



Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Third Division, issued a Resolution dated June 20, 2016, which reads as follows:*

“A.C. No. 11084 (*Osmundo A. Posugac, Jr. vs. Atty. Celeste D. Lautá*). – This administrative case against respondent Atty. Celeste D. Lautá (Atty. Lautá) stemmed from the verified Complaint<sup>1</sup> dated October 8, 2013 filed with the Integrated Bar of the Philippines (IBP) by Osmundo A. Posugac, Jr. (complainant) charging Atty. Lautá with violation of the Rules on Notarial Practice (Notarial Rules).

**Antecedent Facts**

In his complaint, the complainant averred that Atty. Lautá is a Notary Public for the Municipalities of Bato, Baaó, Buhí, Balatan, Nabua and the City of Iriga.<sup>2</sup>

According to the complainant, however, on September 3, 2013, Atty. Lautá prepared and notarized the last will and testament of her sister, Amelita A. Posugac (Amelita), at the Mother Seton Hospital, Naga City, which is beyond her notarial jurisdiction.<sup>3</sup>

On October 9, 2013, the Commission on Bar Discipline (CBD) of the IBP issued an Order<sup>4</sup> directing Atty. Lautá to submit her Answer within 15 days from receipt thereof.

In her Answer,<sup>5</sup> Atty. Lautá admitted having prepared and notarized the last will and testament of Amelita. She, however, claimed that her actions were on account of the request of a physically weak but mentally alert client, mentor, and friend, whom she knew long before her illness.

<sup>1</sup> Rollo, pp. 2-3.

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

<sup>3</sup> Id.

<sup>4</sup> Id. at 7.

<sup>5</sup> Id. at 10-17.

Moreover, Atty. Lauta alleged that Section 2, Rule IV of the Notarial Rules<sup>6</sup> provides an exceptional circumstance wherein a notarial act may be done outside her regular place of work or business, including hospitals and other medical institution wherein a party to the document is confined for treatment. She maintained that by necessary implication, the exception should apply regardless whether the hospital or medical institution, is within or outside of the notary public's jurisdiction.<sup>7</sup>

On January 14, 2014, the IBP-CBD required both parties to appear before it for a mandatory conference.<sup>8</sup>

On February 24, 2014, after the conference, the IBP-CBD ordered the termination of the mandatory conference and directed both parties to submit their position papers within a period of 10 days from receipt thereof.<sup>9</sup>

### **Resolutions of the Investigating Commissioner and the IBP Board of Governors**

On March 17, 2014, Commissioner Jose Villanueva Cabrera (Commissioner Cabrera) issued his Report and Recommendation<sup>10</sup> finding Atty. Lauta guilty of violating Section 11, Rule III of the Notarial Rules<sup>11</sup> for notarizing a last will and testament beyond her notarial jurisdiction. The dispositive portion thereof states:

**WHEREFORE, PREMISES CONSIDERED, [ATTY. LAUTA]**  
is hereby meted the penalty of SUSPENSION from the practice of law for ONE (1) month and one (1) year disqualification from being appointed as notary public, with a stern warning that a similar infractions in the future shall be SEVERELY dealt with.<sup>12</sup>

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<sup>6</sup> SEC. 2. *Prohibitions.* - (a) A notary public shall not perform a notarial act outside his regular place of work or business; provided, however, that on certain exceptional occasions or situations, a notarial act may be performed at the request of the parties in the following sites located within his territorial jurisdiction:

(1) public offices, convention halls, and similar places where oaths of office may be administered;  
(2) public function areas in hotels and similar places for the signing of instruments or documents requiring notarization;

(3) hospitals and other medical institutions where a party to an instrument or document is confined for treatment; and

(4) any place where a party to an instrument or document requiring notarization is under detention.

<sup>7</sup> *Rollo*, p. 16.

<sup>8</sup> *Id.* at 28.

<sup>9</sup> *Id.* at 36.

<sup>10</sup> *Id.* at 68-74.

<sup>11</sup> SEC. 11. *Jurisdiction and Term.* - A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning is made, unless earlier revoked or the notary public has resigned under these Rules and the Rules of Court.

<sup>12</sup> *Rollo*, p. 74.

June 20, 2016

In a Notice of Resolution<sup>13</sup> dated December 13, 2014, the IBP Board of Governors adopted and approved with modification the Report and Recommendation of Commissioner Cabrera after finding the same to be fully supported by the evidence on record and applicable laws. For violation of Section 11, Rule III of the Notarial Rules, Atty. Lautá's notarial commission was immediately revoked and she was further disqualified from being commissioned as notary public for two years. She was also suspended from the practice of law for one month.

### Ruling of the Court

Except as to the penalty imposed, the Court finds the resolution of the IBP Board of Governors proper under the circumstances.

As correctly observed by the IBP-CBD, the complaint proved that Atty. Lautá committed acts in violation of the Notarial Rules when she notarized a last will and testament outside her notarial jurisdiction. The Report and Recommendation states in part:

[Atty. Lautá's] act of notarizing a Last Will and Testament is a clear violation of Section 11, Rule III of the [Notarial Rules] in that "A person commissioned as notary public may perform notarial acts in any place within the territorial jurisdiction of the commissioning court for a period of two (2) years commencing the first day of January of the year in which the commissioning is made, unless earlier revoked or the notary public has resigned under these Rules and the Rules of Court." The act of notarizing documents outside one's area of commission also partakes of malpractice of law and falsification. x x x.<sup>14</sup>

Moreover, the Court finds Atty. Lautá's defense of necessary implication without merit. A careful reading of paragraph (a), Section 2, Rule IV of the Notarial Rules provides that the exception does not extend outside the notarial jurisdiction of the notary public. It reads:

*Sec. 2. Prohibitions.* – (a) A notary public shall not perform a notarial act outside his regular place of work or business; provided, however, that on certain exceptional occasions or situations, a notarial act may be performed at the request of the parties in the following sites **located within his territorial jurisdiction: x x x.**" (Emphasis ours)

Clearly, although the rules allow Atty. Lautá to notarize documents in hospitals or other medical institutions, the same, however, must still be within her notarial jurisdiction. In the present case, the hospital which is located in Naga City is undoubtedly beyond the territorial jurisdiction of the Municipalities of Bato, Baaó, Buhi, Balatan, Nabua and the City of Iriga wherein Atty. Lautá is commissioned as a notary public.

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<sup>13</sup> Id. at 66-67.

<sup>14</sup> Id. at 70.

June 20, 2016

The Court, however, finds the imposition of two (2) years disqualification from being commissioned as notary public too harsh.

In *Judge Laquindanum v. Atty. Quintana*,<sup>15</sup> therein respondent was likewise meted out a penalty of disqualification from being commissioned as notary public for two years for committing four violations, to wit: (i) he notarized documents outside the area of his commission as a notary public; (ii) he performed notarial acts with an expired commission; (iii) he let his wife notarize documents in his absence; and (iv) he notarized a document where one of the signatories therein was already dead at that time.

In the present case, considering that Atty. Lautá committed only one violation and that this is her first offense, the Court finds that a penalty of one (1) year disqualification from being commissioned as notary public, as recommended by Commissioner Cabrera, is proper.


**WHEREFORE**, premises considered, the Court **RESOLVES** to:

- (i) **NOTE** the Notice of Resolution No. XXI-2014-900 dated December 13, 2014 of the Integrated Bar of the Philippines Board of Governors adopting and approving with modification the report and recommendation of the Investigating Commissioner, and revoking immediately Atty. Celeste D. Lautá's notarial commission if presently commissioned and disqualifying her from being commissioned as notary public for two (2) years and suspending her from the practice of law for one (1) month;
- (ii) **NOTE** the Letter dated January 11, 2016 of the Commission on Bar Discipline of the Integrated Bar of the Philippines transmitting the documents pertaining to this case;
- (iii) **REVOKE** Atty. Celeste D. Lautá's notarial commission, if still existing; **DISQUALIFY** her from being commissioned as notary public for a period of one (1) year; and **SUSPEND** her from the practice of law for one (1) month effective immediately, with a **WARNING** that the repetition of a similar violation will be dealt with even more severely; and
- (iv) **DIRECT** Atty. Celeste D. Lautá to report the date of her receipt of this Resolution to enable the Court to determine when her suspension and disqualification shall take effect."

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<sup>15</sup> 608 Phil. 727 (2009).

Very truly yours,

  
**WILFREDO V. LAPITAN**  
Division Clerk of Court *per el/2/16*

Mr. Osmundo A. Posugac, Jr.  
Complainant  
CB-2F Greenhills Heights Condominium  
Pinaglaban Street, 1500 San Juan City

Atty. Celeste D. Lautu  
Respondent  
Bato, 4435 Camarines Sur

Atty. Conrado L. Sumaraga  
Counsel for Complainant  
Block 30, Lot 37, Phase 4  
La Joya de Sta. Rosa Subdivision  
Brgy. Dila, Sta. Rosa City  
4026 Laguna

Atty. Ma. Cristina B. Layusa  
Deputy Clerk of Court and Bar Confidant  
OFFICE OF THE BAR CONFIDANT  
Supreme Court, Manila

Atty. Ramon S. Esguerra  
Director for Bar Discipline  
INTEGRATED BAR OF THE PHILIPPINES  
Dona Julia Vargas Avenue  
Ortigas Center, 1600 Pasig City

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