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[A. C. No. 4738. February 6, 2002]

VIOLETA FLORES ALITAGTAG, *complainant, vs.* **ATTY. VIRGILIO R. GARCIA,** *respondent.*

SYNOPSIS

In this case, respondent lawyer was found guilty of grave misconduct and was disbarred for having notarized the falsified deed of donation of his father-in-law. The Supreme Court held that a notary who acknowledged a document that was a forgery destroys the integrity and dignity of the legal profession and does not deserve to continue as a member of the bar.

SYLLABUS

1. **LEGAL ETHICS; ATTORNEYS; DISBARMENT; GRAVE MISCONDUCT; NOTARIZING A FORGED OR FALSIFIED DOCUMENT, A CASE OF.**— Act 2103, Section 1 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, found that the signature in the deed of donation is different from the usual signature of the donor, Cesar Flores. . . . A notary who acknowledged a document that was a forgery destroys the integrity and dignity of the legal profession. He does not deserve to continue as member of the bar. . . . [W]e find respondent *VIRGILIO R. GARCIA* guilty of grave misconduct rendering him unworthy of continuing membership in the legal profession. We order him *DISBARRED* from the practice of law and his name stricken off the Roll of Attorneys, effective immediately.

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2. **ID.; NOTARIAL LAW; REQUIREMENT TO SUBMIT NOTARIZED DOCUMENT TO THE OFFICE OF THE CLERK OF COURT, NOT COMPLIED WITH IN CASE AT BAR.**— Respondent as notary did not submit a copy of the notarized deed of donation to the Office of the Clerk of Court, Pasig City, as required. His explanation that his "secretary at the time could have misplaced it inadvertently as it was she who has the responsibility of reporting [his] notarial documents, or [his] father-in-law could have kept all the copies forgetting to give [him] a copy" is trivial and deserves scant consideration. As a notary public, he is required to keep a copy of the documents he notarized and he cannot impose this obligation to his subordinates, much less to his clients.

3. **ID.; NOTARIES PUBLIC; LAWYERS, WITH GRAVER RESPONSIBILITIES TO OBEY THE LAWS AND DO NO FALSEHOOD.**— "Where the notary public is a lawyer, a graver responsibility is placed upon his shoulder by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any." In *Maligsa v. Cabanting*, we held, thus: "As a lawyer commissioned as notary public, respondent is mandated to subscribe to the sacred duties appreciating to his office, such duties being dictated by public policy impressed with public interest. Faithful observance and utmost respect of the legal solemnity of the oath in an acknowledgment of *jurat* is sacrosanct. Simply put, such responsibility is incumbent upon and failing therein, he must now accept the commensurate consequences of his professional indiscretion. By his effrontery of notarizing a fictitious or spurious document, he has made a mockery of the legal solemnity of the oath in an *Acknowledgment*." In the case at bar, respondent violated his solemn oath as a lawyer not to engage in unlawful, dishonest or deceitful conduct.

APPEARANCES OF COUNSEL

The Law Firm of Ingles Laurel Salinas for complainant.
Malaya Sanchez Francisco Anover and Anover for respondent.

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RESOLUTION

***PER CURIAM*:**

Now before us is a petition for disbarment[1] 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,[2] 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;

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[1] *Rollo*, pp. 1-3.

[2] *Rollo*, pp. 90, *et seq.*

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(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.[3]

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[4] 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

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[3] *Ibid.*

[4] "An Act providing for the Acknowledgment and Authentication of Instruments and Documents within the Philippine Islands," cited in *Flores v. Chua,* A.C. No. 4500 (April 30, 1999).

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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,[5] 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,[6] as required. His explanation that his "secretary at the time could have misplaced it inadvertently as it was she who has the responsibility of reporting [his] notarial documents, or [his] father-in-law could have kept all the copies forgetting to give [him] a copy"[7] is trivial and deserves scant consideration. As a notary public, he is required to keep a copy of the documents he notarized and he cannot impose this obligation to his subordinates, much less to his clients.

Respondent lawyer is privy to the donor, his father-in-law. He cannot feign innocence in the execution of the document, considering that he was appointed attorney-in-fact by the donee, his brother-in-law, with the broad power of administering and selling the property donated. Respondent and his wife, an illegitimate daughter of Cesar Flores, were negotiating the sale of the property in question.[8] His notarization of the falsified deed of donation, with intent to gain by his appointment as attorney-in-fact, demonstrates an "active role to perpetuate a fraud, a deceitful act to prejudice a party."[9]

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[5] Petition, Annex "E", *Rollo*, p. 14.

[6] Petition, Annexes "F", "F-1" and "F-2", *Rollo*, pp. 15-17.

[7] Comment to Petition (*Rollo*, pp. 31-40, at p. 38).

[8] Reply to Comment, pp. 66-74, at p. 70.

[9] *Flores v. Chua*, 366 Phil. 132, 152 (1999).

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"Where the notary public is a lawyer, a graver responsibility is placed upon his shoulder by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any."[10] In *Maligsa v. Cabanting*, we held, thus:

"As a lawyer commissioned as notary public, respondent is mandated to subscribe to the sacred duties appreciating to his office, such duties being dictated by public policy impressed with public interest. Faithful observance and utmost respect of the legal solemnity of the oath in an acknowledgment of *jurat* is sacrosanct. Simply put, such responsibility is incumbent upon and failing therein, he must now accept the commensurate consequences of his professional indiscretion. By his effrontery of notarizing a fictitious or spurious document, he has made a mockery of the legal solemnity of the oath in an *Acknowledgment.*"[11]

In the case at bar, respondent violated his solemn oath as a lawyer not to engage in unlawful, dishonest or deceitful conduct.[12] He maintained that the signature of the donor was genuine despite the finding of experts to the contrary. He also tried to make a mockery of the legal profession by advancing the flimsy excuse that his failure to submit a copy of the document to the Clerk of Court was his secretary's fault.

There is also a showing that respondent harassed the occupants of the property subject of the donation. He asked Meralco to disconnect its services to the property, threatening law suits if his demands were not heeded.[13] He also posted security guards to intimidate the occupants of the property.[14] Clearly, respondent's acts caused dishonor to the legal profession.[15]

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[10] *Ibid.*, at p. 153.

[11] *Maligsa v. Cabanting*, 338 Phil. 912, 917 (1997).

[12] Rule 1.01, Code of Professional Responsibility.

[13] Exh. "I", Reply to Comment (*Rollo*, p. 85).

[14] Reply to Comment (*Rollo*, pp. 66-74, at p. 71).

[15] *Gonato v. Adaza*, 328 SCRA 694 (2000); *Tapucar v. Tapucar*, 355 Phil. 66 (1998).

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A notary who acknowledged a document that was a forgery destroys the integrity and dignity of the legal profession. He does not deserve to continue as member of the bar.[16]

IN VIEW WHEREOF, we find respondent *VIRGILIO R. GARCIA* guilty of grave misconduct rendering him unworthy of continuing membership in the legal profession. We order him *DISBARRED* from the practice of law and his name stricken off the Roll of Attorneys, effective immediately.

Let copies of this resolution be furnished the Bar Confidant, who shall forthwith record it in the personal file of respondent; the Court Administrator, who shall inform all courts of the Philippines; and the Integrated Bar of the Philippines, which shall disseminate copies to all its chapters and members.

SO ORDERED.

Davide, Jr. C.J., Bellosillo, Melo, Puno, Vitug, Kapunan, Mendoza, Panganiban, Pardo, Buena, Ynares-Santiago, De Leon, Jr., and *Sandoval-Gutierrez, JJ.,* concur.

Quisumbing, and *Carpio, JJ.,* on official business abroad.

EN BANC

[A.M. No. P-02-1541. February 6, 2002]

FLORENTINO A. MERCADO, JR., *complainant, vs.* **NOEL T. MANALO, Sheriff III, MeTc, Manila, Branch 5,** *respondent.*

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[16] *Flores v. Chua, supra,* Note 9; *Villarin v. Sabate, Jr.,* 325 SCRA 123, 128 (2000).