

RECEIVED
DEC 02 2020
BY: ICM
TIME: 9:14



Republic of the Philippines
Supreme Court
Manila

EN BANC

TEODORO L. CANSINO and
EMILIO L. CANSINO, JR.,
Complainants,

A.C. No. 8522

Present:

PERALTA, C.J.,
PERLAS-BERNABE,
LEONEN,
CAGUIOA,
GESMUNDO,
HERNANDO,
CARANDANG,
LAZARO-JAVIER,
INTING,
ZALAMEDA,
LOPEZ,
DELOS SANTOS,
GAERLAN, and
BALTAZAR-PADILLA,* JJ.

- versus -

Promulgated:

ATTY. VICTOR D.
SEDERIOSA,
Respondent.

October 6, 2020

X-----X

DECISION

HERNANDO, J.:

This administrative case arose from a Joint Affidavit-Complaint¹ for disbarment filed by Teodoro L. Cansino and Emilio L. Cansino, Jr. (complainants) against Atty. Victor D. Sederiosa (Atty. Sederiosa) for conspiring in the execution and notarization of fictitious and simulated documents.

* On leave.

¹ Rollo, pp. 2-4.

The Factual Antecedents

Complainants alleged that Atty. Sederiosa was a friend and law school classmate of their brother Paulino Cansino (Paulino). They claimed that Atty. Sederiosa notarized the following spurious documents despite the death of their parents and/or the non-personal appearance of the affiants therein:

(a) an Extrajudicial Settlement of Estate² dated January 3, 1995 which was purportedly executed by their father Emilio Cansino, Sr. (Emilio Sr.) (already deceased since August 1, 1991)³, and their mother Victoria L. Cansino (Victoria). The Extrajudicial Settlement stated that Emilio Sr. and Victoria adjudicated and partitioned between themselves the properties of their deceased daughter, Belen L. Cansino (Belen), which consisted of the following: (a) a 600 square meters parcel of land known as Lot No. 72 situated in Mintal, Davao City; (b) a 300 square meters land in GSIS Heights Matina, Davao City; and (c) accounts receivables due from Emilio L. Cansino (Emilio, Jr.) in the amount of ₱247,000.00;

(b) a Deed of Sale of Hereditary Rights⁴ dated January 3, 1995 allegedly executed by Victoria and their brother Paulino. The Deed of Sale stated that Victoria sold and conveyed the subject properties of the Extrajudicial Settlement to Paulino in the amount of ₱200,000.00;

(c) a Deed of Sale of Hereditary and Conjugal Property Rights⁵ dated January 13, 1995, stating that Victoria sold, transferred and conveyed her conjugal share with Emilio Sr. on the subject properties to Paulino;

(d) a Secretary Certificate dated April 30, 2008 which was signed by a certain Carlo C. Lagman, corporate secretary of the Integrated Project Corporation (IPC), authorizing Felicitas Cortel to sell, transfer and convey a vehicle with plate number LAB 874. The said vehicle was assigned to Emilio Sr. during his employment with the IPC; and

(e) a Deed of Sale dated April 30, 2008 transferring the said vehicle to Paulino.

In a Report and Recommendation⁶ dated February 20, 2014, the Investigating Commissioner⁷ found Atty. Sederiosa liable for the acts complained of and recommended his suspension from the practice of law for a period of one year and the revocation of his notarial commission during the period thereof.

On October 11, 2014, the IBP Board of Governors passed Resolution No. XXI-2014-783⁸ adopting the findings of the Investigating Commissioner but modifying the recommended penalties in this wise:

² Id. at 584-586.

³ Id. at 583.

⁴ Id. at 587-589.

⁵ Id. at 590-592.

⁶ Id. at 742-751.

⁷ Commissioner Hector B. Almeyda.

⁸ Id. at 740.

RESOLVED to ADOPT and APPROVE, as it is hereby ADOPTED and APPROVED, with modification, the Report and Recommendation of the Investigating Commissioner in the above-entitled case, herein made part of this Resolution as Annex "A", and for violation of the 2004 Rules of Notarial Practice and the Code of Professional Responsibility, Atty. Victor D. Sederiosa's notarial commission if presently commissioned is immediately REVOKED. Further, he is DISQUALIFIED from being commissioned as Notary Public for two (2) years and SUSPENDED from the practice of law for one (1) year.⁹

In a Resolution¹⁰ dated December 7, 2015, this Court resolved to adopt and approve the findings and recommendation of the IBP Board of Governors (BOG), to wit:

- (1) respondent Atty. Victor D. Sederiosa is hereby SUSPENDED from the practice of law for one (1) year effective from notice; and
- (2) respondent Atty. Victor D. Sederiosa's notarial commission, if presently commissioned, is IMMEDIATELY REVOKED for violation of the 2004 Rules of Notarial Practice and the Code of Professional Responsibility, and he is further DISQUALIFIED from being commissioned as Notary Public for two (2) years.¹¹

On February 9, 2016, Atty. Sederiosa filed a Motion for Reconsideration¹² before the IBP BOG. He averred that he received a copy of the IBP's October 11, 2014 Resolution only on January 29, 2016. Also, he sought for the reexamination of its findings and the reduction of the penalty imposed upon him.

Meanwhile, complainant Emilio, Jr. filed before this Court a Manifestation and Motion with Notice of Change of Address of Counsel¹³ informing this High Court that despite the Court's December 7, 2015 Resolution suspending Atty. Sederiosa from the practice of law, the revocation of his notarial practice and disqualification from being commissioned as notary public, he has continuously engaged in the practice of law and has remained to be a duly commissioned notary public. In support of his claim, Emilio, Jr. presented as evidence the following: (a) July 14, 2016 Certification¹⁴ issued by the Regional Trial Court, Davao City - Office of the Clerk of Court stating that Atty. Sederiosa was a duly commissioned notary public in Davao City for the years 2016-2017; (b) Atty. Sederiosa's Commission for Notary Public¹⁵ and his Oath dated January 8, 2016; (c) a photograph¹⁶ of Atty. Sederiosa's law firm's signboard; and (d) an Affidavit

⁹ Id.

¹⁰ Id. at 752-753.

¹¹ Id. at 752.

¹² Id. at 756-764.

¹³ Id. at 876-880.

¹⁴ Id. at 882.

¹⁵ Id. at 883.

¹⁶ Id. at 884.

of Loss¹⁷ duly notarized by Atty. Sederiosa on August 8, 2016.

Atty. Sederiosa, in turn, submitted a Manifestation¹⁸ stressing that he did not violate the suspension order of the High Court. He claimed that he did not officially receive a copy of this Court's December 7, 2015 Resolution and that he only learned about it when Atty. Emilio P. Cansino III, complainants' counsel, filed a Manifestation on September 6, 2016 before this Court.

Atty. Sederiosa also stressed that the only copy of a resolution that he received was the October 11, 2014 Resolution of the IBP to which he timely filed a motion for reconsideration which remained unresolved.

In a February 19, 2018 Resolution,¹⁹ this Court referred Atty. Sederiosa's Motion for Reconsideration to the Office of the Bar Confidant (OBC) for report and recommendation.

Report and Recommendation of the OBC

In its July 3, 2019 Report and Recommendation,²⁰ the OBC found Atty. Sederiosa's Motion for Reconsideration without merit. It noted that contrary to his claim, Atty. Sederiosa duly received the Court's December 7, 2015 Resolution on January 29, 2016 as shown in the Registry Return Receipt. Hence, the OBC recommended that Atty. Sederiosa be further suspended from the practice of law for a period of one year and be permanently disqualified from reappointment as a notary public.

Issue

The sole issue for resolution is whether Atty. Sederiosa is administratively liable for engaging in the practice of law during his suspension, and for notarizing documents despite the revocation of his notarial commission, and for being commissioned as notary public notwithstanding his disqualification.

Our Ruling

After a careful examination the records of the case, We resolve to adopt the findings of the OBC but with modification as regards the recommended penalty.

In an attempt to evade any liability, Atty. Sederiosa lamentably resorted to lies when he denied receipt of the Court's December 7, 2015 Resolution suspending him from the law practice, revoking his notarial commission and disqualifying him from being commissioned as such.

¹⁷ Id. at 885.

¹⁸ Id. at 896-899.

¹⁹ Id. at 1003-1004.

²⁰ Id. at 1005-1006.

Registry Return Receipt No. 3956²¹ clearly shows that a certain Deo Zuniga (Zuniga), in behalf of Atty. Sederiosa, duly received a copy of Our December 7, 2015 Resolution on January 29, 2016. Interestingly, Atty. Sederiosa failed to show proof that Zuniga was incompetent to receive the same as he was neither a clerk or a person in charge of his office nor a person of sufficient age and discretion then residing in his place of residence.²² He simply denied receipt of the suspension order and did not assail the authority of Zuniga to receive the same. Verily, the registry receipt constitutes a *prima facie* proof that the suspension order had been delivered to and received by Atty. Sederiosa. The presumption of regularity in the performance of official duty is upheld.²³

We now resolve the issue whether Atty. Sederiosa engaged in the practice of law during the period of his suspension. The Court rules in the affirmative.

The regulation of the practice of law falls upon the exclusive jurisdiction of the High Court. As such, a lawyer who has been suspended from the practice of law by the Court must refrain from performing all functions which would require the application of his legal knowledge within the period of suspension.²⁴ The practice of law includes any activity, in or out of court, which requires the application of law, legal procedure, knowledge, training, and experience.²⁵ It comprises the performance of acts which are characteristic of the legal profession, or rendering any kind of service which requires the use in any degree of legal knowledge or skill.²⁶

Guided by the foregoing on what constitutes a practice of law, it is beyond cavil that notarizing of documents constitutes a practice of law. In fact, one of the requirements to be a duly commissioned notary public is that he/she must be a member of the Philippine Bar in good standing. Pertinently, Section 1, Rule III of the 2004 Rules on Notarial Practice²⁷ provides:

SECTION 1. Qualifications. -A notarial commission may be issued by an Executive Judge to any qualified person who submits a petition in accordance with these Rules.

To be eligible for commissioning as notary public, the petitioner:

²¹ Dorsal side of Records, p. 752.

²² Section 6, Rule 13 of the Rules on Civil Procedure.

Section 6. Personal service. — Service of the papers may be made by delivering personally a copy to the party or his counsel, or by leaving it in his office with his clerk or with a person having charge thereof. If no person is found in his office, or his office is not known, or he has no office, then by leaving the copy, between the hours of eight in the morning and six in the evening, at the party's or counsel's residence, if known, with a person of sufficient age and discretion then residing therein.

²³ *Scenarios, Inc. v. Vinluan*, 587 Phil. 351, 359 (2008).

²⁴ *Atty. Eustaquio v. Atty. Navales*, 786 Phil. 484, 490 (2016).

²⁵ *Id.*

²⁶ *Id.*

²⁷ A.M. No. 02-8-13-SC.

- (1) must be a citizen of the Philippines;
- (2) must be over twenty-one (21) years of age;
- (3) must be a resident in the Philippines for at least one (1) year and maintains a regular place of work or business in the city or province where the commission is to be issued;
- (4) **must be a member of the Philippine Bar in good standing with clearances from the Office of the Bar Confidant of the Supreme Court and the Integrated Bar of the Philippines;** and
- (5) must not have been convicted in the first instance of any crime involving moral turpitude. (Emphasis Supplied.)

In other words, a lawyer, during the period of his/her suspension, is barred from engaging in notarial practice as he/she is deemed not a member of the Philippine Bar in good standing, which is one of the essential requisites to be eligible as a notary public.

There is more than enough evidence that shows that Atty. Sederiosa has continuously been practicing his legal profession despite the suspension order against him. He remained to be a duly commissioned notary public from January 8, 2016 to December 31, 2017 as attested by the Certification from the RTC – Davao City, the Commission for Notary Public dated January 8, 2016, and the Affidavit of Loss dated August 8, 2016 which he duly notarized. In short, he had never served his suspension.

It must be stressed that at the time he notarized the Affidavit of Loss on August 8, 2016, Atty. Sederiosa was already cognizant of the Court's December 7, 2015 Resolution as early as January 29, 2016. As such, he was already aware that the Court had imposed the following penalties upon him: (a) immediate revocation of his notarial commission; (b) disqualification from being commissioned as a notary public for a period of two years; and (c) suspension for one year from the practice of law. Consequently, Atty. Sederiosa should have refrained from performing the duties of a notary public and engaging in law practice. Yet, he continued to notarize documents in clear defiance of the Court's orders. By doing so, he continued to practice law.

All told, Atty. Sederiosa is administratively liable for engaging in law practice during his suspension and for performing his duties as a notary public despite revocation of his commission. Section 27, Rule 138 of the Rules of Court provides:

Sec. 27. Disbarment or suspension of attorneys by Supreme Court; grounds therefor. — A member of the bar may be disbarred or suspended from his office as attorney by the Supreme Court for any deceit, malpractice or other gross misconduct in such office, grossly immoral conduct, or by reason of his conviction of a crime involving moral turpitude, or for any violation of the oath which he is required to take before admission to practice, or **for a willful disobedience of any lawful order of a superior court** or for corruptly or willfully appearing as an attorney for a party to a case without authority so to do. The practice of soliciting cases at law for the purpose of gain, either personally or through paid

agents or brokers, constitutes malpractice. [Emphasis Supplied.]

Atty. Sederiosa's willful disobedience to a lawful order of this Court constitutes a breach of the Lawyer's Oath²⁸ which mandates every lawyer to "obey the laws as well as the legal orders of the duly constituted authorities therein", and to conduct himself as a lawyer according to the best of his knowledge and discretion with all good fidelity as well as to the courts as to his clients.

Atty. Sederiosa likewise trampled upon the ethical standards embodied in the Code of Professional Responsibility. His actuations amounted to gross deceit and malpractice, or gross misconduct in violation of the following particular provisions in the Code:

Rule 1.01 – A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

CANON 7 – A LAWYER SHALL AT ALL TIMES UPHOLD THE INTEGRITY AND DIGNITY OF THE LEGAL PROFESSION AND SUPPORT THE ACTIVITIES OF THE INTEGRATED BAR.

Rule 7.03 – A lawyer shall not engage in conduct that adversely reflects on his fitness to practice law, nor should he, whether in public or private life, behave in a scandalous manner to the discredit of the legal profession.

CANON 9 – A LAWYER SHALL NOT, DIRECTLY OR INDIRECTLY, ASSIST IN THE UNAUTHORIZED PRACTICE OF LAW.

CANON 10 – A LAWYER OWES CANDOR, FAIRNESS AND GOOD FAITH TO THE COURT.

CANON 15 – A LAWYER SHALL OBSERVE CANDOR, FAIRNESS AND LOYALTY IN ALL HIS DEALINGS AND TRANSACTIONS WITH HIS CLIENT.

Furthermore, the fact that Atty. Sederiosa actively engaged in notarial practice despite revocation of his commission is indisputably contemptuous.

In *Tan, Jr. v. Atty. Gumba*,²⁹ Atty. Haide V. Gumba continued to practice law by filing pleadings and appearing as counsel in courts despite her suspension. Thus, the Court suspended her from the practice of law for an additional period of six months from her original six months suspension, with a warning that a repetition of same or similar act will be dealt with more

²⁸ The Attorney's Oath under the Rules of Court reads:
FORM 28. – Attorney's Oath.

I, _____, do solemnly swear that I will maintain allegiance to the Republic of the Philippines; I will support its Constitution and obey the laws as well as the legal orders of the duly constituted authorities therein; I will do no falsehood, nor consent to the doing of any in court; I will not wittingly or willingly promote or sue any groundless, false or unlawful suit, nor give aid nor consent to the same. I will delay no man for money or malice, and will conduct myself as a lawyer according to the best of my knowledge and discretion with all good fidelity as well to the courts as to my clients; and I impose upon myself this voluntary obligation without any mental reservation or purpose of evasion. So help me God.

²⁹ A.C. No. 9000, January 10, 2018.

severely.

In *Molina v. Atty. Magat*,³⁰ we further suspended Atty. Ceferino R. Magat from the practice of law for six months for practicing his profession notwithstanding his suspension. In *Ibana-Andrade v. Atty. Paita-Moya*,³¹ we imposed a similar penalty against Atty. Eva Paita-Mora who, despite receipt of the Resolution on her suspension, continued to practice law through filing of pleadings and acting as counsel in courts.

However, in the most recent case of *Zafra III v. Atty. Pagatpatan*,³² the Court meted the most severe penalty of disbarment against therein respondent who continued to practice law for over 11 years despite the Court's suspension order.

In the instant case, we find the penalty of suspension from the practice of law for two (2) years as commensurate to the infractions he committed, on top of the suspension for one (1) year previously imposed upon him which he has yet to serve, with revocation of his current notarial commission, if any, and permanent disqualification from acting as notary public.

Disbarment is the most severe form of disciplinary sanction hence it must be exercised with great caution.³³ It must therefore be imposed only for serious reasons and in clear cases of misconduct affecting the standing and moral character of the lawyer as an officer of the court and member of the bar.³⁴ As We have emphasized in *Alitagtag v. Atty. Garcia*,³⁵ viz.:

Indeed, the power to disbar must be exercised with great caution, and may be imposed only in a clear case of misconduct that seriously affects the standing and the character of the lawyer as an officer of the Court and as a member of the bar. Disbarment should never be decreed where any lesser penalty could accomplish the end desired. Without doubt, a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment. However, the said penalties are imposed with great caution, because they are the most severe forms of disciplinary action and their consequences are beyond repair.

The transgression committed by Atty. Sederiosa is a mockery on the High Court's power to discipline erring lawyers. Engaging in the practice of law during one's suspension is a clear disrespect to the orders of the Court. In doing so, the faith and confidence which the public has reposed upon the judicial system has been put at stake as it gives the impression that a court's order is nothing but a mere scrap of paper with no teeth to bind the parties and the whole world. Moreover, Atty. Sederiosa's unauthorized legal practice is a clear violation of his duty to observe the law and rules.

³⁰ 687 Phil. 1 (2012).

³¹ 763 Phil. 687 (2015).

³² A.C. No. 12457, April 2, 2019.

³³ *Yagong v. Magno*, A.C. No. 10333, November 6, 2017.

³⁴ Id.

³⁵ 451 Phil. 420, 426 (2003).

On a final note, the Court, once again, reminds the lawyers that the practice of law is a privilege burdened with conditions. As vanguards of our legal system, they are expected to uphold not only legal proficiency but also a high standard of morality, honesty, integrity and fair dealing.³⁶ This We have put emphasis on in *Atty. Embido v. Atty. Pe, Jr.*³⁷

No lawyer should ever lose sight of the verity that the practice of the legal profession is always a privilege that the Court extends only to the deserving, and that the Court may withdraw or deny the privilege to him who fails to observe and respect the Lawyer's Oath and the canons of ethical conduct in his professional and private capacities. He may be disbarred or suspended from the practice of law not only for acts and omissions of malpractice and for dishonesty in his professional dealings, but also for gross misconduct not directly connected with his professional duties that reveal his unfitness for the office and his unworthiness of the principles that the privilege to practice law confers upon him. Verily, no lawyer is immune from the disciplinary authority of the Court whose duty and obligation are to investigate and punish lawyer misconduct committed either in a professional or private capacity. The test is whether the conduct shows the lawyer to be wanting in moral character, honesty, probity, and good demeanor, and whether the conduct renders the lawyer unworthy to continue as an officer of the Court.

WHEREFORE, respondent Atty. Victor D. Sederiosa is hereby **SUSPENDED** from the practice of law for **TWO (2) YEARS**, on top of the **ONE (1) YEAR SUSPENSION** previously imposed upon him. His current notarial commission, if any, is **REVOKED**. Atty. Sederiosa is **PERMANENTLY DISQUALIFIED** from acting as notary public.

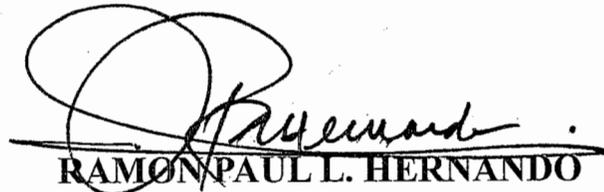
The suspension from the practice of law, revocation of notarial commission, and disqualification from being commissioned as a notary public shall take effect immediately upon receipt of this Decision by Atty. Sederiosa. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let a copy of this Decision be entered in the personal records of respondent as a member of the Bar, and copies be furnished to the Office of the Bar Confidant, the Integrated Bar of the Philippines, and the Office of the Court Administrator for circulation to all courts in the country.

³⁶ *Yu v. Atty. Palaña*, 580 Phil. 19, 24 (2008).

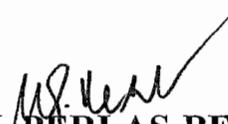
³⁷ 720 Phil. 1, 10-11 (2013).

SO ORDERED.

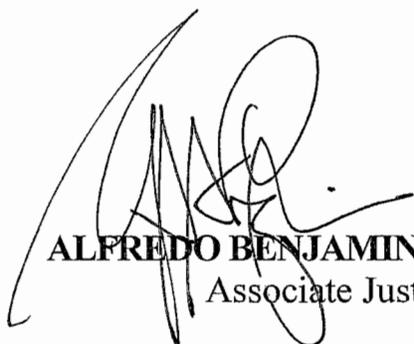

RAMON PAUL L. HERNANDO
Associate Justice

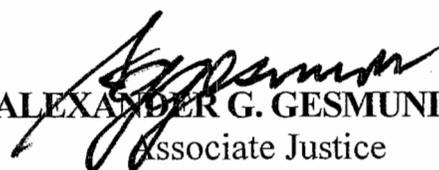
WE CONCUR:


DIOSDADO M. PERALTA
Chief Justice

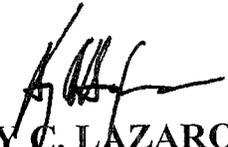

ESTELA M. PERLAS-BERNABE
Associate Justice


MARVIC M. V. F. LEONEN
Associate Justice

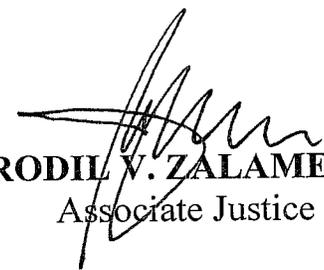

ALFREDO BENJAMIN S. CAGUIOA
Associate Justice

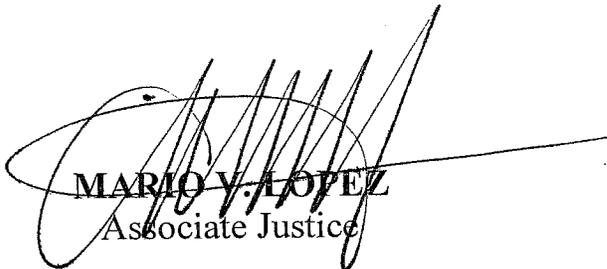

ALEXANDER G. GESMUNDO
Associate Justice


ROSMAR D. CARANDANG
Associate Justice

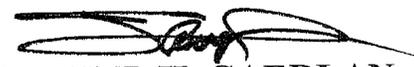

AMY C. LAZARO-JAVIER
Associate Justice


HENRI JEAN PAUL B. INTING
Associate Justice


RODIL V. ZALAMEDA
Associate Justice


MARIO V. LOPEZ
Associate Justice


EDGARDO L. DELOS SANTOS
Associate Justice


SAMUEL H. GAERLAN
Associate Justice

On leave
PRISCILLA J. BALTAZAR-PADILLA
Associate Justice

CERTIFIED TRUE COPY


EDGAR O. ARICHETA
Clerk of Court En Banc
Supreme Court