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just disposition of his cause, freed from the constraints of technicalities. More so must this be in criminal cases where, as here, the appellant is an indigent who could ill-afford the services of a counsel *de parte.*

WHEREFORE, we *GRANT* the petition. We *SET ASIDE* the Resolutions dated 22 September 2006 and 6 February 2007 of the Court of Appeals. We order the Court of Appeals to *REINSTATE* petitioner's appeal in CA-G.R. CR-HC No. 00071 entitled "*People of the Philippines v. Niño Jesson Masas y Milan.*" Petitioner shall file his appellant's brief in the Court of Appeals within a non-extendible period of fifteen days from receipt of this Resolution.

SO ORDERED.

Quisumbing (Chairperson), Carpio Morales, Tinga, and *Velasco, Jr., JJ.,* concur.

THIRD DIVISION

[A.C. No. 5510. December 20, 2007]

SAJID D. AGAGON, *complainant, vs.* **ATTY. ARTEMIO F. BUSTAMANTE,** *respondent.*

SYLLABUS

1. LEGAL ETHICS; NOTARY PUBLIC; FAILURE TO INCLUDE COPY OF THE DEED OF SALE IN NOTARIAL REPORT AND FAILURE TO REQUIRE PARTIES THEREIN TO EXHIBIT THEIR COMMUNITY TAX CERTIFICATES ARE VIOLATIONS OF THE CODE OF PROFESSIONAL

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RESPONSIBILITY AND THE NOTIARIAL LAW.— There is no doubt that respondent violated the Code of Professional Responsibility and the Notarial Law when he failed to include a copy of the Deed of Sale in his Notarial Report and for failing to require the parties to the deed to exhibit their respective community tax certificates. Doubts were cast as to the existence and due execution of the subject deed, thus undermining the integrity and sanctity of the notarization process and diminishing public confidence in notarial documents since the subject deed was introduced as an annex to the Affidavit of Title/Right of Possession of Third Party Claimant relative to NLRC Case No. RAB-CAR-12-0672-00. Canon 1 of the Code of Professional Responsibility requires every lawyer to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes. Moreover, the Notarial Law and the 2004 Rules on Notarial Practice require a duly commissioned notary public to make the proper entries in his Notarial Register and to refrain from committing any dereliction or act which constitutes good cause for the revocation of commission or imposition of administrative sanction. Unfortunately, respondent failed in both respects.

2. ID.; ID.; IMPORTANCE OF NOTARIZATION OF DOCUMENTS, EMPHASIZED.— A notary public is empowered to perform a variety of notarial acts, most common of which are the acknowledgment and affirmation of a document or instrument. In the performance of such notarial acts, the notary public must be mindful of the significance of the notarial seal as affixed on a document. The notarial seal converts the document from private to public, after which it may be presented as evidence without need for proof of its genuineness and due execution. Thus, notarization should not be treated as an empty, meaningless, or routinary act. As early as *Panganiban v. Borromeo*, we held that notaries public must inform themselves of the facts which they intend to certify and to take no part in illegal transactions. They must guard against any illegal or immoral arrangements. It cannot be overemphasized that notarization of documents is not an empty, meaningless or routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. It is through the act of notarization that a private document is converted into a public one, making it

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admissible in evidence without need of preliminary proof of authenticity and due execution. Indeed, a notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe utmost care in complying with the elementary formalities in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.

D E C I S I O N

YNARES-SANTIAGO, *J.*:

Complainant Sajid D. Agagon filed the instant administrative case against respondent Atty. Artemio Bustamante charging the latter with malpractice and violation of the lawyer's oath. Complainant alleged that respondent acted as Notary Public to the "Deed of Sale" allegedly executed by and between Dominador Panglao and Alessandro Panglao. However, upon verification with the Office of the Clerk of Court of the Regional Trial Court of Baguio City, it was discovered that the alleged Deed of Sale was not included in the notarial report. Instead, Doc. No. 375 appearing on Page 76 of Book XXXIII, Series of 2000 of respondent Atty. Bustamante referred to an Affidavit executed by a certain Teofilo M. Malapit. Moreover, the Community Tax Certificates used by the parties in the Deed of Sale were fictitious, as certified to by the City Treasurer's Office.

In his Comment, respondent admitted that he was the one who prepared the Deed of Sale. However, he claimed that the parties merely dictated to him their Community Tax Certificate Numbers; that he inadvertently failed to include the Deed of Sale in the report submitted to the Office of the Clerk of Court; that it was pure inadvertence that the document that was reported and included in the report to the Office of the Clerk of Court and which bore the document number assigned to the Deed of Sale was an Affidavit executed by Teofilo Malapit.

The case was referred to the Integrated Bar of the Philippines for investigation, report and recommendation.

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In the Report and Recommendation of Investigating Commissioner Dennis A.B. Funa, the following findings were made:

On May 11, 2001, Jofie S. Agagon, wife of herein Complainant, won in a labor case docketed as NLRC Case No. RAB-CAR-12-0672 against Dominador Panglao. Dominador Panglao owned and operated a meatshop. The decision in said case became final and executory. A writ of execution was issued on July 13, 2001. In the meantime, the meatshop business owned by Dominador Panglao was sold and transferred to Alessandro Panglao. The meatshop was now called Sandro's Meatshop. Upon service of the writ, Alessandro Panglao, owner of Sandro's Meatshop, verbally requested from the sheriff to temporarily withhold the service of the writ with the promise that "they will satisfy the judgment in cash". Subsequently, Alessandro Panglao offered ₱10,000 as "settlement" which was promptly rejected by Jofie Agagon for being "way below the amount duly awarded by the NLRC". Hence, on August 20, 2001, a levy was made on certain properties upon the issuance of an alias writ of execution.

Sometime in the last week of August, Alessandro Panglao, through his lawyer, herein Respondent, filed before the NLRC in NLRC Case No. RAB-CAR-12-0672 an "*Affidavit of Title/Right of Possession of Third Party Claimant*" claiming that the levied properties were sold to him by Dominador Panglao and that the same are exempt from levy. Alessandro Panglao desired to establish himself as a third party to the case since the respondent in the labor case was Dominador Panglao, as owner of his own meatshop before it was sold. **Attached to this Affidavit is a supposed Deed of Sale dated October 6, 2000 executed by Dominador Panglao and Alessandro Panglao and notarized by herein Respondent**. The Deed of Sale has the notarial series of: Doc. No. 375, Page No. 76, Book No. XXXIII, Series of 2000.

In a bid to verify the authenticity of the Deed of Sale, Complainant verified with the Office of the Clerk of Court, RTC, Baguio City on September 4, 2001 that said Deed of Sale does not appear in Respondent's Notarial Reports and, in fact, **a different document** corresponds with the aforesaid notarial entries. Complainant submits a Certificate to this effect.

Moreover, on September 13, 2001, a check with the Baguio City Treasurer's Office showed that the supposed Community Tax

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Certificate (CTC) numbers of the two affiants in the Deed of Sale were, in fact, never issued to either of the two affiants. CTC No. 00856509 was not at all issued by Baguio City although it is what is stated in the Deed of Sale; while CTC No. 01276192 was issued to a certain Edilberto Bautista not to Alessandro Panglao.

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Based on the foregoing, the Investigating Commissioner recommended that:

Respondent will have to be held accountable for GROSS NEGLIGENCE as a Notary Public. While there is no basis to say that falsification was committed, Respondent's negligence constitutes in the a) notarization of a document where the affiants have no valid and existing CTCs; and b) failure to include the Deed of Sale in his Notarial Reports.

That such facts did occur are beyond dispute. The only question that remains is whether Respondent's excuses can be accepted as satisfactory that would thus classify his acts as "excusable negligence." There is nothing on record that can excuse Respondent or that can justify his lapses. That the Respondent did not ask to see the CTC of the affiants and that the affiants simply dictated to him their CTC numbers out of memory is an unacceptable excuse and explanation. This is gross negligence. In fact, it is funny. How many people in this country can recite their CTC numbers from memory? Besides, how many people would spend their time memorizing their CTC number? And yet, Respondent accepted this suspicious behavior without question. This is not to say that no person in this world would want to memorize their CTC number. Only that such an exceptional circumstance should have raised Respondent's suspicions. As it turned out, the CTC numbers were merely plucked out of thin air by the affiants. In other words, Respondent was fooled by his own clients.

Respondent's failure to include the Deed of Sale in his notarial report is another act of gross negligence. This negligence is highlighted by the fact that said Deed of Sale was subsequently introduced into a quasi-judicial proceeding when it was attached to Alessandro Panglao's "*Affidavit of Title/Right of Possession of Third Party Claimant*". Its non-inclusion in the notarial report is inexcusable

[1] Citations omitted.

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and for which only the lawyer himself, and not his secretary, should be held to account.

The combination of these circumstances casts justified doubts upon the due execution and notarization of the Deed of Sale.

Accordingly, Respondent should be held guilty of **GROSS NEGLIGENCE** as a Notary Public.

For the foregoing infractions, the Investigating Commissioner recommended that respondent be reprimanded for violating the Code of Professional Responsibility and his notarial commission suspended for one (1) year.

The Board of Governors of the IBP adopted the findings of the Investigating Commissioner but modified the recommended penalty to suspension from the practice of law for one (1) year and revocation and suspension of respondent's notarial commission for two (2) years.

We adopt the findings of the IBP. However, we find the penalty of suspension from the practice of law for six (6) months and revocation and suspension of respondent's notarial commission for one (1) year more appropriate under the circumstances.

There is no doubt that respondent violated the Code of Professional Responsibility and the Notarial Law when he failed to include a copy of the Deed of Sale in his Notarial Report and for failing to require the parties to the deed to exhibit their respective community tax certificates. Doubts were cast as to the existence and due execution of the subject deed, thus undermining the integrity and sanctity of the notarization process and diminishing public confidence in notarial documents[2] since the subject deed was introduced as an annex to the Affidavit of Title/Right of Possession of Third Party Claimant relative to NLRC Case No. RAB-CAR-12-0672-00.

A notary public is empowered to perform a variety of notarial acts, most common of which are the acknowledgment and affirmation of a document or instrument. In the performance

[2] See *Heirs of the Late Spouses Lucas v. Atty. Beradio*, A.C. No. 6270, January 22, 2007.

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of such notarial acts, the notary public must be mindful of the significance of the notarial seal as affixed on a document. The notarial seal converts the document from private to public, after which it may be presented as evidence without need for proof of its genuineness and due execution. Thus, notarization should not be treated as an empty, meaningless, or routinary act. As early as *Panganiban v. Borromeo*, we held that notaries public must inform themselves of the facts which they intend to certify and to take no part in illegal transactions. They must guard against any illegal or immoral arrangements.[3]

It cannot be overemphasized that notarization of documents is not an empty, meaningless or routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. It is through the act of notarization that a private document is converted into a public one, making it admissible in evidence without need of preliminary proof of authenticity and due execution. Indeed, a notarial document is by law entitled to full faith and credit upon its face, and for this reason, notaries public must observe utmost care in complying with the elementary formalities in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.[4]

Canon 1 of the Code of Professional Responsibility requires every lawyer to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes. Moreover, the Notarial Law and the 2004 Rules on Notarial Practice [5] require a duly commissioned notary public to make the proper entries in his Notarial Register and to refrain from committing any dereliction or act which constitutes good cause for the revocation of commission or imposition of administrative sanction. Unfortunately, respondent failed in both respects.

WHEREFORE, respondent Atty. Artemio Bustamante is *GUILTY* of violating the Notarial Law, the 2004 Rules on Notarial

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[3] *Id*.

[4] *Pantoja-Mumar v. Atty. Flores*, A.C. No. 5426, April 4, 2007.

[5] A.M. No. 02-8-13-SC.

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Practice and the Code of Professional Responsibility. His notarial commission, if still existing, is hereby *REVOKED*, and he is *DISQUALIFIED* from reappointment as Notary Public for a period of one (1) year. He is, likewise, *SUSPENDED* from the practice of law for six (6) months effective immediately. He is *DIRECTED* to report the date of his receipt of this Decision to enable this Court to determine when his suspension shall take effect.

Let copies of this decision be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as member of the Bar. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.

Austria-Martinez, Chico-Nazario, Nachura, and *Reyes, JJ.*, concur.

EN BANC

[G.R. No. 164641. December 20, 2007]

BANK OF THE PHILIPPINE ISLANDS, as successor of Far East Bank and Trust Company, *petitioner, vs.* **SECURITIES AND EXCHANGE COMMISSION, REHABILITATION RECEIVER, ASB HOLDINGS, INC., ASB DEVELOPMENT CORPORATION, ASB LAND, INC., ASB FINANCE, INC., MAKATI HOPE CHRISTIAN SCHOOL, INC., BEL-AIR HOLDINGS CORP., WINCHESTER TRADING, INC., VYL DEVELOPMENT CORP., GERRICK HOLDINGS CORP., NEIGHBORHOOD HOLDINGS, INC., and THE COURT OF APPEALS,** *respondents.*