; that he placed the said document on his table among his files and more than a week later, he asked his clerk where the document was for the purpose of destroying it, but to his surprise he found that the same was notarized by him as per his file copies in the office; that he dispatched his clerk to get the copy from the parties, but the afore-mentioned parties could not be found in their respective residences; that he must

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have inadvertently notarized the same in view of the numerous documents on his table and at that time he was emotionally disturbed as his father (now deceased) was then seriously ill. The foregoing contentions of respondent were corroborated substantially by the separate sworn statements of his clerk, Lucia D. Doctolero and Angela Drilon Baltazar, both dated April 20, 1976.[1]

There is no question that the afore-mentioned Agreement is contrary to law, morals and good customs. Marriage is an inviolable social institution, in the maintenance of which in its purity the public is deeply interested for it is the foundation of the family and of society, without which there could be neither civilization nor progress.[2]

The contract, in substance, purports to formulate an agreement between the husband and the wife to take unto himself a concubine and the wife to live in adulterous relations with another man, without opposition from either one, and what is more, it induces each party to commit bigamy.[3] This is not only immoral but in effect abets the commission of a crime. A notary public, by virtue of the nature of his office, is required to exercise his duties with due care and with due regard to the provisions of existing law.

As stressed by Justice Malcolm in *Panganiban v. Borromeo*,[4] "it is for the notary to inform himself of the facts to which he intends to certify, and to take part in no illegal enterprise. The notary public is usually a person who has been admitted to the practice of law, and as such, in the commingling of his duties as notary and lawyer, must be held responsible for both. We are led to hold that a member of the bar who performs an act as a notary public of a disgraceful or immoral character may be held to account by the court even to the extent of disbarment."

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[1] Annexes "A" and "B".

[2] *Ramirez v. Gmur*, 42 Phil. 855.

[3] *Panganiban v. Borromeo*, 58 Phil. 367; *Biton v. Momongan*, 62 Phil. 7.

[4] 58 Phil. 367, 369.

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In the case at bar, respondent in effect pleads for clemency, claiming that the notarization of the questioned document was due to his negligence. We find, however, that the afore-mentioned document could not have been notarized if the respondent had only exercised the requisite care required by law in the exercise of his duties as notary public.

WHEREFORE, We hold that respondent Rufillo D. Bucana is guilty of malpractice and is hereby suspended from the office of notary public for a period of six (6) months, with the admonition that a repetition of the same or a similar act in the future will be dealt with more severely.

Fernando (Chairman), Barredo, Aquino, and *Martin, JJ.*, concur.

Concepcion, Jr., J., is on leave.

Martin, J., was designated to sit in the Second Division.

SECOND DIVISION

[G.R. No. L-27472. July 6, 1976]

THE AMERICAN INSURANCE COMPANY OF NEWARK, *plaintiff-appellant, vs.* **MANILA PORT SERVICE and/or MANILA RAILROAD COMPANY,** *defendants-appellees.*

SYLLABUS

1. COMMERCIAL LAW; ARRASTRE SERVICE; PROVISIONAL CLAIM NOT SUBSTANTIAL COMPLIANCE OF PARAGRAPH 15 OF THE MANAGEMENT CONTRACT. — A provisional claim filed before the delivery of the cargo in anticipation of any possible loss or damage while the cargo is in the arrastre