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FIRST DIVISION

[A.C. No. 13054; November 23, 2021]
(Formerly CBD Case No. 07-2039)

JOSEPHINE R. ONG, *Complainant*, *v.* **ATTY. SALVADOR M. BIJIS,** *Respondent*.

D E C I S I O N

CAGUIOA, *J.*:

Complainant Josephine R. Ong (Ong) filed this disbarment complaint[1] against respondent Atty. Salvador M. Bijis[2] (Atty. Bijis) for notarizing two (2) Special Powers of Attorney[3] (SPA) and a real estate mortgage,[4] despite some signatories thereto being long dead.

The Case

Ong alleged that sometime in February 2006, Mary Ann Canlas (Canlas), Teresita A. Puntual (Puntual), and Ma. Salome A. Dacuycuy (Dacuycuy) came to her house, representing to have been commissioned by the registered owners of two (2) parcels of land located in Toril and Tamayong, Davao City to look for a creditor to whom said parcels of land could be mortgaged.[5] Canlas, Puntual, and Dacuycuy were armed with two (2) SPAs, to wit:

1. SPA executed by Catalino C. Sayon (Sayon) and his wife, Donata Cajes Sayon (Donata) authorizing Puntual to sell, mortgage, or lease their property covered by Transfer

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[1] *Rollo*, pp. 1-5

[2] Also Atty. Salvador B. Bijis in some parts of the *rollo*.

[3] *Rollo*, pp. 6 and 9.

[4] Id. at 14-15.

[5] Id. at 1-2.

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Certificate of Title (TCT) No. T-110914 located in Toril, Davao City.[6]

2. SPA executed by Simeon Enoch[7] (Enoch) and his wife, Felisa N. Enoch authorizing Dacuycuy to sell, mortgage, or lease their property covered by TCT No. P-14048 located in Tamayong, Calinan District, Davao City.[8]

Canlas, Puntual, and Dacuycuy also showed Ong the owner's duplicate copies of the TCTs of the subject parcels of land.[9]

According to Ong, Canlas, Puntual, and Dacuycuy convinced her to lend money to the purported registered owners, promising that it would be paid on time and that they would facilitate the processing of all the legal documentation required in the real estate mortgage. Convinced by all their representations, Ong gave Canlas, Puntual, and Dacuycuy cash in the amount of ₱50,000.00 and a check in the amount of ₱45,000.00. In return, they gave Ong the original copies of the titles and asked her to sign two (2) documents both denominated as real estate mortgages. It was allegedly agreed upon that the loan would be paid within six (6) months at 10% interest.[10]

A few days later, Canlas, Puntual, and Dacuycuy came back to Ong's house and gave her the notarized copies of the real estate mortgages she previously signed. It was Atty. Bijis who notarized the SPAs and the real estate mortgage purportedly executed by Enoch.[11]

Since then, however, no monthly payments were ever made, despite the repeated promises of Canlas, Puntual, and Dacuycuy.[12]

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[6] Id. at 6.

[7] Also Simon Enoch in some parts of the *rollo*.

[8] *Rollo*, p. 9.

[9] Id. at 1.

[10] Id. at 2.

[11] Id. at 2-3.

[12] Id. at 2.

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Sometime in February 2007, Ong decided to locate the registered owners of the subject properties in order to demand the payment of their loans. It was then that she learned from the relatives, neighbors, and barangay officials that the registered owners, Sayon and his wife, and Enoch, were already dead long before the execution of the SPAs and the real estate mortgage.[13]

In his Answer[14] to the complaint, Atty. Bijis admitted notarizing the documents, but maintained that the parties who appeared before him acknowledged that they were the same persons whose signatures appeared in said documents. He averred that their presence and residence certificates, as well as the certificates of title of the properties which they showed him, were his reasons for notarizing the documents. In other words, it was his conclusion that those who appeared before him for notarization merely posed as the true landowners of the subject properties.[15]

Atty. Bijis also claimed that this is his first unfortunate experience in his 35 years of legal practice.[16]

The IBP Proceedings

None of the parties appeared before the Integrated Bar of the Philippines-Commission on Bar Discipline (IBP-CBD) for mandatory conference, which was consequently deemed terminated.[17] The parties were thereafter directed to submit their respective position papers, but only Atty. Bijis was able to file his.[18]

In her Report and Recommendation[19] dated October 31, 2019, the Investigating Commissioner of the IBP-CBD recommended to

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[13] Id. at 2-3.

[14] Id. at 23-25.

[15] Id. at 23-24.

[16] Id. at 24.

[17] Id. at 87.

[18] Id. at 88-89.

[19] Id. at 105-107.

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revoke the notarial commission of Atty. Bijis and to suspend him from being a notary public for two (2) years.

The Investigating Commissioner held that the fact that the parties who appeared before Atty. Bijis were mere impostors is not a defense because it was precisely the reason why notaries public should be vigilant in their duties. The physical presence of the affiant ensures the proper execution of the duty of the notary public under the law to determine whether the affiant's signature was voluntarily affixed. The Notarial Rules demands the submission of competent evidence of identity, such as an identification card with photograph and signature. This requirement can only be dispensed with if the notary public personally knows the affiant. Atty. Bijis, in this case, admitted that he does not personally know the parties.[20]

The Board of Governors of the IBP (IBP-BOG), in its Resolution[21] dated February 28, 2020, resolved to approve and adopt with modification the findings of fact and recommendation of the Investigating Commissioner. The IBP-BOG found the recommendation fully supported by the evidence on record and the applicable rules and jurisprudence. At the same time, it also found Atty. Bijis honest in his admissions and appreciated in his favor the fact that this was his first offense. Thus, the IBP-BOG adopted the recommendation of the Investigating Commissioner to revoke the notarial commission of Atty. Bijis immediately, and to disqualify him from being appointed as notary public for two (2) years. The IBP-BOG further recommended that Atty. Bijis be suspended from the practice of law for six (6) months.[22]

The Issue Before the Court

The sole issue here is whether the IBP correctly found Atty. Bijis administratively liable for violation of the 2004 Rules on Notarial Practice (Notarial Rules).

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[20] Id. at 106.

[21] Id. at 103-104.

[22] Id. at 103.

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The Court's Ruling

The Court affirms the findings and recommendation of the IBP-BOG.

The importance of the affiant's personal appearance and the notary public's examination of said affiant's competent evidence of identity when a document is notarized is underscored by the following relevant provisions under the Notarial Rules:

[Section 1, Rule II:]

SECTION 1. *Acknowledgment*. - "Acknowledgment" refers to an act in which an individual on a single occasion:

(a) appears in person before the notary public and presents an integrally complete instrument or document;

(b) is attested to be personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules; and

(c) represents to the notary public that the signature on the instrument or document was voluntarily affixed by him for the purposes stated in the instrument or document, declares that he has executed the instrument or document as his free and voluntary act and deed, and, if he acts in a particular representative capacity, that he has the authority to sign in that capacity.

x x x x

[Section 2(b), Rule IV:]

SECTION 2. *Prohibitions*. — x x x

x x x x

(b) A person shall **not** perform a notarial act if the person involved as signatory to the instrument or document —

(1) is **not** in the notary's presence personally at the time of the notarization; and

(2) is **not** personally known to the notary public **or otherwise identified** by the notary public through competent evidence of identity as defined by these Rules. (Emphasis supplied)

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Furthermore, prior to the amendment of Section 12, Rule II of the Notarial Rules in 2008,[23] competent evidence of identity is defined as follows:

> SECTION 12. *Competent Evidence of Identity*. — The phrase "competent evidence of identity" refers to the identification of an individual based on:
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> (a) **at least one current identification document issued by an official agency bearing the photograph and signature of the individual**; or
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> (b) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification. (Emphasis and underscoring supplied)

Atty. Bijis had clearly been negligent in his duties as a notary public, as laid down in the above provisions of the Notarial Rules.

First, it bears emphasis that Atty. Bijis admitted that he did not personally know any of the persons whose names appeared in the

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[23] A.M. No. 02-8-13-SC, amending Sec. 12 (a), Rule II of the 2004 Rules on Notarial Practice, provides.

> "Sec. 12. *Competent Evidence of Identity*. — The phrase 'competent evidence of identity' refers to the identification of an individual based on:
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> (a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, PhilHealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification[."]

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subject documents and who purportedly appeared before him in person at the time of notarization.[24] This being the case, it was incumbent upon Atty. Bijis to be more circumspect in verifying their identity through competent evidence, in accordance with the Notarial Rules. Proceeding from Section 12, Rule II of the Notarial Rules above, the "competent evidence of identity" required under the facts of this case refers to the identification of an individual based on **at least one current identification document issued by an official agency bearing the photograph and signature of the individual**. Here, however, the purported affiants of the SPAs and the real estate mortgage only presented their community tax certificates. This should have caught the attention of Atty. Bijis. The Court has long since disregarded a community tax certificate or a *cedula* as a valid and competent evidence of identity because it does not bear the photograph and signature of the individual, which the Notarial Rules deem as the more appropriate and competent means by which notaries public can ascertain the person's identity.[25]

The Court has also been consistently wary of the ease with which community tax certificates are obtained these days. In *Baylon v. Almo*,[26] the Court noted that as a matter of fact, recognizing the established unreliability of a community tax certificate in proving the identity of a person who wishes to have his or her document notarized, the Court did not include it in the list of competent evidence of identity that notaries public should use in ascertaining the identity of persons appearing before them to have their documents notarized in Section 12, Rule II of the Notarial Rules.[27] Subsequently, in 2008, when Section 12, Rule II was amended, the Court took pains to provide particular examples of what a "current identification document issued by an official agency bearing the photograph and signature of the individual" may be:

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[24] *Rollo*, pp. 23-24.

[25] See *Dandoy v. Edayan*, 832 Phil. 132, 140 (2018).

[26] A.C. No. 6962, June 25, 2008, 555 SCRA 248.

[27] Id. at 253.

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x x x such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, PhilHealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disabled Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification[.][28]

Indeed, in this case, the serious consequence of the absence of a competent evidence of identity is indubitable. Records show that the registered owners of the subject properties, Sayon, Donata, and Enoch, already passed away in 1984, 1994, and 1993, respectively. Clearly, therefore, they could not have appeared before Atty. Bijis to sign and execute the subject documents in 2006. To this, Atty. Bijis merely proffered the flimsy defense that the parties who appeared before him for notarization must have pretended to be the deceased affiants. For such pretenses, Atty. Bijis maintained, he should not be held liable.

Atty. Bijis' argument fails to persuade.

Had Atty. Bijis been more conscientious in performing his duties as notary public and asked for their photograph-and-signature bearing identification documents required by the Notarial Rules, he would have immediately discovered that the persons before him were not who they represented to be.[29] By accepting the residence certificates presented by the persons who claimed to be Sayon, Donata, Enoch as evidence of identity, Atty. Bijis made it appear that they personally appeared before him and subscribed the SPAs and the real estate mortgage, in violation of the Notarial Rules and to the detriment of Ong.[30]

In the same vein, Ong, as a party or signatory to the real estate mortgage, did not personally appear before Atty. Bijis upon the

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[28] Supra note 23.

[29] See *Dandoy v. Edayan*, supra note 25, at 140.

[30] See id. at 140-141.

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notarization of said document. Ong alleged that Canlas, Puntual, and Dacuycuy convinced her to sign two instruments both denominated as real estate mortgages. Atty. Bijis notarized one of these, particularly the one with Enoch as the mortgagor,[31] and was returned to Ong. Significantly, based on this account, Ong's signature would have already been extant on the real estate mortgage at the time of notarization. Atty. Bijis, in fact, glaringly did not claim that the persons who appeared before him for notarization signed the instruments in his presence. If it was true that someone also pretended to be Ong, that impostor would have forged her signature in Atty. Bijis' presence. As it was, however, Ong did not dispute that her signature in the real estate mortgage was forged. The inescapable conclusion, therefore, is that the document was, in reality, pre-signed. This, in itself, is a deviation from the Notarial Rules. It is the duty of notaries public to demand that the document presented to them for notarization be signed in their presence, precisely to guard against illegal deeds.[32]

Proceeding from the foregoing, Atty. Bijis should be held administratively liable, not only as a notary public, but also as a lawyer.

Our jurisprudence is replete with cases emphasizing on the importance attached to the act of notarization. It is not an empty and meaningless act, or one done by rote. Rather, it is invested with substantive public interest because it converts a private document into a public document and thus makes that document admissible in evidence without further proof of its authenticity. The law thereby accords a notarized document full faith and credit upon its face. Courts, administrative agencies and the public at large must be able to rely upon the acknowledgment executed by a notary public and appended to a private instrument.[33]

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[31] *Rollo*, pp. 14-15.

[32] See *Coquia v. Laforteza*, A.C. No. 9364 (Formerly CBD Case No. 13-3696), February 8, 2017, 817 SCRA 129, 142.

[33] See *Vda. de Rosales v. Ramos*, A.C. No. 5645, July 2, 2002, 383 SCRA 498, 504.

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As such, notaries public are enjoined to observe with utmost care the basic requirements in the performance of their duties; otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.[34] It is therefore sacrosanct that a notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him or her to attest to the contents and truth of what are stated therein. The purpose of this requirement is to enable the notary public to verify the genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act and deed.[35]

At the same time, notaries public who violate the Notarial Rules also fail to adhere to Canon 1 of the Code of Professional Responsibility (CPR), which requires every lawyer to uphold the Constitution, obey the laws of the land, and promote respect for the law and legal processes. They also violate Rule 1.01 of the CPR which proscribes a lawyer from engaging in any unlawful, dishonest, immoral, and deceitful conduct.[36] Verily, a notary public who fails to discharge his or her duties as such is meted the following penalties: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law—the terms of which vary based on the circumstances of each case.[37]

Based on recent jurisprudence, a lawyer commissioned as a notary public who fails to discharge his or her duties as such is penalized with revocation of his or her notarial commission and disqualification from being commissioned as a notary public for a period of two (2) years. In addition, he or she may also be suspended from the practice of law for a period of six (6)

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[34] See *Roa-Buenafe v. Lirazan*, A.C. No. 9361, March 20, 2019, 897 SCRA 449, 456-457.

[35] See *Vda. de Rosales v. Ramos*, supra note 33, at 505.

[36] See *Ko v. Uy-Lampasa*, A.C. No. 11584 (Formerly CBD Case No. 12-3604), March 6, 2019, 895 SCRA 75, 91.

[37] See *Bakidol v. Bilog*, AC No. 11174, June 10, 2019 (Unsigned Resolution), citing *Sappayani v. Gasmen*, 768 Phil. 1, 9 (2015).

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months for notarizing a document without the appearance of the parties.[38] Thus, the Court affirms the penalty imposed by the IBP-BOG against Atty. Bijis.

WHEREFORE, finding Atty. Salvador M. Bijis **GUILTY** of violating the 2004 Rules on Notarial Practice and Rule 1.01 and Canon 1 of the Code of Professional Responsibility, the Court hereby **SUSPENDS** him from the practice of law for six (6) months from the receipt of this Decision; **REVOKES** his notarial commission; and **PROHIBITS** him from being commissioned as a notary public for two (2) years, effective immediately. He is further **WARNED** that a repetition of the same or similar offense shall be dealt with more severely. Atty. Bijis is also **DIRECTED** to file a manifestation that his suspension has started.

Let copies of this Decision be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Court Administrator for circulation to all the courts.

SO ORDERED.

Gesmundo, C.J. (Chairperson), Lazaro-Javier, and *J. Lopez, JJ.*, concur.

M. Lopez, J., on wellness leave.

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[38] See *Ko v. Uy-Lampasa*, supra note 36, at 91.