



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **09 September 2020** which reads as follows:*

“A.C. No. 12459 – (*Elsa P. Llemit and Inocentes P. Piabol v. Atty. Herculano T. Tagaloguin*) - This verified complaint¹ for disbarment filed by Elsa Llemit (Llemit) and Inocentes P. Piabol (Piabol) before the Integrated Bar of the Philippines (IBP) docketed as CBD Case No. 16-5142, charges the respondent, Atty. Herculano T. Tagaloguin (Atty. Tagaloguin), with notarizing three deeds of real estate mortgage without identifying through competent evidence the identities of Reynaldo Apuhin (Reynaldo), and his wife Azucena Apuhin (Azucena), who allegedly misrepresented themselves as the deceased spouses Sabas Piabol (Sabas), the registered owner of Lot No. 133-B-8 covered by Transfer Certificate of Title (TCT) No. T-114848²; and Angelina Piabol (Angelina), respectively.

Complainants Llemit and Piabol alleged in their complaint that spouses Reynaldo and Azucena, misrepresenting themselves as the deceased spouses Sabas and Angelina, mortgaged the land covered by TCT No. T-114848 to Romeo L. Magallanes (Magallanes) as shown in the three mortgage contracts all notarized by respondent Atty. Tagaloguin, namely, (a) the August 22, 2006 Deed of Real Estate Mortgage³ by which Sabas, with the consent of his wife Angelina, allegedly mortgaged Lot No. 113-B-3, a portion of Lot No. 133-B with an area of 290 square meters (sqm.) and covered by TCT No. T-114843 to Magallanes in the amount of ₱30,000.00; (b) the January 25, 2008 Deed of Real Estate Mortgage⁴ by which Sabas, with the consent of Angelina, allegedly mortgaged Lot No. 133-B-8, a portion of Lot No. 133-B with an area of 14,613 sqm. and covered by TCT No. T-114848 to Magallanes for

¹ *Rollo*, pp. 1-4.

² *Id.* at 209.

³ *Id.* at 44.

⁴ *Id.* at 45.

₱575,960.00; and (c) the November 13, 2008 Deed of Real Estate Mortgage⁵ by which Sabas, with the consent of Angelina, allegedly mortgaged Lot No. 133-B-8, a portion of Lot No. 133-B with an area of 14,613 sqm. and covered by TCT No. T-114848, to Magallanes for ₱979,132.00.

In his Answer,⁶ respondent Atty. Tagaloguin denied having participated in the misrepresentation made by spouses Reynaldo and Azucena. He claimed that he acted in good faith when he notarized the three mortgage contracts as he merely relied on the community tax certificate (CTC) allegedly of Sabas presented by spouses Reynaldo and Azucena. Respondent alleged that he became aware of spouses Reynaldo and Azucena's impersonation of spouses Sabas and Angelina only when a complaint was filed by herein complainants in Barangay Caloocan, Koronadal City against Magallanes.

Respondent further alleged that he had been admitted to the bar on May 9, 1980 and had been in the practice of law for 36 years. Since then, he had not been charged with any disbarment case. Thus, respondent prayed that the complaint against him be dismissed.

IBP's Report and Recommendation:

In a Report and Recommendation⁷ dated October 11, 2017, Investigating Commissioner Jose Alfonso M. Gomos recommended that the respondent be reprimanded and/or censured for his shortcoming and/or negligence. The evidence on record shows that there were three mortgage contracts which were falsified, namely, Deeds of Real Estate Mortgage dated August 22, 2006, January 25, 2008 and November 13, 2008. As admitted by the respondent, he did not personally know spouses Reynaldo and Azucena. Yet, he relied on the CTCs of the signatories of the mortgage contracts as competent evidence of their identities. Hence, respondent failed to comply with Section 1, Rule II of the 2004 Rules of Notarial Practice as he failed to identify through competent evidence the identities of the signatories of the three mortgage contracts. Respondent should not have relied simply on the CTCs in view of the ease by which these CTCs can be obtained. In fact, a CTC is not considered as competent evidence of identity under Section 12, Rule II of 2004 Rules of Notarial Practice, as amended.

However, there is no evidence showing that respondent colluded with spouses Reynaldo and Azucena in the misrepresentation or falsification of the three mortgage contracts. Hence, the Investigating Commissioner recommended that respondent be reprimanded and/or censured for his failure to perform his duties as notary public in notarizing the three mortgage

⁵ Id. at 46.

⁶ Id. at 28-34.

⁷ Id., unpaginated.

contracts without requiring the signatories, whom he did not personally know, to show competent evidence of their identities.

In its May 19, 2018 Resolution⁸, the IBP Board of Governors resolved to adopt the findings of fact and recommendation of the Investigating Commissioner with modification to reduce the recommended penalty to admonition in view of good faith on the part of the respondent.

There was no motion for reconsideration filed.

The Ruling of the Court

We adopt the findings of the IBP but modify its recommended penalty.

The 2004 Rules of Notarial Practice provides that a notary public should not notarize a document unless the signatory to the document is personally known to the notary public or otherwise identified through competent evidence of identity.⁹ Notarization is not an empty, meaningless, and routinary act as it converts a private document into a public document, making it admissible in evidence without further proof of its authenticity.¹⁰ It is, by law, entitled to full faith and credit upon its face.¹¹ Thus, notaries public must observe with utmost care the basic requirements in the performance of their duties.¹²

Admittedly, Atty. Tagaloguin violated Section 2(b), Rule IV of the 2004 Rules of Notarial Practice when he failed to identify through competent evidence the identities of spouses Reynaldo and Azucena who falsely represented themselves as deceased spouses Sabas and Angelina as mortgagors in the three deeds of real estate mortgage executed in favor of Magallanes as mortgagee. A perusal of the three deeds of real estate mortgage would reveal that the signatories, namely, Sabas and Magallanes, presented CTCs before Atty. Tagaloguin as proof of their identities for the notarization of the said instruments.

Under Section 12, Rule II of the 2004 Rules of Notarial Practice, competent evidence of identity is defined as identification of an individual based on: (a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual; or (b) the oath or affirmation of one credible witness not privy to the

⁸ Id., unpaginated.

⁹ Section 2(b), Rule IV of the 2004 Rules of Notarial Practice.

¹⁰ *Angeles v. Ibañez*, 596 Phil. 99 (2009); *Dela Cruz-Sillano v. Pangan*, 592 Phil. 219 (2008); *Legaspi v. Landrito*, 590 Phil. 1 (2008); *Pantoja-Mumar v. Flores*, 549 Phil. 261 (2007); *Gonzales v. Ramos*, 499 Phil. 345 (2005); *Dela Cruz v. Zabala*, 485 Phil. 83 (2004); *Follosco v. Mateo*, 466 Phil. 305 (2004); *Aquino v. Manese*, 448 Phil. 555 (2003) cited in *Gaddi v. Velasco*, 742 Phil. 810 (2014).

¹¹ Id.

¹² Id.

instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification. However, Section 12(a), Rule II has been amended on February 19, 2008 by A.M. No. 02-8-13-SC which listed the identification documents considered as competent evidence of identity, to wit:

(a) at least one current identification document issued by an official agency bearing the photograph and signature of the individual, such as but not limited to, passport, driver's license, Professional Regulations Commission ID, National Bureau of Investigation clearance, police clearance, postal ID, voter's ID, Barangay certification, Government Service and Insurance System (GSIS) e-card, Social Security System (SSS) card, Philhealth card, senior citizen card, Overseas Workers Welfare Administration (OWWA) ID, OFW ID, seaman's book, alien certificate of registration/immigrant certificate of registration, government office ID, certification from the National Council for the Welfare of Disable Persons (NCWDP), Department of Social Welfare and Development (DSWD) certification; x x x

It bears stressing that the first and second deeds of real estate mortgage were notarized on August 22, 2006 and January 25, 2008, respectively, or before the amendment on Section 12(a), Rule II of the 2004 Rules of Notarial Practice on February 19, 2008. Nonetheless, Atty. Tagaloguin is not absolved from complying with his duty to identify through competent evidence the identities of Reynaldo and Azucena under Section 2(b), Rule IV which he admittedly failed to do. Respondent should have exercised utmost diligence in ascertaining the true identity of the persons who represented themselves as deceased spouses Sabas and Angelina. Respondent should not have relied merely on the CTCs presented by the said impostors in view of the ease by which CTCs can be obtained.¹³

Moreover, with the issuance of A.M. No. 02-8-13-SC on February 19, 2008, CTCs are expressly excluded from the list of identification documents considered as competent evidence of identity. Therefore, Atty. Tagaloguin's act of notarizing the November 13, 2008 Deed of Real Estate Mortgage is in blatant violation of his duty under Section 2(b), Rule IV of the 2004 Rules of Notarial Practice, as amended.

As a notary public who failed to discharge his duties, he shall be meted out the penalty of revocation of his notarial commission and disqualification from being commissioned as a notary public for a period of one (1) year. For failure of Atty. Tagaloguin to identify through competent evidence of identity the signatories of the three deeds of real estate mortgage, he failed to

¹³ *Dela Cruz v. Zabala*, supra note 10, cited in *Baylon v. Almo*, 578 Phil. 238 (2008).

discharge his duties as notary public and breached Canon 1¹⁴ and Rule 1.01¹⁵ of the Code of Professional Responsibility.

Recent jurisprudence teaches that the penalty for a lawyer who fails to discharge his or her duties as a notary public is “revocation of his or her notarial commission and disqualification from being commissioned as a notary public for a period of two (2) years [and suspension] from the practice of law for a period of six (6) months.”¹⁶ Similarly, we impose the same penalty to Atty. Tagaloguin.

WHEREFORE, respondent Atty. Herculano T. Tagaloguin is hereby found guilty of violating the 2004 Rules of Notarial Practice and the Code of Professional Responsibility for lack of diligence and carefulness in the performance of his official duties as notary public and is hereby **SUSPENDED** from the practice of law for six (6) months effective immediately upon receipt of this Resolution with **WARNING** that a repetition of the same or similar offense shall be dealt with more severely.

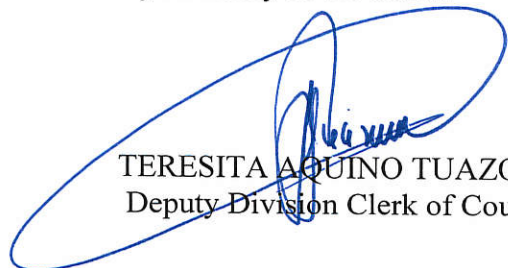
Accordingly, the Court **REVOKES** his incumbent notarial commission, if any, and **PROHIBITS** him from being commissioned as a notary public for two (2) years, effective immediately.

Respondent is **DIRECTED** to file a Manifestation to this Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished the Office of the Bar Confidant, to be appended to respondent's personal record as attorney. Likewise, copies shall be furnished to the Integrated Bar of the Philippines and all courts in the country for their information and guidance.

SO ORDERED.” (Inting, *J.*, on official leave; Baltazar-Padilla, *J.*, on leave.)

By authority of the Court:


TERESITA AQUINO TUAZON
Deputy Division Clerk of Court *p 9/22*

¹⁴ A lawyer shall uphold the Constitution, obey the laws of the land and promote respect for law and legal processes.

¹⁵ A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

¹⁶ *Ko.v. Uy-Lampasa*, A.C. No. 11584, March 6, 2019.

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