



REPUBLIC OF THE PHILIPPINES
 SUPREME COURT
 Manila
 SECOND DIVISION

SUPREME COURT OF THE PHILIPPINES
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NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **02 October 2019** which reads as follows:*

"A.C. No. 11025 [Formerly CBD Case No. 16-5202] – Richard Lim v. Atty. Thaddeus Jose C. Acero

X-----X

Richard Lim charged¹ Atty. Thaddeus Jose C. Acero with violation of the 2004 Rules on Notarial Practice specifically for accepting a mere community tax receipt as proof of the identity of affiant Engracia Loreniana with respect to the latter's June 6, 2009 Joint Affidavit of Adverse Claim, September 24, 2010 Joint Affidavit of Withdrawal of Adverse Claim, and September 28, 2010 Affidavit of Adverse Claim.

The Complaint Affidavit

Lim essentially alleged: He is the Chairman of Eskaya Beach Resort in Tawala, Panglao, Bohol.² In October 2014, he purchased from Engracia Loreniana Lot Nos. 4961 and 4964 then registered under Aproniano Loreniana's name.³ The latter was survived by his heirs including Engracia who inherited a portion of Lot No. 4961.⁴

On June 6, 2009, Engracia and a certain Pacita Casaligan executed a Joint Affidavit of Adverse Claim alleging that some unauthorized persons were claiming Lot 4961. They then requested the Department of Environment and Natural Resources (DENR) Bohol Office, Office of the Register of Deeds, Office of the Provincial Assessor, and Office of the Municipal Assessor not to entertain any transactions involving Lot 4961 without their consent.⁵

¹ Rollo, pp. 1-12.

² *Id.* at 1.

³ *Id.*

⁴ *Id.* at 2

⁵ *Id.*

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By Joint Affidavit dated September 24, 2010, Engracia and Pacita withdrew their adverse claim after they had settled amicably with the claimants.⁶

On September 28, 2010, however, Engracia executed another Affidavit of Adverse Claim effectively cancelling the aforesaid affidavit of withdrawal.⁷ Engracia used the second Affidavit of Adverse Claim to defraud and prevent him (Lim) from causing the consolidation and registration of the lots in his name.⁸

It was Atty. Acero who notarized Engracia's affidavits and for this purpose accepted the latter's community tax certificate as evidence of her identity in clear violation of Section 12, Rule II of the 2004 Rules of Notarial Practice.⁹

Respondent's Comment

In his Comment¹⁰ dated June 9, 2016, Atty. Acero countered in the main: Section 12, Rule II of the 2004 Rules on Notarial Practice requires competent evidence of identity only in cases where the affiant is not personally known to the notary public. Here, he knew Engracia because she had been a client for more than ten (10) years. The presentation of her community tax certificate was not necessary and was therefore, just an additional compliance with the rules.¹¹

The Report and Recommendation of the Integrated Bar of the Philippines – Committee on Bar Discipline (IBP-CBD)

In its Report and Recommendation dated April 25, 2017, the IBP-CBD found Atty. Acero liable for violation of the 2004 Rules on Notarial Practice and recommended that his notarial commission to be revoked.

According to the IBP-CBD, Atty. Acero failed to require Engracia to present competent evidence of her identity in accordance with Section 12 of the 2004 Rules on Notarial Practice. The jurat itself did not even contain any statement that Engracia was indeed personally known to Atty. Acero as to dispense with the presentation of affiant's proof of identity.

The Resolution of the IBP Board of Governors

By Resolution dated February 22, 2018 the IBP Board of Governors

⁶ *Id.* at 3.

⁷ *Id.* at 3-5.

⁸ *Id.* at 5.

⁹ *Id.* at 8-9.

¹⁰ *Id.* at 54-56.

¹¹ *Id.* at 54.

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modified, reducing the penalty to reprimand considering it was only respondent's first administrative infraction.

Issue

Did respondent violate the 2004 Rules on Notarial Practice when he notarized the affidavit in question without requiring the affiant to present a competent evidence of her identity?

Ruling

The Court adopts the resolution of the IBP Board of Governors.

Notarization is not an empty, meaningless, or routinary act;¹² it is impressed with public interest.¹³ A notary public must observe the highest degree of care in complying with the basic requirements in the performance of his duties to preserve the public's confidence in the integrity of the notarial system.¹⁴

Section 2(b), paragraph 2, Rule IV of the 2004 Rules on Notarial Practice ordains that a notary public shall not perform a notarial act if: a) the affiant is not in the notary's presence at the time of the notarization, and b) is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as identified by the Rules.

Here, respondent notarized the affidavits without stating in the *jurat*¹⁵ that affiant Engracia was personally known to him. Although he claimed that affiant has been his client for the past ten (10) years, he never adduced evidence in support of this allegation – from the time the case was heard before the IBP-CBD until the case reached this Court, albeit he could have easily done so. Consequently, the Court is unconvinced that affiant is in fact personally known to Atty. Acero as to exempt affiant from presenting competent evidence of her identity pursuant to Section 12, Rule II of the 2004 Rules on Notarial Practice as amended,¹⁶ viz:

¹² See *Nunga v. Atty. Viray*, 366 Phil. 155, 160 (1999).

¹³ See *Agbulos v. Viray*, 704 Phil. 1, 9 (2013).

¹⁴ See *Gokioco v. Mateo*, 484 Phil. 626, 632 (2004).

¹⁵ SECTION 6, 2004 Rules on Notarial Practice provides:

- Section 6. Jurat. — "Jurat" refers to an act in which an individual on a single occasion:
- (a) appears in person before the notary public and presents an instrument or document;
 - (b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;
 - (c) signs the instrument or document in the presence of the notary; and
 - (d) takes an oath or affirmation before the notary public as to such instrument or document.

¹⁶ A.M. No. 02-8-13-SC-Re: 2004 Rules on Notarial Practice, February 19, 2008 Resolution. — The Court Resolved, upon the recommendation of the Sub Committee on the Revision of the Rules Governing Notaries Public, to AMEND Sec. 12 (a). Rule II of the 2004 Rules on Notarial Practice.

Sec. 12. Component Evidence of Identity: The phrase "competent evidence of identity" refers to the 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, 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; or

(b) xxx

Surely, Engracia's community tax certificate is no longer considered as competent evidence of identity.¹⁷ *Baylon v. Almo*¹⁸ is apropos:

... respondent should have exercised utmost diligence in ascertaining the true identity of the person who represented himself and was represented to be the complainant. He **should not have relied on the Community Tax Certificate xxx** in view of the ease with which community tax certificates are obtained these days. As a matter of fact, **recognizing the established unreliability of a community tax certificate in proving the identity of a person who wishes to have his document notarized, we did not include it in the list of competent evidence of identity that notaries public should use in ascertaining the identity of persons appearing before them to have their documents notarized.** (Emphasis supplied)

All told, the Court finds respondent guilty of violation of Section 2 (b), Rule IV of the 2004 Rules on Notarial Practice. The Court, however, considers the fact that respondent was not shown to have notarized the affidavit in bad faith. The Court also notes that the present case is respondent's first administrative infraction.¹⁹ Hence, as recommended by the IBP-Board of Governors, the Court imposes the penalty of reprimand on respondent.

ACCORDINGLY, respondent Atty. Thaddeus Jose C. Acero is **REPRIMANDED** with **STERN WARNING** that repetition of any similar act or infraction shall be dealt with more severely.

¹⁸ See *Baylon v. Almo*, 578 Phil. 238-242.

¹⁹ See *Castro, et al v. Atty. Bigay, et al*, 813 Phil. 882, 893 (2017).

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SO ORDERED.”

Very truly yours,

Maria Lourdes C. Perfecto
MARIA LOURDES C. PERFECTO
Division Clerk of Court *by 11/4*

U 4 NOV 2019

By:

TERESITA AQUINO TUAZON
Deputy Division Clerk of Court

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