



Republic of the Philippines  
Supreme Court  
Office of the Court Administrator  
Manila

OCA CIRCULAR NO. 43-2004

**TO : THE COURT OF APPEALS, SANDIGANBAYAN, COURT OF TAX APPEALS, REGIONAL TRIAL COURTS, SHARI'A DISTRICT COURTS, METROPOLITAN TRIAL COURTS, MUNICIPAL TRIAL COURTS IN CITIES, MUNICIPAL TRIAL COURTS, MUNICIPAL CIRCUIT TRIAL COURTS, SHARI'A CIRCUIT COURTS, THE OFFICE OF THE STATE PROSECUTOR, PUBLIC ATTORNEY'S OFFICE AND THE INTEGRATED BAR OF THE PHILIPPINES**

**SUBJECT : SUSPENSION FROM THE PRACTICE OF LAW FOR ONE (1) YEAR OF ATTY. RODOLFO C. BELTRAN**

For the information and guidance of all concerned, quoted hereunder is the Decision of the First Division dated December 11, 2003 in Administrative Case No. 5858, to wit:

"This is an administrative complaint for disbarment<sup>1</sup> filed by Rogelio R. Santos, Sr. against Atty. Rodolfo C. Beltran on the grounds of gross misconduct and malpractice.

The pertinent facts are as follows:

Spouses Filomeno Santiago Santos, Sr. and Benita Roxas Rodriguez had ten children, namely, Romeo, Filomeno, Jr., Arturo, Erlinda, Ma. Alicia, Arcely, Renato, Alberto and Benito and complainant Rogelio Santos, Sr. After the death of Filomeno, Benita donated their two residential lots situated at 11 Javier Baritan, Malabon, Metro Manila, consisting of 489 and 333.4 square meters, respectively, and covered by Transfer Certificates of Titles (TCT) Nos. R-18060 and R-18061, including the ancestral house situated thereon, in favor of the nine children, except complainant. Respondent lawyer notarized the Deed of Donation.<sup>2</sup>

Benita Rodriguez died. Complainant and his brother, Alberto, were appointed administrators<sup>3</sup> in the intestate proceeding for the settlement of the spouses' estate, docketed as SP. Proc. No. 516-AF, entitled *In the Matter of the Intestate Estate of Spouses Filomeno Santiago Santos, Sr. and Benita Roxas Rodriguez*, filed

<sup>1</sup> Petition, Rollo, pp. 248-260.

<sup>2</sup> Rollo, pp. 18-20.

<sup>3</sup> *Id.*, p. 12.

before the Regional Trial Court of Cabanatuan City, Branch 26 thereof.

On November 9, 1999, complainant filed a verified complaint against respondent before the Integrated Bar of the Philippines Commission on Bar Discipline (IBP-CBD), alleging that when respondent notarized the subject Deed of Donation, his siblings did not personally appear before him.<sup>4</sup> Complainant submitted the affidavit executed by Benito and Renato attesting to the fact that they signed the Deed of Donation not in the law office of the respondent but in their houses at Villa Benita Subdivision. The Deed also showed that his siblings secured their Community Tax Certificates twenty-two days after the execution of the Deed of Donation, or on September 9, 1994. Complainant contended that respondent notarized the Deed of Donation in disregard of Article 904<sup>5</sup> of the Civil Code. Moreover, he argued that his siblings were American citizens who were thus disqualified from owning real properties in the Philippines.

Complainant further alleged that respondent appeared as private prosecutor in Criminal Case No. 73560 for falsification of public document which he filed against Renato and Benito, without being engaged by him or authorized by the court; that respondent represented conflicting interest when he entered his appearance as defense counsel in an ejectment case in which his former client, Erlinda R. Santos-Crawford, was the plaintiff; and that respondent, through insidious machination acquired the titles of two residential

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<sup>4</sup> The September 20, 1999 Certifications of the Bureau of Immigration and Deportation (BID) on the travel records, pertaining to petitioner's siblings' arrival and departure showed that it was physically impossible for them to appear before the respondent, viz:

ROMEO R. SANTOS, Control No. 092019990570769B, born on September 12, 1929, an American Citizen using Passport No. 151582510, who arrived in the Philippines on August 12, 1994 and left for Los Angeles on August 18, 1994, & came back to the Philippines on August 23, 1995;<sup>4</sup>

ALICIA SANTOS SIROTA, Control No. 092019990530766B, born on June 19, 1951, an American Citizen using U.S. Passport No. 034056327 who left the Philippines for Los Angeles on August 30, 1994;<sup>4</sup>

ARTURO R. SANTOS, Control No. 092019990570770B, born on December 14, 1944, an American Citizen using U.S. Passport No. 151125864, who arrived in the Philippines on July 28, 1994 left for Narita, Tokyo on August 23, 1994, & came back to the Philippines only on March 19, 1995;<sup>4</sup>

ERLINDA SANTOS SALVIO, Control No. 092019990530767B, born on April 28, 1942, an American Citizen using Passport No. 034495662, who arrived in the Philippines on July 27, 1994 & left for Los Angeles on August 11, 1994 and she came back on June 8, 1995;<sup>4</sup> and

FELOMINO R. SANTOS, JR., Control No. 092019990570771B, born on July 31, 1936, a Filipino citizen using Philippine Passport No. BB212998, who left the Philippines since 1987 and already a green card holder who came back on December 1, 1996.<sup>4</sup>

<sup>5</sup> The testator cannot deprive his compulsory heirs of their legitimate, except in cases expressly specified by law.

Neither can he impose upon the same any burden, encumbrance, condition, or substitution of any kind whatsoever.

lots at Villa Benita Subdivision owned by Spouses Filomeno and Benita Santos.

Respondent denied the allegations. He confirmed the due execution of the Deed of Donation and submitted in support thereof the affidavit executed by Mely Lachica, the secretary of his law office. In her Affidavit, Lachica categorically stated that she caused all parties to sign the Deed. She, nevertheless admitted that she forgot to change the date of the execution of the Deed from August 18, 1994 to September 9, 1994 when all the parties had secured their CTCs.<sup>6</sup>

Respondent argued that complainant's siblings may still acquire properties in the Philippines through hereditary succession even though they were already American citizens. The certifications issued by the Bureau of Immigration and Deportation were not conclusive proof of the arrival and departure of his siblings considering that there were many ports of entry in the country. Respondent also declared that complainant humiliated his mother when, in his presence and that of his siblings, complainant uttered the unsavory Tagalog words, 'Putang ina mo matanda ka, walanghiya ka, walang pinagkatandaan dapat mamatay ka na.'<sup>7</sup>

Respondent denied having represented complainant in Criminal Case No. 73560 on December 15, 1999 when he appeared as private prosecutor. He explained that complainant filed a complaint for falsification of public documents against him and his nine siblings, docketed as I.S. No. 04-99-3187, before the Office of the City Prosecutor of Cabanatuan City, relying on the affidavit executed by Benito and Renato that they signed the Deed of Donation in their houses at Villa Benita and not at respondent's office. The prosecutor dismissed the complaint. A second action for falsification of public document was filed by complainant against Renato and Benito, docketed as Criminal Case No. 73560. Respondent appeared at one of the hearings of the said case to defend himself from the accusation of Benito and Renato. Respondent emphasized that he did not ask for any compensation from complainant for that isolated appearance.

Respondent denied having acquired any property under litigation. On February 16, 1999, he bought<sup>8</sup> two parcels of land inside Villa Benita Subdivision, covered by TCT Nos. T-50223 and 50225, from a corporation owned by the Santoses, Fabern's Inc., and not from Spouses Filomeno and Benita Santos, as claimed by complainant. He was surprised when sometime in August 2002, complainant caused the annotation on the said titles of an adverse claim that the properties belonged to the estate of Spouses Filomeno and Benita Santos. Complainant relied on the *Contract of Development* dated May 10, 1995 which Fabern's Inc. executed in

<sup>6</sup> Rollo, p. 431.

<sup>7</sup> *Id.*, p. 463.

<sup>8</sup> Deed of Sale, Rollo, p. 191.

favor of Villa Benita Management and Development Corporation where respondent was one of the directors.

Respondent admitted having represented Erlinda R. Santos-Crawford in Civil Case No. 12105 for ejectment, entitled '*Erlinda R. Santos-Crawford v. Renato R. Santos and Rogelio R. Santos, Sr.*'<sup>9</sup> involving a land covered by TCT No. T-10168 at No. 1 F.S. Avenue, Villa Benita Subdivision, Cabanatuan City and the improvements thereon. He also acted as defense counsel of Evalyn Valino, Norberto Valino and Danilo Aagsaway in Civil Case No. 14823<sup>10</sup> for ejectment filed by Rogelio Santos on behalf of Erlinda R. Santos involving the same property. He emphasized that the decision in Civil Case No. 12105 had long been executed, thus the attorney-client relationship between him and Erlinda Santos-Crawford was also terminated.

On July 19, 2002, the IBP-CBD found respondent guilty of violating his notarial commission and recommended that his commission be suspended for a period of one year.<sup>11</sup>

The Board of Governors, in Resolution No. CBD Case No. 99-670, modified the recommendation, thus:

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, the Report and Recommendation of the Investigating Commissioner of the above-entitled case, herein made part of this Resolution/Decision as Annex "A", and, finding the recommendation fully supported by the evidence on record and the applicable laws and rules, with modification, and considering respondent's violation of his notarial obligation, Respondent's Commission as Notary Public is hereby SUSPENDED, with DISQUALIFICATION from being appointed as Notary Public for two (2) years from notice of final decision.<sup>12</sup>

On October 11, 2002, respondent filed a motion for reconsideration of the aforesaid Resolution, which was denied by the Board on December 14, 2002 on the ground that it has lost jurisdiction thereof upon its endorsement to this Court.<sup>13</sup>

In essence, complaint seeks the disbarment of the respondent for allegedly notarizing a Deed of Donation without the affiants personally appearing before him. Indeed, the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the court and as a member of the bar.<sup>14</sup> Corollary thereto, gross misconduct is defined as

<sup>9</sup> Rollo, pp. 345-349.

<sup>10</sup> *Id.*, pp. 350-356.

<sup>11</sup> *Id.*, p. 281.

<sup>12</sup> *Id.*, p. 261.

<sup>13</sup> *Id.*, p. 282.

<sup>14</sup> *Alitagtag v. Garcia*, A.C. No. 4738, 10 June 2003.

'improper or wrong conduct, the transgression of some established and definite rule of action, a forbidden act, a dereliction of duty, willful in character, and implies a wrongful intent and not mere error in judgment.'<sup>15</sup>

The rule is that a notarized document carries the evidentiary weight conferred upon it with respect to its due execution, and documents acknowledged before a notary public have in their favor the presumption of regularity.<sup>16</sup> In the instant case, complainant failed to controvert the said presumption by clear and convincing evidence. Instead, the quantum of evidence shows that complainant's siblings appeared before the respondent as notary public and in fact, signed the deed. The claim of Renato and Benito Santos in their affidavit that they did not sign the document in the law office of the respondent but in their houses at Villa Benita is admissible only against them.<sup>17</sup> Likewise, we find the allegation of the complainant that it was physically impossible for his siblings to sign the document untenable. The certifications issued by the BID that the complainant's siblings were absent at the time of the execution of the Deed of Donation is not absolute. There are many ports of entry which complainant's siblings may have used in coming into the country. The possibility that complainant's siblings executed and signed the Deed is not remote. The discrepancy in the date stamped in the Deed and the date when complainant's siblings obtained their CTCs had been substantially explained in the affidavit executed by the secretary of the law office, Mely Lachica.

The allegation that respondent represented complainant in Criminal Case No. 73569 without being retained or authorized by the court is also untenable. Respondent adequately explained his isolated appearance at one of the hearings. The transcript of stenographic notes shows that respondent himself was in doubt as to the nature of his appearance in the case. In entering his appearance as private prosecutor, he did not intend to represent complainant but only to defend himself from the accusation of Benito and Renato that he notarized the Deed of Donation in their absence. This was patent in the transcript of stenographic notes wherein he admitted that he himself was in doubt as to his position. We are not persuaded by complainant who tried to insinuate that it was unethical for the respondent to represent him.

Anent the charge that respondent acquired properties under litigation in violation of Article 1491<sup>18</sup> of the Civil Code, records

<sup>15</sup> Spouses Whitson v. Atienza, A.C. No. 5535, 28 August 2003.

<sup>16</sup> Loyola, et. al. v. Court of Appeals, et al., G.R. No. 115734, 23 February 2000.

<sup>17</sup> Section 26, Rule 130 of the Rules of Court:

*Admissions of a party.*- The act, declaration or omission of a party as to a relevant fact may be given in evidence against him.

Section 28-*Admission by third party.*- The rights of a party cannot be prejudiced by an act, declaration or omission of another, except as hereinafter provided.

<sup>18</sup> (5) Justices, judges, prosecuting attorneys, clerks of superior and inferior courts, and other officers and employees connected with the administration of justice, the property and rights in litigation or levied upon an execution before the court within whose jurisdiction or territory they exercise their respective functions; this prohibition includes the act of acquiring by assignment and shall apply to lawyers, with respect to the

show that respondent acquired the property from Fabern's Inc., and not from Spouses Filemon and Benita Santos. Complainant's allegation that respondent as director of Villa Benita Management and Development Corporation fraudulently caused the transfer of titles of properties, specifically parcels of lands owned by the family corporation, Fabern's Inc., by executing a management and development contract, lacks basis. Respondent may not be held accountable based on mere allegation that through insidious machinations he deprived Spouses Filomeno and Benita Santos, now their estate, of the properties. Surmises, suspicion and conjectures are not bases of culpability.

Lastly, complainant indicted respondent for representing conflicting interest in violation of Rule 15.03 of the Code of Professional Responsibility, viz:

A lawyer shall not represent conflicting interests except by written consent of all concerned given after a full disclosure of the facts.

There is conflict of interest when a lawyer represents inconsistent interests of two or more opposing parties. The test is 'whether or not in behalf of one client, it is the lawyer's duty to fight for an issue or claim, but it is his duty to oppose it for the other client. In brief, if he argues for one client, this argument will be opposed by him when he argues for the other client.' This rule covers not only cases in which confidential communications have been confided, but also those in which no confidence has been bestowed or will be used. Also, there is conflict of interests if the acceptance of the new retainer will required the attorney to perform an act which will injuriously affect his first client in any matter in which he represents him and also whether he will be called upon in his new relation to use against his first client any knowledge acquired through their connection. Another test of the inconsistency of interests is whether the acceptance of a new relation will prevent an attorney from the full discharge of his duty of undivided fidelity and loyalty to his client or invite suspicion of unfaithfulness or double dealing in the performance thereof.<sup>19</sup>

In the case at bar, Civil Case No. 12105 for ejectment was filed by Arcely Y. Santos in behalf of Erlinda Santos-Crawford against complainant and Renato Santos. Respondent, however appeared as counsel for Evalyn Valino, Norberto Valino and Danilo Agsaway in Civil Case No. 14823 for ejectment filed by complainant as attorney-in-fact of Erlinda Santos-Crawford. Civil Case No. 14823, although litigated by complainant, was actually brought in behalf of and to protect the interest of Erlinda Santos-Crawford. Respondent's act of representing the parties against

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property and rights which may be the object of any litigation in which they may take part by virtue of their profession.

<sup>19</sup> Hornilla and Ricafort v. Salunat, A.C. No. 5804, 1 July 2003.

whom his other client, Erlinda Santos-Crawford, filed suit constituted conflict of interest.<sup>20</sup>


**WHEREFORE**, respondent Atty. Rodolfo Beltran is found **GUILTY** of representing conflicting interests and is **SUSPENDED** from the practice of law for a period of one (1) year effective immediately. Respondent is further **STERNLY WARNED** that a commission of the same or similar act in the future will be dealt with more severely.

Let copies of this Resolution be entered in the record of respondent and served on the IBP, as well as on the Court Administrator who shall circulate it to all courts for their information and guidance.

**SO ORDERED.”**

Copy of the decision was received by respondent on February 2, 2004, as shown by Registry Return Receipt No. 1382.

19 March 2004.

  
**PRESBITERO J. VELASCO, JR.**  
Court Administrator

<sup>20</sup> Rollo, p. 355.