



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

OCA CIRCULAR NO. 80-2003

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

SUBJECT: SUSPENSION FROM THE PRACTICE OF LAW OF ATTY. OSCAR MANESE

For the information and guidance of all concerned, quoted hereunder is the decision of the Court's Third Division in Administrative Case No. 4958 entitled "Fidel D. Aquino vs. Atty. Oscar Manese" dated April 3, 2003, to wit:

"In a sworn letter-complaint<sup>1</sup> (in Tagalog) dated September 7, 1998 addressed to the Office of the President which forwarded it to the Office of the Court Administrator, Fidel D. Aquino (complainant) of Pinasling, Gerona, Tarlac charged Atty. Oscar Manese (respondent) with falsification of public document for preparing and notarizing a Deed of Absolute Sale<sup>2</sup> dated September 15, 1994 which could not have been executed and sworn to by Lilia D. Cardona, one of the therein three vendors-signatories, she having died on November 25, 1990<sup>3</sup> of four (4) years earlier.

Complainant alleges that, *inter alia*, he has since 1960 been tiling the land subject of the Deed of Absolute Sale as tenant of the now deceased owner thereof, Luis M. Cardona; in 1975, the spouses Antonio and Fe Perez unlawfully took possession of the land, thus spawning the filing of a case that

executed on even date by the three heirs of Luis Cardona, including the already deceased Lilia Cardona, in favor of Ma. Cita C. Perez, daughter of the spouses Perez, and was notarized by respondent.

x x x

By his Comment of January 4, 1999,<sup>5</sup> respondent asserted that complainant has no personality to complain as he has neither a legal right or claim over the land nor any personality to challenge the sale; even assuming that Lilia Cardona was already dead at the time of the execution of the Deed of Absolute Sale, no interested party had complained about it; as a Notary Public, he is not expected to personally know every person who goes to him for notarization of documents; and when he notarized the Deed of Absolute Sale on September 15, 1994, he was only performing his duty as a notary public.

By Resolution of February 24, 1999,<sup>6</sup> this Court referred the case to the Integrated Bar of the Philippines (IBP) for investigation, report and recommendation. Despite notice, respondent failed to appear at any of the hearings scheduled by the IBP, he pleading ill health and/or unavailability of counsel.

On June 29, 2002, the IBP Board of Governors issued Resolution No. XV-2002-220<sup>7</sup> adopting the Investigating Commissioner's Report that 'respondent was gravely remiss in his obligation as notary public.' The IBP Board of Governors, however, modified the recommendation of the Investigating Commissioner that 'respondent's commission as Notary Public be revoked and that [he] be suspended from the practice of law for a period of two (2) years' by recommending that '[r]espondent's commission as Notary Public be SUSPENDED with disqualification for appointment as Notary Public for a period of two (2) years.'

x x x

Respondent's assertion that complainant lacks the personality to institute the present complaint does not lie. Complainant being a tenant at the land subject of the sale, his rights as such have been disturbed by the transfer of ownership of the land.

---

<sup>5</sup> Id. pp. 59-60

<sup>6</sup> Id., p. 74

<sup>7</sup> Id., p. 133

In any event, proceedings for disbarment, under Section 1 of rule 139-B of the Rules of Court, *motu proprio* be taken by this Court or the IBP upon the verified complaint of any person.

On the merits of the complaint,

The death on November 25, 1990 of Lilia Cardona is documented.<sup>8</sup> Her death Certificate shows so. The National Bureau of Investigation, which made a comparative examination of her specimen signatures and that appearing in the Deed of Absolute Sale, found that the signature on the latter and the specimen signatures were not written by one and the same person.<sup>9</sup>

In the Acknowledgment in the deed, respondent affirmed that before him 'personally appeared said vendors [including the late Lilia Cardona] whos (sic) personal circumstances are shown above below their names and signatures, all known to [him] and to [him] known to be the same individual (sic) who executed th[e] instrument and acknowledged to [him] that the same is their free act and voluntary deed.'

The said acknowledgment notwithstanding, respondent asseverated in his Comment to the letter-complaint that he is not expected to personally know every person who goes to him for notarization of documents. Such jaunty indifference betrays his deplorable failure to heed the importance of the notarial act and observe with utmost care the basic requirements in the performance of his duties as a notary public which include the ascertainment that the persons who signed the document are the very same persons who executed and personally appeared before him.

The importance attached to the act of notarization cannot be overemphasized. Notarization is not an empty, meaningless, routinary act. It is invested with substantive public interest, such that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document, thus making that document admissible in evidence without further proof of its authenticity. 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 requirements in the performance of their duties. Otherwise, the confidence of the

---

<sup>8</sup> Vida Note 3

<sup>9</sup> NBI Questioned Documents Report No. 517-696, Rollo, pp. 16-17.

public in the integrity of this form of conveyance would be undermined. Hence a notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein. 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.<sup>10</sup> (underscoring and emphasis supplied)

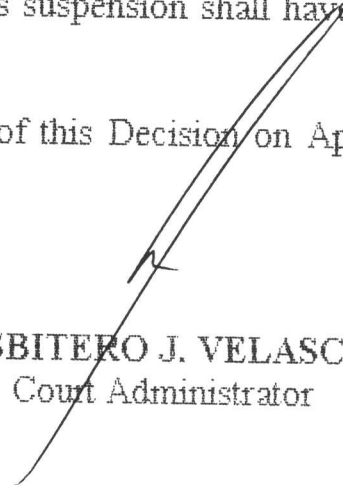
By respondent's reckless act of notarizing the Deed of Absolute Sale without ascertaining that the vendors-signatories thereto were the very same persons who executed it and personally appeared before him to attest to the contents and truth of what were stated therein, he has undermined the confidence of the public on notarial documents and he thereby breached Canon I of the Code of Professional Responsibility which requires lawyers to uphold the Constitution, obey the laws of the land and promote respect for the law and legal processes, and Rule 1.01 thereof which proscribes lawyers from engaging in unlawful, dishonest, immoral or deceitful conduct.

WHEREFORE, for violation of the Notarial Law and the Code of Professional Responsibility, respondent Atty. Oscar Manese's notarial commission, if extant, is **REVOKED** and he is **DISQUALIFIED** from reappointment as Notary Public for a period of two (2) years.

Respondent is **SUSPENDED** from the practice of law also for a period of two (2) years, effective immediately. He is **DIRECTED** to report to this Court his receipt of this Decision to enable it to determine when his suspension shall have taken effect."

Respondent received copy of this Decision on April 29, 2003.

June 17, 2003.

  
PRESBITERO J. VELASCO, JR.  
Court Administrator

TGB/cedl  
3-236/ atty. manese susp. (cir)

<sup>10</sup> Rosalinda Bernardo Vda. De Rosales v. Atty. Ramos, A.C. No. 5645, July 2, 2002 at 5-6 (citations omitted).