



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

OCA CIRCULAR NO. 118-2005

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: REVOKING THE NOTARIAL COMMISSION
AND DISQUALIFICATION TO BE
COMMISSIONED AS A NOTARY PUBLIC
FOR A PERIOD OF ONE (1) YEAR OF ATTY.
ARTEMIO P. CABATOS

For the information and guidance of all concerned, quoted hereunder is the Decision of the Third Division dated August 11, 2005 in Administrative Case No. 3441, entitled "Judge Gervacio A. Lopena vs. Atty. Artemio P. Cabatos", to wit:

"Atty. Artemio P. Cabatos (respondent) was administratively charged¹ by Judge Gervacio A. Lopena (complainant) of the Municipal Circuit Trial Court (MCTC) of Tagbilaran-Clarin, Bohol of SERIOUS BREACH OF PROFESSIONAL ETHICS and GRAVE MISCONDUCT allegedly committed as follows:

- 1) Respondent knowingly falsified a Deed of Donation² purportedly executed by one Crispina Panis by notarizing the same on June 24, 1981 when the donor had died on January 15, 1981, and
- 2) Respondent "showed a grave disrespect to the courts and the administration of justice" by holding, together with his followers, a parade/rally on September 21, 1984 around the

¹ Letter dated November 24, 1989, *Rollo* at 1-3.

² Annex "G" to letter-complaint, *Id.* at 19.

principal streets of Tagbilaran City, directed against complainant who had convicted respondent's close relatives in three criminal cases and denied the applications for probation of two of the convicts.

Acting on this Court's Resolution of February 14, 1990,³ respondent submitted his COMMENT, by letter of April 19, 1990,⁴ claiming that he had been away from his place of birth, Panaytayon, Tubigon, Bohol since 1958, hence, when he notarized the questioned deed of donation, he "really did not recognize the person of Cristina Panis," but he was led by one Gregorio Ricafort to believe that "the old woman before him at the time was the said Crispina Panis."

Respondent informed that his notarization of the questioned document in fact resulted to his indictment in court for reckless imprudence resulting in falsification of public document, which case was pending trial.

As for the charge of having conducted a rally/parade, respondent claimed that the same was staged by PDP Laban and BAYAN of Bohol as a protest against complainant who showed bias in presiding over the trial of the criminal cases against members of the Cabatos family and "disregarding the evidence in convicting them."

By Comment/Reply⁵ to respondent's COMMENT, complainant countered that one of the witnesses to the questioned document was respondent's father, Geronimo Cabatos,⁶ a permanent resident of Panaytayon who knew as he was related by blood to Crispina Panis,⁷ hence, it is incredible for respondent not to know of Panis' death on January 15, 1981 or that "he did not know the person of . . . Panis [even if] he ha[d] been away fm his place of birth since 1958."

This Court referred the case to the Integrated Bar of the Philippines (IBP) by Resolution of June 4, 1990.⁸

The *rollo* shows that complainant had been manifesting his zeal in pursuing the case, but until March 19, 2002 when a Commissioner of the IBP Commission on Bar Discipline issued a Notice of Hearing⁹ directing the parties to appear at the IBP

³ *Rollo* at 23.

⁴ *Id.* at 26-28.

⁵ *Id.* at 42-45.

⁶ *Vide* Deed of Donation, *supra* Note 2.

⁷ Aniceta P. Tarle, daughter of Crispina Panis, states in her 4-page Sworn Statement-Annex "D" to the letter-complaint (*Rollo* at 9-12) that the wife of Geronimo Cabatos-father of respondent is her second cousin; and that respondent "was present in the house when the remains of [her] mother were rested (sic)."

⁸ *Id.* at 46.

⁹ *Id.* at 138.

Building on April 19, 2002, the case appears to have in the interim remained dormant.

Due to the unavailability of complainant and the IBP Investigating Commissioner on the scheduled hearings on April 19, 2002¹⁰ and June 7, 2002, respectively, they were reset to June 28, 2002.¹¹

Before the June 28, 2002 scheduled hearing, complainant filed before the IBP a MANIFESTATION COUPLED WITH MOTION FOR JUDGMENT ON THE PLEADING¹² wherein he expressed “wonder . . . why it took the Committee on Bar Discipline of the IBP over ten (10) long years to set the[e] case for hearing.”

In the same Manifestation *cum* Motion, complainant informed that his two witnesses, Aniceta P. Tarle, a daughter of the deceased Crispina Panis, and Ricafort (who, as reflected above, respondent claimed to have led him to believe that “the old woman” presented before him was Panis) had died.

Complainant further informed that he and respondent were principal sponsors at a wedding, hence, he had not pressed for the early investigation of the case.

Nonetheless, complainant prayed that the case be decided on the basis of the pleadings.

Respondent, whose comment on complainant’s above-said Manifestation *cum* Motion was sought by the IBP by Order of June 28, 2002,¹³ filed a Motion to Dismiss¹⁴ manifesting that he was joining complainant’s motion to have the case resolved on the basis of the pleadings, and informing that the criminal complaint lodged against him in connection with his notarization of the questioned document was dismissed, he having proved

- i) that when he notarized the subject Deed of Donation – one among six similar documents executed in favor of Barangay Panaytayon, Tubigon, Bohol, for purposes of a school site – someone represented to respondent as “Crispina Panis;”
- ii) that she turned [out] to be the daughter of Crispina Panis, and that she ha[d] been instructed by Gregorio Ricafor[t] who prepared the document to affix the same Crispina Panis in the document;

¹⁰ *Id.* at 143.

¹¹ *Id.* at 145.

¹² *Id.* at 146-147.

¹³ *Id.* at 158.

¹⁴ *Id.* at 151-152.

- iii) that the donation turned out to be the will and resolve of the heirs of Crispina Panis[.]

Respondent accordingly prayed for the dismissal of the case.

IBP Commissioner on Bar Discipline Victoria O. de los Reyes, to whom the case was reassigned, issued a Notice of Hearing¹⁵ setting the case for hearing on October 10, 2002 but not one of the parties showed up. While the IBP received on October 4, 2002 complainant's Reiterative Manifestation dated September 30, 2002,¹⁶ it resolved to deny the Motion for Judgment on the Pleadings, by Order of October 10, 2002¹⁷ upon its finding of a need for complainant to substitute his charges.

The IBP later received on October 6, 2002 a REITERATIVE MANIFESTATION (RE: COMPLAINANT'S MOTION FOR JUDGMENT ON THE PLEADINGS)¹⁸ alleging, among other things,

- b) that respondent never personally knew the late Crispina Panis nor his relationship to her, considering that from 1958 (when respondent set foot on secondary education) respondent left his native place and resided in a convent with a parish priest (now Msgr. Saturnino Felicitas) as an altar boy and convent helper, until respondent graduated from two (2) college courses;
- c) that, in fact, the fact of death of said Crispina Panis was known to respondent only when he became one of the accused in a complaint for "falsification of public document" filed with the MCTC of Tubigon-Clarin, Bohol[.]

The case was set anew for complainant to present evidence on November 11, 2002 during which, again, none of the parties appeared, drawing the Commission to consider the case submitted for resolution by Order of even date.¹⁹

Commissioner de los Reyes submitted her REPORT and RECOMMENDATION²⁰ the pertinent portion of which read:

¹⁵ *Id.* at 163.

¹⁶ *Id.* at 164-165.

¹⁷ *Id.* at 171.

¹⁸ *Id.* at 174-176.

¹⁹ *Id.* at 173.

²⁰ *Id.* at 195-200.

In view of the failure of the complainant to substantiate his serious charges against the respondent, it is respectfully recommended that this charge for disbarment be dismissed. There is no question that the complainant waived his right to present his evidence despite the opportunity given him by this Commission and in effect deprived the respondent the right to confront him and his witnesses.

However, this Commission would like to point out that there is no issue that respondent Atty. Cabatos did not exercise that degree of diligence required of him as a Notary Public.

It has been held in the case entitled *Flores v. Chua*, 306 SCRA 465, that 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. And in the case *Nunga v. Viray*, 306 SCRA 487, the Honorable Court ruled that notaries public must observe with utmost care the basic requirements in the performance of their duties.

In the case before us, the respondent himself admitted that he did not exert any effort to find out if the person who acknowledged to have executed the Deed of Donation was really Crispina Panis. He merely relied on the assurance of Mr. Gregorio Ricafort that the person who appeared before him as Notary Public was the real Crispina Panis. Considering that Tubigon, Bohol is a small town, it would have been easy to determine the real identity of the person claiming to have executed the document.

Moreover, it was easy for the respondent to require the person who claimed to have executed the questioned Deed of Donation to produce his Community Tax Certificate (formerly Residence Certificate) and any other documents to identify him or her. This he did not do.

It can therefore be validly concluded that respondent Atty. Cabatos failed to exercise with utmost care and diligence his duties as Notary Public.

For these reasons, it is recommended that respondent Atty. Artemio P. Cabatos be reprimanded, with a warning that a graver penalty will be recommended to be imposed on him in the event he again fails to exercise that high degree of diligence required of a Notary Public in the performance of his duties as such. (Emphasis and italization in the original)

By NOTICE OF RESOLUTION,²¹ the IBP National Secretary quoted the IBP Resolution No. XVI-2003-89 adopting and approving the Report and Recommendation of the Investigating Commissioner,²² which notice of Resolution, along with the records of the case, was transmitted by letter of September 29, 2002 of the IBP Director for Bar Discipline and received on October 9, 2003 by the Office of the Bar Confidant, this Court.²³

When will the incidence of violations, by lawyers commissioned as notaries public, of their oath of office decline if not abate?

Why do notaries public seem to be impervious to the call by this Court to faithfully discharge their sacred duties which are dictated by public policy and impressed with public interest?

Why did respondent rely on Ricafort's alleged leading him to believe that the "old woman" before him was the Crispina Panis who purportedly executed the document for notarization, when one of the witnesses²⁴ to the execution of the document was his (respondent's) father, Geronimo Cabatos, from whom he could have verified the identity of Crispina Panis, if indeed he did not know her?

That respondent was, if true, exonerated from the criminal case filed against him in connection with his notarization of the questioned document does not exonerate him from the present administrative case.

Nor does, if respondent's information in his Motion to Dismiss²⁵ is true, that the person who had been instructed by Ricafort to affix the signature of Crispina Panis was the latter's daughter exonerate him. By such information, he in fact impliedly admits that the document had already been signed when it was brought to him for notarization.

That a notary public should not notarize a document unless the persons who signed it are the same persons who executed and personally appeared before him to attest to the contents of the truth of what are stated therein bears reiterating. On pain of sounding like a broken record, this Court has repeatedly held that the purpose of the injunction is to enable the notary public to verify the genuineness of the signature of the

²¹ *Id.* at 194.

²² *Id.* at 195-200.

²³ *Id.* at 193.

²⁴ Annex "G" to Complaint, *Rollo* at 19.

²⁵ *Supra*, Note 14.

acknowledging party – in this case Crispina Panis – and to ascertain that the document is the party's free act of deed.²⁶

Respondent having thus failed to faithfully discharge his sacred duties as a notary public, under the facts and circumstances of the case, the revocation of his notarial commission and disqualification from being commissioned as notary public for a period of One (1) Year is in order.

As for the charge against respondent of showing "grave disrespect to the courts and the administration of justice" by holding a parade/rally, along with his followers, during which he imputed bias to complainant whom he branded as "worse than President Marcos," it has not been sufficiently substantiated.

WHEREFORE, the notarial commission of respondent, Atty. Artemio P. Cabatos, if still existing, is hereby **REVOKED** and he is hereby **DISQUALIFIED** to be commissioned as a notary public for a period of One (1) Year, and **WARNED** that a similar violation by him shall be dealt with more severely.

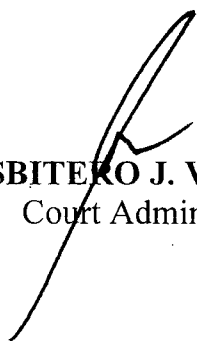
Let copies of this Resolution be furnished to all courts of the country, the Integrated Bar of the Philippines, and the Office of the Bar Confidant.

Let this Resolution be also made of record in the personal files of respondent.

SO ORDERED."

Copy of the resolution was received by respondent on September 9, 2005 as shown by Registry Return Receipt No. 23328.

15 November 2005.


PRESBITERO J. VELASCO, JR.
Court Administrator

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²⁶ *Fidel D. Aquino v. Atty. Oscar Manese*, 400 SCRA 458 (2004).