



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **February 1, 2023** which reads as follows:*

“A.C. No. 13216 [Formerly CBD Case No. 18-5560] (HEIR OF HERMENEGILDO* A. UNITE, represented by his sole heir, FLORENTINO S. UNITE; and HEIR OF ODYLON UNITE TORRICES, represented by his sole heir, MIGUEL B. TORRICES, Complainants v. ATTY. ALONA D. GAZMEN, Respondent). — A notary public carries with him/her a duty imbued with public interest. At all times, a notary public must be wary of the duties pertaining to his/her office. Thus, those who are not qualified to live up to the mandate of such office must, in absolute terms, be stripped off with such authority.¹ We determine in this case the administrative liability of a lawyer found to be remiss in her functions as a notary public.

The antecedents follow.

Florentino Unite and Miguel Torrices filed an administrative case against Atty. Alona Gazmen (respondent) before the Integrated Bar of the Philippines (IBP) for violation of the Lawyer’s Oath and the Canons of Professional Responsibility. Allegedly, the respondent notarized an answer and a position paper without requiring the affiant Atty. Raymund Guzman (Atty. Guzman) to present a competent evidence of identity. Moreover, the respondent failed to indicate in the notarial certificate her roll number, date of compliance with the Mandatory Continuing Legal Education (MCLE), and IBP membership number,² to wit:

* Appears as Hermingildo in some parts of the *rollo*. pp. 1, 26, 38.

¹ *Sanchez v. Inton*, A.C. No. 12455, November 5, 2019 [Per J. Perlas-Bernabe, *En Banc*]; citing *Spouses Chambon v. Atty. Ruiz*, 817 Phil. 712, 721 (2017) [Per J. Tijam, *En Banc*].

² *Rollo*, pp. 1-11.

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[Jurat of the Verified Answer]

SUBSCRIBED AND SWORN to before me this 03 March 2015 day of _____, 2015 at Tuguegarao City, Cagayan. Affiant exhibited to me his Residence Certificate No. 26165694 issued on 01-05-2015 and issued at Tuguegarao City, Cagayan.

Doc. No. 62;
Page No. 13;
Book No. 3;
Series of 2015

(Sgd.)
ATTY. ALONA D. GAZMEN
Notary Public
Until December 31, 2016
PTR No. 5496828
Issued on 01/05/15
Tuguegarao City, Cagayan

[Jurat of the Position Paper]

SUBSCRIBED AND SWORN to before me this 13 July 2015 of July 2015 [*sic*] at Tuguegarao City, Cagayan.

Doc. No. 138;
Page No. 28;
Book No. 8;
Series of 2015

(Sgd.)
ATTY. ALONA D. GAZMEN
Notary Public
Until December 31, 2016
PTR No. 5496828
Issued on 01/05/15
Tuguegarao City, Cagayan

In her Comment, the respondent admitted having notarized the pleadings and explained that she did not ask for any competent evidence of identity as she personally knew the affiant as a politician in their province. The respondent claimed that she worked with Atty. Guzman in his committees before the local legislative council. Moreover, the respondent and Atty. Guzman are both engaged in the practice of law in the province and their offices are located near each other. In any event, Atty. Guzman presented his residence certificate.

After mandatory conferences and filing of the parties' position papers, the Commission on Bar Discipline found that the respondent failed to comply with the 2004 Rules on Notarial Practice when she did not require the affiant's competent evidence of identity before notarizing the pleadings. Also, the respondent violated Bar Matter No. 1922 when she did not indicate the complete information required in her notarial certificate. The Commission recommended to disqualify the respondent from being commissioned as a notary public for two years and to pay a fine of ₱4,000.00,³ thus:

³ Requirement to Indicate in All Pleadings Filed with the Courts the Counsel's MCLE Certificate of Compliance or Exemption, September 2, 2008.

WHEREFORE, in view of the foregoing, the undersigned commissioner finds Respondent Atty. Alona D. Gazmen GUILTY of violation of the 2004 Rules on Notarial Practice and Code of Professional Responsibility. The undersigned commissioner therefore recommends that Atty. Alona D. Gazmen be SUSPENDED for her commission as Notary Public for TWO (2) YEARS. In addition, herein Respondent Atty. Alona D. Gazmen shall also be imposed a fine of Four Thousand Pesos ([P]4,000.00) for two (2) counts of violation of Bar Matter No. 1922.⁴

On March 13, 2021,⁵ the IBP Board of Governors adopted the Commission's factual findings and recommendation but deleted the penalty of fine, viz.:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner in the above entitled case, for being fully supported by the evidence on record and the applicable laws and rules, with modification on the recommended penalty on Respondent by deleting the Fine imposed and recommending the disqualification of Atty. Alona D. Gazmen from being appointed as notary public for two (2) years.⁶

The Court adopts the IBP's findings with modification as to the penalty.

The 2004 Rules on Notarial Practice provides that a notary public should not notarize a document unless the signatory to the document is in the notary's presence personally at the time of the notarization, and personally known to the notary public or otherwise identified through competent evidence of identity.⁷ Section 12, Rule II of the rules, as amended by A.M. No. 02-8-13-SC, defines "*competent evidence of identity*" as follows:

Here, the respondent was remiss in the faithful observance of her duties as a notary public when she failed to confirm the identity of the affiant through competent evidence of identity. The respondent contented herself with requiring the affiant to produce his residence certificate which is no longer considered as competent evidence of identity because it does not bear the affiant's photograph and signature.⁸ Notably, a notary public may be excused from requiring the presentation of competent evidence of identity if the signatory is personally known to him/her. Yet, this knowledge cannot be

⁴ *Rollo*, p. 257.

⁵ *Id.* at 245–246.

⁶ *Id.* at 245.

⁷ *Dandoy v. Edayan*, 832 Phil. 132, 139 (2018) [Per J. Perlas-Bernabe, Second Division].

⁸ *Kiener v. Amores*, A.C. No. 9417, November 18, 2020 [Per J. Hernando, Third Division]; citing *Baylon v. Almo*, 578 Phil. 238, 242 (2008) [Per J. Quisumbing, Second Division]; *Lopez v. Mata*, A.C. No. 9334, July 28, 2020 [Per J. Lazaro, First Division]; citing *Lim v. Acero*, A.C. No. 11025, October 2, 2019 [Notice, Second Division]. See also *Ong v. Bijis*, A.C. No. 13054, November 23, 2021 [Per J. Caguioa, First Division]; and *Heir of Unite v. Guzman*, 834 Phil. 724, 730 (2018) [Per J. Perlas-Bernabe, Second Division].

presumed. The *jurat* or affirmation or oath, or acknowledgment must contain a statement that the affiant is personally known to the notary public,⁹ thus:

[The] phrase “personally known” contemplates the notary public's personal knowledge of the signatory's personal circumstances independent and irrespective of any representations made by the signatory immediately before and/or during the time of the notarization. It entails awareness, understanding, or knowledge of the signatory's identity and circumstances gained through firsthand observation or experience which therefore serve as guarantee of the signatory's identity and thus eliminate the need for the verification process of documentary identification. **The jurat or affirmation or oath, or acknowledgment must contain a statement that the affiant is personally known to the notary public; it cannot be assumed.**

However, there is nothing in the *jurat* attesting that the respondent personally knew the affiant. Thus, it is still incumbent upon the respondent to require competent evidence of identity since her supposed familiarity with the affiant cannot be presumed. As intimated earlier, the respondent did not comply with the requirements of the rules. Lastly, the notarial certificate must provide complete information, namely: (a) the name of the notary public as exactly indicated in the commission; (b) the serial number of the commission of the notary public; (c) the words “Notary Public” and the province or city where the notary public is commissioned, the expiration date of the commission, the office address of the notary public; and (d) the roll of attorney's number, the professional tax receipt number and the place and date of issuance thereof, and the IBP membership number.¹⁰ Nevertheless, the respondent did not indicate in the concluding part of the notarial certificate her roll number, date of MCLE compliance, and IBP membership number.

Taken together, the failure of the respondent to exercise due diligence required of her as a notary public in verifying the identity of the affiant and submitting a notarial certificate with incomplete information is sufficient to constitute a violation of the rules on notarial practice. The Court reiterates that the act of notarization is impressed with public interest. As such, a notary public must observe with utmost care the basic requirements in the performance of his/her duties in order to preserve the confidence of the public in the integrity of the notarial system. In this light, notaries must inform themselves of the facts they certify to; most importantly, they should not take part or allow themselves to be part of illegal transactions.¹¹ In the realm of legal ethics, a breach of the notarial rules would also constitute a violation of the Code of Professional Responsibility. An erring lawyer who is found to be remiss in his/her functions as a notary public is considered to have violated his/her oath as a lawyer.¹² In this case, the respondent does not only fail to

⁹ *Jorge v. Marcelo*, 849 Phil. 707, 720 (2019) [Per J. Peralta, Third Division].

¹⁰ 2004 Rules on Notarial Practice, Rule VIII, Section 2.

¹¹ *Ko v. Uy-Lampasa*, A.C. No. 11584, March 6, 2019 [Per J. Caguioa, Second Division].

¹² *Triol v. Atty. Agcaoili, Jr.*, 834 Phil. 154, 159 (2018) [Per J. Perlas-Bernabe, *En Banc*]; citing *Fabay v. Resuena*, A.C. No. 8723, 779 Phil. 151, 159 (2016) [Per Curiam, *En Banc*].

per/12

fulfill her solemn oath of upholding and obeying the law and its legal processes, but she also commits an act of falsehood and engages in unlawful, dishonest, and deceitful conduct.¹³ Thus, Rule 1.01, Canon 1, and Rule 10.01, Canon 10 of the CPR categorically state:

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.

x x x x

CANON 10 - A lawyer owes candor, fairness and good faith to the court.

Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in court; nor shall he mislead, or allow the Court to be misled by any artifice. (Emphases Supplied)

Considering prevailing jurisprudence, the Court modifies the penalty and found it equitable to impose upon the respondent the immediate revocation of her notarial commission, disqualification from being commissioned as a notary public for a period of one year, and suspension from the practice of law for a period of six months.¹⁴

FOR THESE REASONS, respondent Atty. Alona D. Gazmen's notarial commission is **IMMEDIATELY REVOKED** and she is **DISQUALIFIED** from being commissioned as a notary public for a period of one year. The respondent is also **SUSPENDED** from the practice of law for a period of six months and **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

The suspension from the practice of law, the prohibition from being commissioned as a notary public, and the revocation of her notarial commission, if any, shall take effect immediately upon receipt of this Resolution by respondent. She is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where she has entered his appearance as counsel.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be attached to the personal record of Atty. Alona D. Gazmen; the Office of the Court Administrator, for dissemination to all lower courts; and the Integrated Bar of the Philippines, for proper guidance and information.

¹³ *De Jesus v. Sanchez-Malit*, 738 Phil. 480, 491-492 (2014) [Per J. Sereno, *En Banc*].


¹⁴ *Lopez v. Mata*, A.C. No. 9334, July 28, 2020 [Per J. Lazaro-Javier, First Division].

per/rv

SO ORDERED.”

By authority of the Court:

TERESITA AQUINO TUAZON
Division Clerk of Court

By: 

MA. CONSOLACION GAMINDE-CRUZADA
Deputy Division Clerk of Court *10/12*
12 OCT 2023

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Supreme Court, Manila

*HON. RAUL B. VILLANUEVA (x)
Office of the Court Administrator
Supreme Court, Manila

*Note: For Circularization to all Courts.
**with copies of the Resolutions dated July 27,
2022 and December 7, 2022
Please notify the Court of any change in your address.
AC13216. 2/1/2023(232)URES