



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

**OCA CIRCULAR NO. 78-2004**

**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 SIX (6) MONTHS AND REVOCATION OF THE NOTARIAL COMMISSION AND DISQUALIFICATION FROM REAPPOINTMENT AS NOTARY PUBLIC OF ATTY. BIENVENIDO G. MARTIN**

For the information and guidance of all concerned, quoted hereunder is the Decision of the Third Division of this Court dated May 29, 2003 in Administrative Case No. 3223 entitled "Ma. Corazon Fulgencio vs. Atty. Bienvenido G. Martin", to wit:

In a Complaint<sup>1</sup> dated May 9, 1988 which was received by this Court on May 20, 1988, complainant Ma. Corazon D. Fulgencio seeks the imposition of disciplinary measures against Atty. Bienvenido G. Martin (respondent) for falsifying and notarizing two documents of safe purportedly executed by her husband Kua Se Beng (Kua).

On June 1, 1983, in Isabela, Basilan, respondent, a notary public, notarized two documents, a Deed of Absolute Sale<sup>2</sup> over a parcel of land and a Bill of Sale<sup>3</sup> over a Toyota sedan, both purportedly executed by Kua.

Complainant alleges that the two documents could not have been executed and notarized in Basilan by her husband Kua

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<sup>1</sup> Rollo at 70-82

<sup>2</sup> Id at 76..

<sup>3</sup> Id at 79, Entered as Document No. 399 on Page 78 of Book XVIII, Series of 1983

who later died on July 5, 1983 because he was, on June 1, 1983, confined at the Makati Medical Center as evidenced by the Admission and Discharge Record<sup>4</sup> of the hospital and the certification of the attending doctor<sup>5</sup> showing his hospital confinement from May 30 to June 30, 1983.<sup>6</sup> And she denies having given her consent to, and affixed her signature on, the first document.

Complainant further alleges that as a result of the execution and notarization of the deeds, title to the parcel of land was transferred to Chua Kim & Sons Trading Company, Inc. while ownership of the Toyota sedan was transferred to one Wat Hua C. Ostrea.<sup>7</sup>

Additionally, complainant alleges that respondent filed with the Regional Trial Court of Basilan, Branch 1 in Special Proceedings No. 66, *In re: Petition for Guardianship of the minors Michaelle Bengson, Candice Lovella and Richard Bengson all surnamed Kua*, a document entitled "Inventory and Appraisal"<sup>8</sup> without her knowledge and consent as guardian of the minors, which document contains wrong and untrue information/data.<sup>9</sup>

In his Comment,<sup>10</sup> respondent admits that he prepared and notarized the question Deed of Absolute Sale and Bill of Sale without the vendor Kua personally appearing before him. He asserts, however, that he prepared and notarized the deeds upon the express request of Kua whom he considered as a trusted friend<sup>11</sup> under the following circumstances.

ON MAY 28, 1983, A FEW HOURS BEFORE KUA SE BENG AND COMPLAINANT LEFT ISABELA, BASILAN, BOUND FOR MANILA, KUA SE BENG INSTRUCTED RESPONDENT TO DRAW UP THE NECESSARY DEED OF CONVEYANCE INVOLVING PROPERTY DESCRIBED IN ORIGINAL CERTIFICATE OF TITLE NO. O-3178 FOR A SUM OF 87,000.00 IN FAVOR OF CHUA KIM AND SONS TRADING CO., INC AND ANOTHER DEED OF CONVEYANCE FOR A SUM OF P15,000.00 INVOLVING ONE (1) UNIT TOYOTA MOTOR VEHICLE IN FAVOR OF HIS SISTER, WAT HUA C. OSTREA. SINCE KUA SE BENG AND COMPLAINANT WERE ABOUT TO LEAVE ISABELA, BASILAN AND ON SAID DATE AND THERE WAS NOT ENOUGH TIME TO PREPARE THE

<sup>4</sup> Rollo at 75.

<sup>5</sup> Id at 74.

<sup>6</sup> Id. At 70.

<sup>7</sup> Id. At 71.

<sup>8</sup> Id. At 81-82.

<sup>9</sup> Id. At 71.

<sup>10</sup> Id. At 1-9.

<sup>11</sup> Id. At 4, 6.

INSTRUMENTS IN DUE FORM FOR KUA SE BENG'S SIGNATURE, AND THE PURPOSE OF SAID CONVEYANCE WERE IN PAYMENT OF KUA SE BENG'S ADVANCES FROM THE FAMILY CORPORATION, **RESPONDENT WAS PERSONALLY INSTRUCTED BY COMPLAINANT'S HUSBAND TO SEND THE DEEDS OF CONVEYANCES TO MANILA THROUGH HIS MOTHER, MRS. SUY DIAN CHUA, FOR KUA SE BENG'S SIGNATURE,** WHO WAS SCHEDULED TO LEAVE FOR MANILA SHORTLY AFTER KUA SE BENG'S AND COMPLAINANT'S DEPARTURE FROM ISABELA, BASILAN.

**ON THE BASIS OF THE REPRESENTATION AND INSTRUCTIONS RECEIVED BY RESPONDENT FROM KUA SE BENG THE CONTESTED DOCUMENTS WERE PREPARED AND WERE HANDED TO KUA SE BENG'S MOTHER WHO LEFT ISABELA, BASILAN FOR MANILA ON JUNE 1, 1983....**<sup>12</sup>(Emphasis supplied)

Respondent likewise asserts that Kua's and complainant's signature appearing on the first deed and that of Kua on the second are genuine, he (respondent) being 'acquainted with the[ir] signatures.... On account of [his] long years of lawyering' for Kua and their family corporation.<sup>13</sup>

As to the charge that he filed an 'Inventory and Appraisal' that contained 'wrong and untrue information,' respondent declares:

RESPONDENT... DENIES THE ALLEGATION THAT SAID INVENTORY AND APPRAISAL CONTAINS WRONG AND UNTRUE INFORMATION, THE TRUTH OF THE MATTER BEING THAT THE INFORMATION AND DATA CONTAINED THEREIN WERE LIFTED FROM DOCUMENTS IN THE POSSESSION OF RESPONDENT WHO ACTED AS COUNSEL FOR THE PARTIES IN SPECIAL PROCEEDINGS NO. 66...

RESPONDENT, HOWEVER, DID NOT KNOW OF COMPLAINANT'S SERIOUS OBJECTIONS TO RESPONDENT'S FILING OF THE INVENTORY AND APPRAISAL DATED MARCH 14, 1988...DESPITE THE ISSUANCE OF LETTERS OF GUARDIANSHIP TO COMPLAINANT AS EARLY AS MARCH 5, 1987.<sup>14</sup>

The complaint was referred to the Integrated Bar of the Philippines (IBP) for investigation and recommendation by this Court's Resolution of August 29, 1988.<sup>15</sup>

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<sup>12</sup> I. at 4-5.

<sup>13</sup> Id. At 5-6.

<sup>14</sup> Id. At 6-7.

<sup>15</sup> Id. At 87

In her October 2, 2001 Report and Recommendation, Commissioner Lydia A. Navarro of the IBP Commission on Bar Discipline, while noting that complainant failed to prove that Kua's and complainant's signatures on the documents were forged, nevertheless recommended that respondent be faulted for violation of the notarial law which enjoins that no notary shall do any notarial act beyond the limits of his jurisdiction.<sup>16</sup>

On August 5, 2002, the IBP Board of Governors, by Resolution No. XV-2002-231,<sup>17</sup> adopting, with modification, the Report and Recommendation<sup>18</sup> of the IBP Commission on Bar Discipline (CBD) which was found to be supported by evidence and applicable laws and rules, recommended as follows:

[C]onsidering that the notarial law requires that no notary shall possess authority **to do any notarial act beyond the limits of his jurisdiction**[, and that] **the documents were not signed and personally verified before respondent as required by the Notarial law**[,] Respondent's Commission as Notary Public is hereby **SUSPENDED**. He is likewise **DISQUALIFIED** for appointment as Notary Public for two (2) years from receipt of notice.<sup>19</sup> (emphasis supplied)

The Resolution of the IBP Board of Governors is well-taken.

Admittedly, Kua did not appear before respondent when he notarized the deeds in Basilan as he was then in Makati. Respondent, however, stated in the Acknowledgment portion of each of the documents **that Kua, '[o]n [the] first day of June 1983, personally appeared before [him]... known to [him and to [him] known to be the same person who signed and executed the foregoing instrument and acknowledged... to him that the same is his free and voluntary act.'**<sup>20</sup> He thus made an untruthful statement, thus violating Rule 10.01 of the Code of Professional Responsibility and his oath as a lawyer that he shall not do any falsehood.<sup>21</sup>

**WHEREFORE**, for breach of the notarial law, the commission of respondent Atty. Bienvenido G. Martin as Notary Public, if still existing, is **REVOKED** and he is

<sup>16</sup> Id. At 238-239

<sup>17</sup> Id.. at 230-240.

<sup>18</sup> Id. at 233-240.

<sup>19</sup> I.d at 231

<sup>20</sup> Id. at 76, 78

<sup>21</sup> Gozaga v. Realubin, 242 SCRA 322 (1995)

**DISQUALIFIED** from being commissioned as such for a period of Two (2) Years.


Respondent Atty. Bienvenido G. ~~m~~artin is also **SUSPENDED** from the practice of law for a period of Six (6) Months effective immediately for violation of Rule 10.01 of the Code of Professional Responsibility. He is **DIRECTED TO** report to this Court the date of his receipt of this Decision to enable it to determine when the revocation of his notarial commission and his disqualification from being commissioned as notary public as well as when his suspension from the practice of law shall have taken effect.

Let copies of this Decision be furnished the Office of the Bar Confidant and the Integrated Bar of the Philippines.

**SO ORDERED.”**

Respondent received a copy of the Decision on June 19, 2003.

31 May 2004.



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