



Republic of the Philippines  
Supreme Court  
Manila

SECOND DIVISION

CRESCENCIANO M. PITOGO,  
Complainant,

A.C. No. 10695

Present:

CARPIO, J., Chairperson,  
VELASCO, JR.,  
DEL CASTILLO,  
MENDOZA, and  
LEONEN, JJ.

-versus-

ATTY. JOSELITO TROY SUELLO,  
Respondent.

Promulgated:  
MAR 18 2015

X-----X

RESOLUTION

LEONEN, J.:

Crescenciano M. Pitogo (Pitogo) purchased a motorcycle from EMCOR, Inc. However, EMCOR, Inc. allegedly failed to cause the registration of the motorcycle under his name. Pitogo, thus, filed a Civil Complaint before the Regional Trial Court against EMCOR, Inc.<sup>1</sup>

The motorcycle was eventually registered in Pitogo's name based on three (3) documents notarized by respondent Atty. Jose Lito Troy Suello (Suello).<sup>2</sup> The documents indicate that they are registered in Suello's notarial register as follows:

1. Deed of Assignment between	Doc. No. 436;
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Designated Acting Member per S.O. No. 1951 dated March 18, 2015.

<sup>1</sup> Rollo, p. 3.

<sup>2</sup> Id.

Maria P. Ponce / Rogelio Ponce and EMCOR, Inc.	Book No. 83; Page No. 88; Series of 2009 <sup>3</sup>
2. Deed of Sale with Assumption of Mortgage between Maria P. Ponce and Mariza G. Ono-on	Doc. No. 437, Page No. 88; Book No. 83, Series of 2009 <sup>4</sup>
3. Deed of Sale with Assumption of Mortgage between Mariza G. Ono-on and Crescenciano M. Pitogo	Doc. No. 235; Page No. 85; Book No. 83; Series of 2009 <sup>5</sup>

Pitogo obtained a copy of the three (3) documents from the Land Transportation Office, Danao City, Cebu. On August 3, 2009, he went to Suello's office to have them certified. Pitogo claims that when he called Suello the next day to tell him about the importance of these documents to his civil case, Suello "disowned the documents."<sup>6</sup> Suello instead ordered his secretary to give Pitogo a copy of his notarial register.<sup>7</sup>

In the letter dated August 7, 2009, Pitogo reiterated to Suello that the documents were important in his civil case pending before the Regional Trial Court. He requested Suello to certify the authenticity and veracity of the three (3) documents he obtained from the Land Transportation Office.<sup>8</sup> He wanted to determine if the documents were duly notarized by Suello or were merely fabricated.<sup>9</sup> Pitogo did not receive a reply from Suello.<sup>10</sup>

On September 10, 2009, Pitogo filed his Affidavit-Complaint against Suello before the Cebu Chapter of the Integrated Bar of the Philippines. Pitogo alleges that there were discrepancies between the three (3) documents notarized by Suello and Suello's entries in his notarial register.<sup>11</sup>

Specifically, Pitogo claims that Suello's notarial register showed that the above entries pertain to the following documents:

- a. Doc. No. 436: Deed of Absolute Sale of Mr. Roel D. Rago;<sup>12</sup>

<sup>3</sup> Id. at 6. (The document entry states: Doc No. 436; Book No. 88; Page No. 83; Series of 2009.)

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

<sup>5</sup> Id. at 8. (Entry is not legible.)

<sup>6</sup> Id. at 4.

<sup>7</sup> Id.

<sup>8</sup> Id. at 13.

<sup>9</sup> Id. at 4.

<sup>10</sup> Id.

<sup>11</sup> Id. at 3-4.

<sup>12</sup> The copy of the notarial register attached to the records does not indicate the Book Number.

- b. Doc. No. 437: Deed of Absolute Sale of Mrs. Conchita Pitogo Tautho;<sup>13</sup>
- c. Doc. No. 235: Contract to Sell of BF Property Development Corporation.<sup>14</sup>

In his Answer to the Affidavit-Complaint, Suello denies having notarized the three (3) documents obtained from the Land Transportation Office.<sup>15</sup> He denies the allegation that he disowned the documents.<sup>16</sup> He admits that he certified the documents as true copies.<sup>17</sup>

In his Position Paper, Suello explains that it was his secretary who certified Pitogo's documents on August 3, 2009.<sup>18</sup> Pitogo called Suello the next day to ask for a certification.<sup>19</sup> When he advised Pitogo that he can get it at his office after verifying the documents, Pitogo informed him that his secretary already certified them as true copies.<sup>20</sup> Suello told Pitogo that his secretary was not given such authority.<sup>21</sup>

Suello also claims that Pitogo threatened to file an administrative case against him if he did not issue a certification stating whether the documents were really notarized by him or were fabricated.<sup>22</sup> According to Suello, Pitogo needed the certification that the three (3) documents used to register the motorcycle under his name were fabricated so he could claim ₱1.7 million in damages for EMCOR, Inc.'s alleged non-registration of his motorcycle.<sup>23</sup> Pitogo's claim against EMCOR, Inc. was apparently mooted by the registration of the motorcycle under his name.

On January 10, 2012, Commissioner Hector B. Almeyda of the Commission on Bar Discipline of the Integrated Bar of the Philippines recommended Suello's suspension from the active practice of law for six (6) months, as well as the revocation of his commission as a notary public. He also recommended Suello's disqualification as notary public for two (2) years.<sup>24</sup>

On April 15, 2013, the Integrated Bar of the Philippines Board of

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<sup>13</sup> The copy of the notarial register attached to the records does not indicate the Book Number.

<sup>14</sup> *Rollo*, p. 4. The copy of the notarial register attached to the records does not indicate the Book Number. The page number indicated is 47.

<sup>15</sup> *Id.* at 29.

<sup>16</sup> *Id.* at 30.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at 75.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.* at 76.

<sup>23</sup> *Id.* at 77.

<sup>24</sup> *Id.* at 92-93.

Governors issued the Resolution adopting and approving the findings of Commissioner Almeyda's recommendation but further recommended to increase the penalty of disqualification as notary public to four (4) years, thus:

*RESOLVED to ADOPT and APPROVE, as it is hereby unanimously 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 finding the recommendation fully supported by evidence on record and the applicable laws and rules and considering respondent violated the Rule 1.01, Canon 1 of the Code of Professional Responsibility, Atty. Joselito Troy Suello's Notarial Commission is hereby **REVOKED immediately** if presently commissioned and **DISQUALIFIED from reappointment as Notary Public for four (4) years.**<sup>25</sup> (Emphasis in the original)*

Suello filed a Motion for Reconsideration of the April 15, 2013 Integrated Bar of the Philippines Board of Governors Resolution based on the ground that the penalty imposed on him was excessive:

1. That the sanction imposed is excessive. The respondent realizes that the mere existence of those documents with his notarization makes him inevitably answerable for them. Regardless how unaware he may be of how these came about, he is still the only one to answer for them. Not the complainant and not any party who may have access to his office implements to do this. It made him aware of the need review his procedure to avoid these mistakes. Respondent however finds the sanction against him is much too excessive and respectfully invokes the following, to wit:

- A. This is the first infraction lodged against him in his 15 years of practice.
- B. The respondent is not in bad faith and has no dishonest or selfish motive.
- C. There is no actual or potential injury caused to any private party;<sup>26</sup>

Suello also apologized for his oversight:

2. That substantial justice has not been done. The respondent completely understands that this matter only pertains to him and his liability and not about anybody or anything else. His indignation distracted him to the mistaken belief that the complainant's dubious motives would not merit his complaint attention because he did not come with clean hands. After being properly reminded, the respondent realizes

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<sup>25</sup> Id. at 89.

<sup>26</sup> Id. at 95.

his mistake and respectfully apologizes for his oversight to this Honorable Commission. The respondent finds it however grossly unjust that he is imposed with such sanction for resisting to accommodate and be a part of the unscrupulous undertaking sought to be accomplished motivating the complaint which is much bigger wrong.<sup>27</sup>

On May 3, 2014, the Integrated Bar of the Philippines Board of Governors issued the Resolution partially granting Suello's Motion for Reconsideration, thus:

*RESOLVED to DENY Respondent's Motion for Reconsideration, there being no cogent reason to reverse the findings of the Commission and the resolution subject of the motion, it being a mere reiteration of the matters which had already been threshed out and taken into consideration under Resolution No. XX-2013-416 dated April 15, 2013. However the Board DEEMED it judicious to reduce the penalty imposed on Atty. Joselito Troy Suello from DISQUALIFICATION from reappointment as Notary Public from four (4) years to two (2) years. The IMMEDIATE REVOCATION of his Notarial Commission, if existing, under said Resolution stands.<sup>28</sup> (Emphasis in the original)*

After reviewing the case records and considering the parties' submissions, this court adopts the findings of the Integrated Bar of the Philippines Board of Governors in its May 3, 2014 Resolution but modifies the penalties imposed upon respondent Atty. Joselito Troy Suello.

Respondent is administratively liable for his negligence in keeping and maintaining his notarial register. Recording every notarial act in the notarial register is required under Rule VI the Notarial Rules,<sup>29</sup> thus:

Sec. 2. *Entries in the Notarial Register.* – (a) For every notarial act, the notary shall record in the notarial register at the time of the notarization the following:

- (1) The entry number and page number;
- (2) The date and time of day of the notarial act;
- (3) The type of notarial act;
- (4) The title or description of the instrument, document or proceeding;
- (5) The name and address of each principal;
- (6) The competent evidence of identity as defined by these Rules if the signatory is not personally known to the notary;
- (7) The name and address of each credible witness swearing to or affirming the person's identity;

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<sup>27</sup> Id. at 95.

<sup>28</sup> Id. at 102.

<sup>29</sup> NOTARIAL PRAC. RULE, Rule VI.

- (8) The fee charged for the notarial act;
- (9) The address where the notarization was performed if not in the notary’s regular place of work or business; and
- (10) Any other circumstance the notary public may deem of significance or relevance.

.....

(e) The notary public shall give to each instrument or document executed, sworn to, or acknowledged before him a number corresponding to the one in his register, and shall also state on the instrument or document the page/s of his register on which the same is recorded. No blank line shall be left between entries.

Failure to properly record entries in the notarial register is also a ground for revocation of notarial commission:

SECTION 1. *Revocation and Administrative Sanctions.* – . . . .

(b) In addition, the Executive Judge may revoke the commission of, or impose appropriate administrative sanctions upon, any notary public who:

.....

(2) fails to make the proper entry or entries in his notarial register concerning his notarial acts[.]<sup>30</sup>

Notarial acts give private documents a badge of authenticity that the public relies on when they encounter written documents and engage in written transactions. Hence, all notaries public are duty-bound to protect the integrity of notarial acts by ensuring that they perform their duties with utmost care. This court explained in *Bote v. Judge Eduardo*:<sup>31</sup>

A notarial register is *prima facie* evidence of the facts there stated. It has the presumption of regularity and to contradict the veracity of the entry, evidence must be clear, convincing, and more than merely preponderant. . . .

.....

. . . Notarization is not an empty, meaningless, routinary act. It is invested with such substantial public interest that only those who are qualified or authorized may act as notaries public. Notarization converts a private document into a public document, making that document admissible in evidence without further proof of its authenticity. For this reason, notaries must observe with

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<sup>30</sup> NOTARIAL PRAC. RULE, Rule XI, sec. 1.  
<sup>31</sup> 491 Phil. 198 (2005) [Per J. Quisumbing, First Division].

utmost care the basic requirements in the performance of their duties. Otherwise, the confidence of the public in the integrity of this form of conveyance would be undermined.<sup>32</sup>

Hence, when respondent negligently failed to enter the details of the three (3) documents on his notarial register, he cast doubt on the authenticity of complainant's documents. He also cast doubt on the credibility of the notarial register and the notarial process. He violated not only the Notarial Rules but also the Code of Professional Responsibility, which requires lawyers to promote respect for law and legal processes.<sup>33</sup>

Respondent also appears to have committed a falsehood in the pleadings he submitted. In his Answer to complainant's Affidavit-Complaint, respondent claimed that he certified complainant's documents as true copies.<sup>34</sup> Later, in his Position Paper, he passed the blame to his secretary.<sup>35</sup> This violates the Code of Professional Responsibility, which prohibits lawyers from engaging in dishonest and unlawful conduct.<sup>36</sup>

Respondent's secretary cannot be blamed for the erroneous entries in the notarial register. The notarial commission is a license held personally by the notary public. It cannot be further delegated. It is the notary public alone who is personally responsible for the correctness of the entries in his or her notarial register.<sup>37</sup> Respondent's apparent remorse may assuage the injury done privately, but it does not change the nature of the violation.

Besides, respondent's remorse was displayed after a penalty was recommended by the Integrated Bar of the Philippines Board of Governors. It was not motivated by a realization of a wrong committed on an individual but only by a desire to temper the penalty. It came too late.

In *Agadan, et al. v. Atty. Kilaan*,<sup>38</sup> the same violations of Notarial Rules and Code of Professional Responsibility were meted with the penalty of one-year suspension of notarial commission and three-month suspension from the practice of law.<sup>39</sup> We find the same penalties proper under the circumstances.

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<sup>32</sup> Id. at 202–203.

<sup>33</sup> CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

<sup>34</sup> *Rollo*, p. 30.

<sup>35</sup> Id. at 75.

<sup>36</sup> CODE OF PROFESSIONAL RESPONSIBILITY, Canon 1 – A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law and legal processes.

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

<sup>37</sup> See *Agadan, et al. v. Atty. Kilaan*, A.C. No. 9385, November 11, 2013, 709 SCRA 1, 8 [Per J. Del Castillo, Second Division].

<sup>38</sup> A.C. No. 9385, November 11, 2013, 709 SCRA 1 [Per J. Del Castillo, Second Division].

<sup>39</sup> Id. at 12.

**WHEREFORE**, we find respondent Atty. Joselito Troy Suello **GUILTY** of violating Canon 1 and Rule 1.01 of the Code of Professional Responsibility and the 2004 Rules on Notarial Practice. Accordingly, he is **SUSPENDED** from the practice of law for three (3) months and is **STERNLY WARNED** that any similar violation will be dealt with more severely. His notarial commission is immediately revoked if presently commissioned. He is **DISQUALIFIED** from being commissioned as notary public for one (1) year.

**SO ORDERED.**



**MARVIC M.V.F. LEONEN**

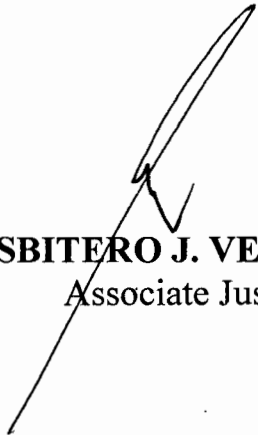
Associate Justice

WE CONCUR:



**ANTONIO T. CAPIO**

Associate Justice  
Chairperson



**PRESBITERO J. VELASCO, JR.**

Associate Justice



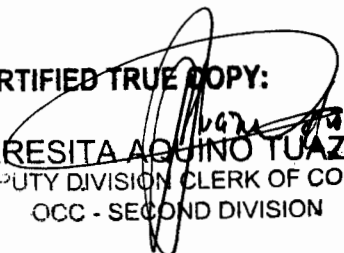
**MARIANO C. DEL CASTILLO**

Associate Justice



**JOSE CATRAL MENDOZA**  
Associate Justice

**CERTIFIED TRUE COPY:**



**TERESITA AQUINO TUAZON**  
DEPUTY DIVISION CLERK OF COURT  
OCC - SECOND DIVISION