

**REPUBLIC OF THE PHILIPPINES
METROPOLITAN TRIAL COURT
NATIONAL CAPITAL JUDICIAL REGION
BRANCH 35 – QUEZON CITY**

PEOPLE OF THE PHILIPPINES,
Plaintiff,

-versus-

Criminal Case No. 35-17-04663-64
For: Violation of Sec. 7 (b), (2) of
Republic Act No. 6713 in relation to
Section 11 thereof (2 counts)

PARINA R. JABINAL,
Accused.

X-----X

DECISION

The Court is confronted with two (2) *Informations* both dated 16 May 2016 charging accused PARINA R. JABINAL with *Violation of Section 7 (b), (2) of Republic Act No. 6713¹ in relation to Section 11 thereof*, to wit:

In Criminal Case No. 35-17-04663

“That on or about August 20, 2008, and sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PARINA R. JABINAL, a low ranking public officer (SG 24), being then a Division Manager, Legal Services Department of the National Housing Authority, while in the performance of her official functions as such, and thus, prohibited by law to engage in the private practice of her profession, did then and there willfully, unlawfully and criminally notarize a Deed of Absolute Sale without prior authority given by the National Housing Authority, and without a Notarial Commission to the damage and prejudice of the public interest.

CONTRARY TO LAW.”

In Criminal Case No. 35-17-04664

“That on or about August 20, 2008, and sometime prior or subsequent thereto, in Quezon City, Philippines, and within the jurisdiction of this Honorable Court, the above-named accused PARINA R. JABINAL, a low ranking public officer (SG 24), being then a Division Manager, Legal Services Department of the National Housing Authority, while in the

¹ Code of Conduct and Ethical Standards for Public Officials and Employees.

performance of her official functions as such, and thus, prohibited by law to engage in the private practice of her profession, did then and there willfully, unlawfully and criminally notarize a Deed of Assignment without prior authority given by the National Housing Authority, and without a Notarial Commission to the damage and prejudice of the public interest.

CONTRARY TO LAW."

On arraignment, the accused pleaded NOT GUILTY² to the accusations hurled against her. On pre-trial, the admissions and stipulations entered into by the parties are: (1) The identity of the accused as the person being referred in the information; and (2) The jurisdiction of this court to try and hear this case.³

Likewise, the parties entered into the following stipulations: 1.) that accused is a legal officer of the NHA; 2.) that the Personal Data Sheet marked as Exh. B and the Service Record marked as Exh. C are authentic; 3.) that the Deed of Sale dated 30 August 2008 and Deed of Assignment dated 30 September 2008 are authentic and were notarized by accused; 4.) that the Order dated 4 May 2006 issued by the Executive Judge of RTC Quezon City and Certificate of Notarial Commission issued by RTC OCC, Quezon City are authentic; 5.) that the Order dated 3 March 2009 of the Executive Judge of RTC Quezon City is authentic; and 6.) that the Joint Order issued by the Ombudsman dated 2 December 2016 is authentic.

Trial on the merits forthwith ensued. The respective versions of the parties are not complicated.

Version of the Prosecution

The prosecution presented Atty. Teddy Parado, Jr. (Atty. Parado, Jr.) and Alex Uson (Uson) as its witnesses.

Atty. Parado narrated that he was part of the fact-finding committee tasked to investigate the charges against the accused. Based on the investigation conducted, it was revealed that in 2008, accused engaged in notarial service while employed as Legal Officer of National Housing Authority (NHA), without obtaining prior authority from the NHA and without notarial commission for said year. On 20 August 2008, she notarized the Deed of Absolute Sale,⁴ and entered the same in her Notarial Register as document number 742 on page 79, Book No. II, series of 2008. On 30 September 2008, she notarized the Deed of Assignment,⁵ and entered the same in her Notarial Register as document number 805 on page 81, Book No. II, series of 2008. Atty. Parado recounted that the foregoing documents were

² Records, Volume 1, p. 337.

³ Records, Volume 1, pp. 362-363.

⁴ Records, Volume 1, pp. 39-42.

⁵ Records, Volume 1, pp. 43-46.

utilized as evidence in a separate case for breach of contract pending in another court.

Uson confirmed that accused notarized the Deed of Assignment on 30 September 2018 at the 2nd Floor of NHA building. Uson further claimed that after the said Deed was notarized, he paid accused the amount of ₱30,000.00.⁶

The prosecution presented among others the *Letter Certification* dated 6 January 2015 issued by the NHA confirming that NHA has no copy on its file of any authorization for notarial commission in favor of Atty. Jabinal for the year of 2008; the *Letter* dated 6 December 2012 issued by Atty. Perlita V. Ele of the Office of the Clerk of Court, Regional Trial Court of Quezon City stating that accused was not a commissioned notary public for and in Quezon City for the year 2008; the *Certification* dated 22 January 2018 issued by Atty. Gregorio Tallud of the Office of the Clerk of Court, Regional Trial Court of Quezon City certifying that accused was not a commissioned notary public for and in Quezon City for the year 2008; the *Petition* dated 9 February 2008 which proves that the application for notary public was only filed before the Office of the Clerk of Court, Regional Trial Court Notarial Season on 10 February 2009; and the Order dated 3 March 2009 granting the Petition of accused for her notarial commission.

Version of the Defense

To refute the accusations hurled against her, accused countered that she has not maliciously transgressed the law. She has long served the government with competence, efficiency and integrity. Prior to this case, she has not been involved in any corruption, irregularity or malfeasance. Accused maintained that lawyers at the NHA are allowed, if not obliged, to notarize documents dealing with NHA administered or owned properties.

If at all, her failure to obtain the notarial commission and prior authority to notarize from the NHA was due to honest mistake and inadvertence. When she notarized the subject documents, she was of the belief that her notarial commission in 2008 was still in effect.

Accused admitted that she started her notarial practice in 2004. She narrated that upon the expiration of her notarial commission on 31 December 2007, she filed the Petition dated 9 February 2008⁷ which was granted on 3 March 2009.⁸ Accused professed that it was not her who prepared her Petition. She merely relied on her staff who prepared and filed the Petition, and secured the supporting documents thereof.

6 Records, Volume 1, p.105.

7 Records, Volume 3, p. 14.

8 Records, Volume 3, p. 16.

Accused theorized that for her to be held guilty of the acts complained of, the prosecution must be able to prove that the unlawful practice must be more than an isolated appearance. It should be frequent or a customary action on her part. Such was not proven in this case.

Issue

The Court shall now delve on the question of whether or not the accused is liable for violation of Section 7 (b), (2) of R.A. No. 6713 in relation to Section 11 as charged in the Information.

The Court's Ruling

The Court answers in the affirmative.

The law in point here is **Section 7 (b), (2) of R.A. No. 6713**, otherwise known as the **Code of Conduct and Ethical Standards for Public Officials and Employees** which reads –

Section 7. *Prohibited Acts and Transactions.*—In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x

(b) *Outside employment and other activities related thereto.*—Public officials and employees during their incumbency shall not:

x x x

(2) Engage in the private practice of their profession **unless authorized by the Constitution or law**, provided, that such practice will not conflict or tend to conflict with their official functions

The authority to grant permission to any official or employee shall be granted by head of the ministry or agency in accordance with Section 12, Rule XVIII of the Revised Civil Service Rules, which provides:

Section 12. **No officer or employee shall**



engage directly in any private business, vocation, or profession or be connected with any commercial, credit, agricultural, or industrial undertaking without a written permission from the head of Department; Provided, that this prohibition will be absolute in the case of those officers and employees whose duties and responsibilities require that their entire time be at the disposal of the Government; Provided further, that if an employee is granted permission to engage in outside activities, the time so devoted outside of office hours should be fixed by the chief of the agency to the end that it will not impair in any way the efficiency of the other officer or employee; and Provided, finally, that no permission is necessary in the case of investments, made by an officer or employee, which do not involve any real or apparent conflict between his private interests and public duties, or in any way influence him in the discharge of his duties, and he shall not take part in the management of the enterprise or become an officer or member of the board of directors.”⁹ [Emphasis supplied]

R.A. 6713 is clear and unequivocal. No public official or employee shall engage in the private practice of his/her profession without the authority granted to him by the government, or in this case by the NHA.

The *Letter*¹⁰ dated 6 January 2015 by Atty. Chito M. Cruz, General Manager of NHA is explicit —

“The undersigned received on 16 December 2014 the subpoena duces tecum directing him to submit a Certification on the existence of an authorization for notarial commission of Atty. Parina Jabinal issued by former General Manager, Federico Laxa in 2008.

I hereby CERTIFY that **this Office has no copy on its file of said authorization** despite diligent efforts to locate the same which could be attributed to change of management at the time of assumption into office by the undersigned in 2010.” [Emphasis supplied]

The accused’s lack of authority was further placed in a tight spot as it is revealed that she was not given an approved notarial commission back in 2008. In the *Letter*¹¹ dated 6 December 2012 of Perlita V. Ele, Clerk of Court VII & Ex-Officio Sheriff of the Office of the Clerk of Court of the Regional Trial Court of Quezon City,

9 Felipe E. Abella v. Atty. Asteria E. Cruzabra, A.C. No. 5688, 4 June 2009.

10 Records, Volume 1, p. 108.

11 Records, Volume 1, p. 109.

she stated that:

“As to the request of documents relative to the appointment of Atty. Parina R. Jabinal as notary public for and in Quezon City for the year **2008** we regret to inform you that we cannot comply with the same on the ground that per available records on file with our office, ***Atty. Parina R. Jabinal was not a commissioned notary public for and in Quezon City during the said year.***”

Accused was clearly remiss in her duty of applying for an authorization and notarial commission. After all, the practice of law is a privilege, and thus the observance and compliance with certain formalities are not supposed to be overlooked.

The Court cannot likewise fathom as to why accused relied on her staff. The documents evidencing the renewal of her commission, as well as her authority to practice, are crucial and integral part of her practice of the law.

Further, the Court must emphasize that ***a notary public is personally accountable for all entries in his notarial register; he cannot relieve himself of this responsibility by passing the buck to (his) secretaries.***¹² Not every lawyer in good standing is allowed to perform notarial functions without having been commissioned as notary public as provided for under the 2004 Rules on Notarial Practice. The person must have submitted himself to the commissioning court by filing his petition for issuance of his grant to exercise notarial practice. Although the accused filed her petition on February of 2008, still the fact that this was granted in 2009 cannot absolved the accused of her violations. The commissioning court may or may not grant the said petition if in his sound discretion the petitioner does not meet the required qualifications for a Notary Public. In exercising notarial functions, despite her pending petition, accused has no reason at all to claim that she can perform notarial acts in two instances for the lack of authority to do so.

In *Re: Violation of Rules on Notarial Practice*¹³ the Supreme Court enunciated that:

“Time and again, this Court has stressed that notarization is not an empty, meaningless and routine act. **It is invested with substantive public interest** that only those who are qualified or authorized may act as notaries public. It must be emphasized that the act of notarization by a notary public converts a private document into a public document making that document admissible in evidence without further proof of authenticity. A notarial document is by law entitled to full faith and credit upon its face, and for this reason, **notaries public must observe with utmost care the basic**

¹² Lingan v. Calubaquib et al., Adm. Case No. 5377, 15 June 2006.

¹³ A.M. No. 09-6-1-SC, 21 January 2015.

requirements in the performance of their duties.”

Anent the penalty. Section 11, paragraph a of R.A. 6713 provides for the penalty —

Section 11. Penalties. - (a) Any public official or employee, regardless of whether or not he holds office or employment in a casual, temporary, holdover, permanent or regular capacity, committing any violation of this Act shall be punished with a fine not exceeding the equivalent of six (6) months' salary or suspension not exceeding one (1) year, or removal depending on the gravity of the offense after due notice and hearing by the appropriate body or agency. If the violation is punishable by a heavier penalty under another law, he shall be prosecuted under the latter statute. **Violations of Sections 7, 8 or 9 of this Act shall be punishable with imprisonment not exceeding five (5) years, or a fine not exceeding five thousand pesos (P5,000), or both, and, in the discretion of the court of competent jurisdiction, disqualification to hold public office.**

Given the circumstances, the Court shall impose the penalty of fine.

WHEREFORE, premises considered, the Court finds the accused Parina R. Jabinal **GUILTY BEYOND REASONABLE DOUBT** of violating Section 7 (b), (2) of Republic Act No. 6713 in relation to Section 11 thereof in Criminal Case No. 35-17-04663 - 64. Accordingly, accused is ordered to pay the penalty of fine of P5,000.00, for each count, with subsidiary imprisonment in case of insolvency.

SO ORDERED.

Quezon City, 26 October 2018.


Maria Ella Cecilia D. Dumlaog-Escalante
Presiding Judge

EDE/lle

copy furnished:

- Atty. Maria Zenaida Alejandre (Ombudsman Prosecutor)** – Graft Investigation and Prosecution Officer III, Office of the Ombudsman, 3rd Floor, Ombudsman Building Annex, Agham Road, Quezon City
- Atty. Allan Agnol Pasamonte/Atty. Dominic Garen (counsel for the accused)** – Unit 117 Cityland 10 Tower II No. 154 HV Dela Costa cor. Valero St., Salcedo Village, Brgy. Bel-Air, Makati City