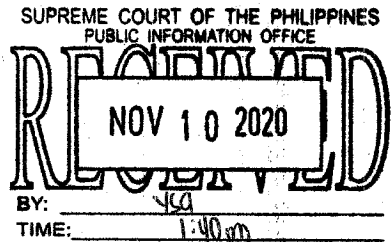




Republic of the Philippines  
Supreme Court  
Manila

THIRD DIVISION



NOTICE

Sirs/Mesdames:

Please take notice that the Court, Third Division, issued a Resolution dated **August 26, 2020**, which reads as follows:

**“A.C. No. 9469 (Erlinda Pulmones-Maghinay and Leon E. Pulmones v. Atty. Ferdinand H. Ebarle).** – The Court **NOTES** the letter dated February 17, 2020 of Atty. Randall C. Tabayoyong, Director for Bar Discipline of the Integrated Bar of the Philippines (IBP) Commission on Bar Discipline, transmitting to this Court the documents pertaining to this case;

This administrative case stemmed from a Verified Complaint<sup>1</sup> filed by Erlinda Pulmones-Maghinay and Leon E. Pulmones (*complainants*) against Atty. Ferdinand H. Ebarle (*respondent*) for his alleged violation of notarial rules.

**The Antecedents**

Complainants are two (2) of the nine (9) heirs of the late spouses Simeon (*Simeon*) and Consija Pulmones. They inherited, together with their siblings, a parcel of land located in Agusan Del Sur. They alleged that in 2012, upon inquiry with the Register of Deeds of Agusan Del Sur, they discovered that the title of their land, which was in the name of the Heirs of Simeon Pulmones, represented by Consija Pulmones, had been transferred to the name of Fe Pulmones (*Fe*), their sister, by virtue of a Deed of Sale between the latter and their father. They were also able to procure a copy of a Deed of Confirmation of Sale, annexed in the records pertaining to the land, executed by their brothers Otto and Mansueto Pulmones on December 22, 2011 despite Monsueto having died in 1993. According to complainants, respondent clearly violated notarial rules when he notarized the Deed of Confirmation of Sale.<sup>2</sup>

Respondent denied notarizing the Deed of Confirmation of Sale and claimed that the signature appearing thereon is not his. To support his claim, he submitted the affidavit of his secretary, Lady Joy Cotejo Cebuala

<sup>1</sup> *Rollo*, pp. 15-18.

<sup>2</sup> *Id.*

(Cebuala) who attested that he neither prepared nor notarized the Deed of Confirmation of Sale and that, as far as she could remember, she did not assign a document number or put a seal on the document. Cebuala narrated that on December 22, 2011, two men arrived at their office in San Francisco, Agusan Del Sur. One of them introduced himself to her as Otto Pulmones (*Otto*). Otto showed her a document denominated as Deed of Confirmation of Sale which was already signed by the affiants, Otto and one Mansueto Pulmones. She informed Otto and his companion that they have “to show again their signatures as well as their [CTCs] and [IDs] when [respondent] arrives.” She recalled that one of the two men asked her if she could prepare the document for notarization so that upon respondent’s arrival he could immediately notarize the document since they were pressed for time because of the Christmas season. However, after she stamped the document with respondent’s name and notarial credentials, the two men could not present any identification. She, thus, informed them that the notarization of the document would not be possible without their CTCs and IDs. The two men asked for the return of the Deed of Confirmation of Sale since they needed to show it to the Register of Deeds for the processing of the transfer of a land title. They promised to return it immediately for notarization. However, despite their promise, the two men did not return.<sup>3</sup>

Respondent argued that the submission of the Deed of Confirmation of Sale to the Register of Deeds for the processing of the transfer of title to the land was a mere “surplusage” because there was a prior Deed of Sale between Fe and Simeon covering the land. He added that the entries in his Notarial Register show that a different document, Affidavit of Loss of Glen M. Baldivas, was recorded as corresponding to the document number indicated in the Deed of Confirmation of Sale. Hence, he should not be held administratively liable.<sup>4</sup>

### **The Ruling of the Integrated Bar of the Philippines (IBP)**

In his January 26, 2018 Report and Recommendation,<sup>5</sup> Investigating Commissioner Roy M. Villa (*Investigating Commissioner*) recommended the dismissal of the complaint for disbarment against respondent for insufficiency of evidence. This notwithstanding, the Investigating Commissioner found respondent guilty of negligence in complying with notarial rules, and recommended the revocation of respondent’s notarial commission, if any, and his disqualification from being commissioned as a notary public for a period of one (1) year, with a stern warning to be more discreet and cautious in the performance of his duties and responsibilities as a similar negligent act in the future shall be dealt with more severely.

<sup>3</sup> Id. at 127-129.

<sup>4</sup> Id. at 129.

<sup>5</sup> Id. at 124-141.

According to the Investigating Commissioner, complainants failed to show sufficient evidence that respondent took part in the alleged deceit or fraud in the execution or notarization of the Deed of Confirmation of Sale. He reasoned that respondent's "purported signature found in the questioned deed cannot even be construed that he had knowledge of the fraud" and "to do so will mean resorting to speculation, supposition, and guesswork, which can never constitute or substitute for evidence of proof." Moreover, respondent's denial of notarizing the Deed of Confirmation of Sale is supported by the entries in his Notarial Register, which shows that the document number of the questioned deed refers to a different document.<sup>6</sup>

Nonetheless, the Investigating Commissioner found respondent guilty of negligence in properly observing notarial rules by allowing his secretary to make inquiries on the identity of clients, affix his notarial stamp and seal on the documents notarized in his law office, and make entries in the Notarial Register. Respondent failed to exercise due diligence and be discreet and cautious in the discharge of his duties; therefore, he is responsible for the negligence of his secretary which contributed to the injury suffered by complainants.<sup>7</sup>

In its July 12, 2018 Resolution,<sup>8</sup> the IBP Board of Governors (*IBP Board*) adopted the findings of fact and recommendation of the Investigating Commissioner. Respondent filed a Motion for Partial Reconsideration, reiterating his previous arguments, but his motion was denied by the IBP Board in its June 17, 2019 Resolution.<sup>9</sup>

### **The Ruling of this Court**

This Court adopts the findings of fact and recommendation of the IBP Board.

By his own admission, respondent delegated to his secretary tasks that are part of the notarization process. His secretary negligently exercised these tasks in this case which resulted in the fraudulent transfer of title to a land. In doing so, respondent should be held administratively liable. A notary public must exercise utmost care in performing his duties to preserve the public's confidence in the integrity of notarized documents.<sup>10</sup> It must be stressed that the sensitive nature of the responsibilities of a notary public should compel him to be more discreet and cautious in the execution of his duties and he

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<sup>6</sup> Id. at 133-134.

<sup>7</sup> Id. at 135-140.

<sup>8</sup> Id. at 122-123.

<sup>9</sup> Id. at 160-161.

<sup>10</sup> See *Spouses Navarro v. Atty. Ygoña*, 814 Phil. 459, 466 (2017).

should not wholly entrust everything to the secretaries; otherwise he should not have been commissioned as notary public.<sup>11</sup>

In *Sps. Santuyo v. Atty. Hidalgo*,<sup>12</sup> this Court meted the penalty of suspension or disqualification from being commissioned as a notary public for a period of two (2) years with a warning that a repetition of similar negligent acts would be dealt with more severely for negligence in the performance of duties as notary public. The respondent therein denied notarizing the questioned document but admitted that it is a practice in their law firm to allow the secretaries to affix the dry seal of the junior associates on documents relating to cases handled by the law firm.

In *Navarro v. Ygoña*,<sup>13</sup> this Court meted the penalty of revocation of current commission and disqualification from being commissioned as a notary public for a period of two (2) years, with a stern warning for the same offense.

The appropriate penalty to be meted against an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts. As such, this Court adopts the penalty recommended by the IBP Board.

**WHEREFORE**, respondent **ATTY. FERDINAND H. EBARLE** is found **GUILTY** of gross negligence in his duties as notary public. His notarial commission, if any, is hereby **REVOKED** and he is **DISQUALIFIED** from being commissioned as a notary public for a period of one (1) year. He is **STERNLY WARNED** to be more discreet and cautious in the performance of his duties and responsibilities as a similar negligent act in the future shall be dealt with more severely.

Let a copy of this Resolution be furnished the Office of the Bar Confidant to be appended to respondent's personal record as a member of the Bar. Likewise, let copies of the same be served on the Integrated Bar of the Philippines and the Office of the Court Administrator, which is directed to circulate them to all courts in the country for their information and guidance.

**SO ORDERED."**

By authority of the Court:

*Misael DC Batt*  
**MISAELO DOMINGO C. BATTUNG III**  
*Division Clerk of Court*

GER  
10/14/20

<sup>11</sup> See *Spouses Santuyo v. Atty. Hidalgo*, 489 Phil. 257, 261 (2005).

<sup>12</sup> *Id.*

<sup>13</sup> *Supra* note 10.

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