



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

OCA CIRCULAR NO. 75-2004

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, REVOCATION OF
NOTARIAL COMMISSION AND
DISQUALIFICATION FROM REAPPOINTMENT
AS NOTARY PUBLIC FOR A PERIOD OF TWO (2)
YEARS OF ATTY. BONIFACIO B. MANGIBIN

For the information and guidance of all concerned, quoted hereunder is the Resolution of the Second Division of this Court dated February 3, 2004 in Administrative Case No. 5602 entitled "Hilda D. Tabas vs. Atty. Bonifacio B. Mangibin", to wit:

"In a verified complaint¹ for disbarment filed with this Court on January 30, 2002, complainant Hilda D. Tabas sought the disbarment of respondent, atty. Bonifacio B. Mangibin for allegedly having committed forgery.

Complainant avers that on March 5, 2001, a certain Anastacia Galvan from Sta. Monica, Bauang, La Union, mortgaged to her a piece of real property to secure a P48,000.00 loan. The deed of mortgage of real property² was duly registered with the Office of the Register of Deeds of the Province of La Union and annotated in the tax declaration of the property³.

On October 17, 2001, however, a certain Lilia Castellejos, falsely representing herself as complainant, appeared before

¹ Rollo, pp. 1-4

² *Id.* at 1,5

³ *Id.* at 1,6

respondent and asked him to prepare a discharge of the said mortgage and to notarize it afterwards.⁴

After having prepared the questioned discharge of real estate mortgage,⁵ and without asking Lilia Castellejos for anything other than a Community Tax Certificate (CTC), respondent notarized the said deed. Subsequently, the mortgagee, Anastacia Galvan, mortgaged the subject property again this time with the Rural Bank of Naguilian (LU), Inc.⁶

Complainant further avers that after she learned of the cancellation, she promptly informed respondent that her signature in the "Discharge of Real Estate Mortgage" was a forgery. However, respondent did nothing to help her and even threatened to file a counter suit against her should she file a case against him.⁷

In his answer,⁸ respondent admits that the discharge of real estate mortgage is a forgery, but denies liability for the falsification under a claim of good faith.⁹ Respondent avers that he did not know Lilia Castellejos' fraudulent intent. He also submits that he cannot be faulted for simply relying on the CTC bearing complainant's name, which Lilia Castillejos presented to him. He argues that it is beyond the "realm of his duty" and scope of work to investigate the identity of persons appearing before him and cites that as a matter of routine, he normally requires only the CTCs of persons appearing before him.¹⁰ Respondent also asserts that he does not have any available means of ascertaining the real identities of persons appearing before him.¹¹

On August 7, 2002,¹² the Court referred the instant case to the IBP for investigation, report and recommendation.

Subsequently, the IBP required complainant to file her reply by order issued on October 14, 2002.¹³ In her reply dated November 7, 2002,¹⁴ complainant argues that respondent's averment that he did not discover that Lilia Castillejos falsely represented herself could only mean that respondent knowingly participated in the falsification.¹⁵

⁴ *Id.* at 1-2

⁵ *Id.* at 7

⁶ *Id.* at 3.

⁷ *Id.* at 2.

⁸ *Id.* at 14-19.

⁹ *Id.* at 17-18.

¹⁰ *Ibid.*

¹¹ *Id.* at 16-18.

¹² *Id.* at 22.

¹³ *Id.* at 23.

¹⁴ *Id.* at 24-25

¹⁵ *Id.* at 24.

On December 14, 2002, the IBP issued Resolution No. XV-2002-627,¹⁶ which adopted and approved the recommendation of the Investigating Commissioner, warning respondent to be more careful in the preparation of legal documents so that similar incidents may be avoided in the future.

Following the submission of the IBP Resolution with the Court, the Court required the Office of the Bar Confidant to submit its comment on the IBP Resolution on March 19, 2003.¹⁷ In her comment, Bar Confidant Atty. Ma. Cristina Layusa found respondent liable for gross negligence in the discharge of his duties as a notary public and recommended that the Court impose upon respondent a graver penalty of suspension of one (1) year¹⁸ from the practice of law.

The issue for our resolution now is whether respondent is liable for violating the Notarial Law for which his commission as notary public should be revoked and he should be suspended also from the practice of law.

Time and again, the Court has emphasized that notarization is not an empty, meaningless, routinary act.¹⁹ It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. It converts a private document into a public one, making it admissible in court without further proof of its authenticity.²⁰ A notarial document is, by law, entitled to 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.

For this reason, notaries public must observe with utmost care the basic requirement in the performance of their duties. Otherwise, the confidence of the public in the integrity of public instruments would be undermined. A notary public should not notarize a document unless the person who signed the same is the very same person who executed and personally appeared before him to attest to the contents and truth of matters stated in the document. 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.²¹

¹⁶ *Id.* at 28.

¹⁷ *Id.* at 38.

¹⁸ *Id.* at 41-44-A.

¹⁹ *Joson v. Baltazar*, A.C. No. 575, 14 February 1991, 194 SCRA 114, 119.

²⁰ *Nadayag v. Grageda*, A.C. No. 3232, 27 September 1994, 237 SCRA 202, 206.

²¹ *Aquino v. Manese*, A.C. No. 4953, 3 April 2003, p. 6; See *Coronado v. Felongco*, A.C. No. 2611, 15 November 2000, 344 SCRA 565, 568-569.

The circumstances in this case indubitably show that respondent did not take even ordinary precautions required in the premises. In the acknowledgment portion of the document, there is a phrase "Before me... personally appeared Hilda A. Tabas... known to me and to me known to be the same person who executed the foregoing document."²² Respondent thereby attested that he knows Hilda A. Tabas, whose name appeared in the acknowledgment, and that she personally appeared before him. Indeed, it was his duty to ascertain the identity of the person appearing before him and to make sure that she is indeed Hilda A. Tabas. Considering the case with which CTCs may be obtained and the legal effect that notarization brings to the deed of discharge of real estate mortgage that he himself prepared, respondent should have requested other forms of identification or asked questions to ascertain her identity.

Respondent's conduct showed serious lack of due care in the performance of his duties as a notary public. Because of his carelessness, respondent failed to notice the glaring difference in the signature of mortgagee in the deed of real estate mortgage from her purported signature in the questioned discharge of real estate mortgage.

It was respondent who prepared the questioned discharge of real estate mortgage, which he subsequently notarized. Hence he had adequate opportunity to verify the identity of Lilia Castillejos. Not only did he have to interview her regarding her personal circumstances, but also he had to interview her regarding the background of the deed of real estate mortgage to be cancelled. Apparently, respondent merely took the work of Lilia Castillejos that she was Hilda Tabas and did not realize the need to require her to present other forms of identification. Such neglect is inexcusable.

Further, by notarizing the Discharge of Real Estate Mortgage without ascertaining the identity of the signatory, respondent lawyer acted with reckless discharge of his professional duties and responsibilities. He caused grave injury to the complainant. He also undermined the confidence of the public on notarial documents. Hence, he breached Canon 1 of the Code of Professional Responsibility, which requires lawyers to promote respect for the law and legal processes as well as to uphold the Constitution and obey the laws of the land.

WHEREFORE, for violation of the Notari Law and the Code of Professional Responsibility, respondent Atty. Bonifacio B. Mangibin's notarial commission, is **REVOKED**, and he is **DISQUALIFIED** from the reappointment as Notary Public for a period of two (2) years.

²² Rollo, p. 7


Respondent is **SUSPENDED** fro the practice of law also for a period of one (1) year, effective immediately. He is **DIRECTED** to report to this Court his receipt of this Decision to enable the Court to determine when his suspension shall have taken effect.

Let copies of this Decision be furnished the Office of the Bar Confidant, the Integrated Bar of the Philippines, and all courts all over the country. Let a copy of this Decision likewise be attached to the personal records of the respondent.

SO ORDERED."

The Decision was served upon respondent on March 9, 2004.

27 May 2004.


PRESBITERO J. VELASCO, JR.
Court Administrator