



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated February 15, 2022 which reads as follows:

“A.C. No. 12664 (Formerly CBD Case No. 16-4869) (Jingky Menorca v. Atty. Wilfredo M. Santos). – Before Us is a Complaint-Affidavit¹ dated November 30, 2015 filed by Jingky Menorca (*Jingky*) seeking the disbarment of Atty. Wilfredo M. Santos (*Atty. Santos*) for his alleged violation of Canon 1,² Rules 1.01³ and 1.02,⁴ and Canon 10,⁵ Rule 10.01⁶ of the Code of Professional Responsibility (*CPR*), lawyer’s oath and notarial practice.

The Antecedents

Jingky alleged that on July 16, 2015, she and her family were illegally detained inside the central compound of the Iglesia ni Cristo (*INC*) located at #1 Central Avenue, Quezon City, Metro Manila.⁷

On August 8, 2015, Atty. Santos, who is a lawyer of the INC, went to their residence inside the central compound to guard and observe their movements.⁸

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¹ *Rollo*, pp. 2-8.

² Canon 1 - A lawyer shall uphold the constitution, obey the laws of the land and promote respect for law of and legal processes.

³ Rule 1. 01 - A lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.

⁴ Rule 1. 02 - A lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.

⁵ Canon 10 - A lawyer owes candor, fairness and good faith to the court.

⁶ Rule 10.01 - A lawyer shall not do any falsehood, nor consent to the doing of any in Court; nor shall be misled or allow the Court to be misled by any artifice.

⁷ See *rollo*, p. 2.

⁸ *Id.*

On October 21, 2015, Jingky found out that her sister, Jungko Otsuka, filed a Petition for the Issuance of *Writs of Habeas Corpus* and *Amparo* against Eduardo Manalo and some high-ranking officials of the INC.⁹

In a bid to pre-empt and defeat the petition, Jingky claimed that the officials of the INC decided to transfer them from the central compound to the house of her aunt, Jessie Castillo, located at #71 Ipil, Street, Sitio Seville, Fairview, Quezon City. Thereat, she and her husband, Lowell Menorca (*Lowell*) were coerced by Atty. Santos to sign a Joint Affidavit of Desistance and Quitclaim. The purpose of these documents is to silence them and cover-up the crimes committed by the INC in illegally detaining them for over three months.¹⁰

When Jingky told Atty. Santos that she will only sign the Joint Affidavit, Atty. Santos said, "*Hindi pwede, dapat pati yung quitclaim, utos ni boss.*"¹¹ Disregarding Atty. Santos, she went upstairs and waited inside their room. Afterwards, Lowell talked and convinced her to sign. After signing the Joint Affidavit of Desistance, Jingky told Atty. Santos and the other lawyers of the INC to continue the signing and notarization of the spurious documents outside the house. After the last page of the documents was signed and notarized, the officials of the INC, whom she referred as her kidnappers, left. However, her family's ordeal had not truly ended because they were still under surveillance by two cars parked outside of their house.¹²

Jingky also alleged that on October 18, 2015, their counsel, together with a doctor, and a dentist went to the house of Felix Angel Manalo located at #36 Tandang Sora, Quezon City to check the medical condition of the residents therein. However, the guards of the INC prohibited them from entering the premises. After a few hours, Atty. Santos arrived to address their concern. However, instead of settling the problem, Atty. Santos prohibited them from entering the house, claiming that there was no emergency and the doctor who was with them, was not a real doctor. As a result, the resident driver of the Manalo family passed away after he collapsed inside the house. Jingky insinuated that the incident would have not happened if Atty. Santos let the doctors in to check the medical condition of those residing inside.¹³

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⁹ *Id.* at 3.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* at 4.

¹³ *Id.* at 4-5.

In view of the foregoing incidents, Jingky now seeks the disbarment of Atty. Santos for knowingly concealing and participating in the crimes committed against them by some high-ranking officials of the INC, which are subject of pending criminal and civil cases, and for forcing her and her husband to sign a fraudulent document.¹⁴

For his part, Atty. Santos asserted that there is no truth to the allegations of Jingky and that the complaint against him was only filed to harass him for being one of the counsels of the INC.¹⁵ Atty. Santos further averred that his office is located inside the compound of the INC Central Office and he only performed his duty as a counsel, and not as a guard.¹⁶

Atty. Santos added that the charge that of concealing and participating in the crimes committed by some high-ranking officials of the INC were purely conjectural and has no basis in fact and in law. As admitted by Jingky, the cases allegedly concealed by him were still pending determination before the proper authorities. As such, the issue of whether a crime has been committed and who committed the same must first be determined before he could be held liable for concealing or participating in the supposed crimes.¹⁷

Atty. Santos also propounded that he has no personal knowledge as to why Jingky and her husband were allowed to occupy a house inside the INC compound.¹⁸ It was also Jingky and her husband who requested the INC to transfer them to the house of her aunt at #71 Ipil Street, Sitio Seville, Fairview, Quezon City. In fact, while they were being transported, it was Jingky who gave instructions to the lead driver of the convoy of vehicles to go to the house of her aunt.¹⁹

Atty. Santos also vehemently denied that he coerced or forced Jingky and Lowell to sign the Joint Affidavit of Desistance and Quitclaim. By Jingky's admission, she voluntarily signed the Joint Affidavit of Desistance. It was also the will of Jingky that prevailed during the entire process as she signed only the documents that she wanted to sign.²⁰ Had Jingky been truly under duress, coercion, intimidation or harassment, she could not have refused to sign the Quitclaim.²¹

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¹⁴ *Id.* at 6.

¹⁵ *Id.* at 14.

¹⁶ *Id.* at 17.

¹⁷ *Id.* at 16.

¹⁸ *Id.* at 17.

¹⁹ *Id.* at 18.

²⁰ *Id.* at 19.

²¹ *Id.* at 20.

Furthermore, Atty. Santos averred that after Jingky signed the Joint Affidavit of Desistance, she yelled at the other persons who were present and ordered them to do the signing and notarization of the documents outside the house. She shouted, "*Lumayas kayo! Pamamahay namin ito!*" According to Atty. Santos, had Jingky been under duress, she could not have ordered him and the other persons to go outside to sign and notarize the documents.²²

In support of his defense, Atty. Santos presented, among others, the affidavit²³ of Former Speaker of the House of Representatives Arnulfo P. Fuentesbello, who narrated that he was one of the witnesses during the signing of the Joint Affidavit. He claimed that he asked Lowell if nobody forced, coerced or threatened him to sign the documents to which Lowell replied, "*wala pong nanakot sa akin.*" Having been convinced that Lowell voluntarily signed the documents, he also affixed his name and signature as a witness.

IBP Findings and Recommendation

By Report and Recommendation²⁴ dated July 18, 2018, the Integrated Bar of the Philippines Investigating Commissioner (*IBP-IC*) found that Jingky has failed to establish by substantial evidence, that Atty. Santos committed a violation of the CPR and the lawyer's oath. Jingky admitted that she signed the Joint Affidavit of Desistance after her husband talked to her. Thus, she exercised her free will in signing the document without coercion from Atty. Santos.

In the same vein, the IBP-IC opined that Jingky has failed to assail the execution of Lowell's Joint Affidavit of Desistance. Jingky was given several opportunities to substantiate her allegations on this matter, but she chose to completely ignore the several notices sent to her by the IBP.

Anent the alleged violation of notarial practice, the IBP-IC pointed out that there was an irregularity in the notarization process as the Joint Affidavit of Desistance and Quitclaim were notarized by Atty. Santos in Ipil Street, which is not one of the authorized venues for notarization under A.M. No. 02-8-13-SC. However, as Atty. Santos has not committed any other prohibitions or disqualifications under A.M. No. 02-8-13-SC, the IBP-IC recommended that Atty. Santos be meted a stern warning and be compelled to follow the right process when acting as a notary public.

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²² *Id.*

²³ *Id.* at 75-78.

²⁴ *Id.* at 84-99.

On December 6, 2018, a Resolution²⁵ was passed by the IBP Board of Governors adopting the findings of fact and recommendation of the Investigating Commissioner to dismiss the complaint but with Atty. Santos being given a stern warning.

Issue

Whether the Court should adopt the findings of fact and recommendation of the IBP.

Our Ruling

We rule in the affirmative.

Rule 1.01, Canon 1 of the CPR mandates that “[a] lawyer shall not engage in unlawful, dishonest, immoral or deceitful conduct.” As such, membership in the legal profession is a privilege that is bestowed upon individuals who are not only learned in law but are also known to possess good moral character.²⁶ Lawyers must always conduct themselves beyond reproach, whether they are dealing with their clients or the public at large, and a violation of the high moral standards of the legal profession justifies the imposition of the appropriate penalty, including suspension and disbarment.²⁷

Rule 1.02 of the CPR further ordains that “[a] lawyer shall not counsel or abet activities aimed at defiance of the law or at lessening confidence in the legal system.” Public confidence in law and lawyers may be eroded by the irresponsible and improper conduct of a member of the bar.²⁸ Thus, while a lawyer owes absolute fidelity to the cause of his client, full devotion to his genuine interest, and warm zeal in the maintenance and defense of his rights, as well as the exertion of his utmost learning and ability, he must do so only within the bounds of the law.²⁹ It needs to be emphasized that the lawyer’s fidelity to his client must not be pursued at the expense of truth and justice, and must be held within the bounds of reason and common sense.³⁰

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²⁵ *Id.* at 82.

²⁶ *Manalang v. Atty. Buendia*, A.C. No. 12079, November 10, 2020.

²⁷ See *Philippine Association of Court Employees (PACE) v. Atty. Alibutdan-Diaz*, 748 Phil. 321, 326 (2014).

²⁸ *Tahaw v. Atty. Vitan*, 484 Phil. 1, 2 (2004).

²⁹ *Choa v. Judge Chiongson*, 329 Phil. 270, 275 (1996).

³⁰ *Jimenez v. Atty. Francisco*, 749 Phil. 551, 568 (2014).

Correlatively, Canon 10, Rule 10.01 of the CPR commands that “[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.” Complimenting this mandate is the lawyer’s oath, which enjoins every lawyer not only to obey the laws of the land but also to refrain from doing any falsehood in or out of court or from consenting to the doing of any in court, and to conduct himself according to the best of his knowledge and discretion with all good fidelity to the courts as well as to his clients.

Since membership in the bar is a privilege burdened with conditions,³¹ all lawyers are bound to faithfully comply with the aforesaid rules of legal profession. Strict compliance therewith is also essential to maintain one’s good standing in the bar and to continue enjoying the privilege to practice law. Conversely, the failure of a lawyer to abide by any of these rules will result to the Court’s exercise of its ultimate power to discipline errant members and to impose the appropriate penalty.

In this case, Jingky alleges that Atty. Santos has failed to comply with the aforesaid rules of legal profession which warrants his disbarment. Regrettably, Jingky has failed to substantiate her claims by the required quantum of proof to impel the Court to grant her desired course of action.

Jurisprudence is replete with cases reiterating that in disbarment proceedings, the burden of proof rests upon the complainant³² and for the Court to exercise its disciplinary powers, the case against the respondent must be established by clear, convincing and satisfactory proof.³³ In the case of *Reyes v. Atty. Nieva*,³⁴ the Court had the occasion to clarify that the proper evidentiary threshold in disbarment cases is substantial evidence, which has been defined as more than a mere scintilla of evidence. It is such amount of relevant evidence which a reasonable mind might accept as adequate to justify a conclusion.³⁵

Here, apart from the bare and self-serving allegation of Jingky that Atty. Santos knowingly concealed and participated in the crimes committed by some high-ranking officials of the INC, no clear and

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³¹ *Executive Judge De Leon-Diaz v. Atty. Calayan*, A.C. No. 9252, November 28, 2019.

³² *Bernal, Jr. v. Atty. Prias*, A.C. No. 11217, October 07, 2020; *Alitagtag v. Atty. Garcia*, 451 Phil. 420, 423 (2003).

³³ *Zara v. Atty. Joyas*, A.C. No. 10994, June 10, 2019.

³⁴ 794 Phil. 360 (2016).

³⁵ *Bernal, Jr. v. Atty. Prias*, *supra* note 32.

convincing evidence was adduced to substantiate the same. In fact, as Jingky herself admitted in her complaint-affidavit, the supposed crimes are subject of "*criminal and civil cases pending before the DOJ and court, respectively.*"³⁶ Thus, unless these crimes are proven as a fact, it would be premature if not highly unjust to hold Atty. Santos liable for knowingly concealing and participating in the aforesaid crimes.

Similarly, Jinky's allegation that Atty. Santos forced her to sign the Joint Affidavit of Desistance is bereft of any basis. As pointed out by the IBP-IC, Jingky admitted in her complaint-affidavit that she only signed the Joint Affidavit of Desistance after her husband talked to her and convinced her to sign.³⁷ By her own declaration, Jingky signed the Joint Affidavit of Desistance on her own volition without the employment of force, threat or intimidation on the part of Atty. Santos.

In the same breadth, there is dearth of evidence to prove Jingky's accusation that Atty. Santos coerced Lowell to sign the Joint Affidavit of Desistance and Quitclaim. The IBP-IC noted that Jingky was given several opportunities to corroborate her claims, but to no avail, as she chose to completely ignore the notices sent to her. As it stands, Jingky's averment that Lowell was forced to sign the Joint Affidavit of Desistance remains to be a naked claim and therefore cannot be given any probative value.

On the other hand, Atty. Santos has presented material and convincing evidence to refute the allegations of Jingky. In particular, he presented the affidavit³⁸ of Hon. Arnulfo P. Fuentesbella, who attested that he personally made several questions to Jingky's husband, Lowell regarding the voluntariness of the execution of the Joint Affidavit of Desistance. As stressed by the IBP-IC, this affidavit heavily supported the defense of Atty. Santos that he did not coerce Lowell to sign the Joint Affidavit of Desistance.

Taken collectively, the foregoing supports the conclusion that the charges hurled by Jingky against Atty. Santos for violation of the CPR and the lawyer's oath are pure allegations wanting of any evidentiary support. Accordingly, her complaint for disbarment has no leg to stand on, for it is basic that mere allegation is not equivalent to proof and charges based on mere suspicion, speculation or conclusion cannot be given credence.³⁹

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³⁶ *Rollo*, p. 2.

³⁷ *Id.* at 4.

³⁸ See *rollo*, pp.75-78.

³⁹ *Supra* note 33.

Moreover, it is settled that lawyers enjoy the legal presumption that they are innocent of the charges against them until proven otherwise.⁴⁰ As officers of the court, they are presumed to have performed their duties in accordance with their oath.⁴¹ It is only when such presumption is overcome by convincing proof of the lawyer's misconduct that the serious consequences of disbarment or suspension should follow.⁴² Having failed to overcome this presumption, the complaint for disbarment against Atty. Santos inevitably fails.

As for the alleged violation of Atty. Santos' duty as a notary public, Section 2(a) Rule, IV of the 2004 Rules of Notarial Practice (A.M. No.02-8-13-SC) enumerates the authorized places where notarization can be validly made:

SECTION 2. *Prohibitions.* - (a) A notary public shall not perform a notarial act outside his regular place of work or business; provided, however, that on certain exceptional occasions or situations, a notarial act may be performed at the request of the parties in the following sites located within his territorial jurisdiction:

1. Public offices, convention halls, and similar places where oaths of office may be administered;
2. Public function areas in hotels and similar places for the signing of instruments or documents requiring notarization;
3. Hospitals and other medical institutions where a party to an instrument or document is confined for treatment; and
4. Any place where a party to an instrument or document requiring notarization is under detention.

x x x x.

Thus, as a rule, notarization should be performed in the notary public's regular place of work or business where he is commissioned. The term "regular place of work or business" refers to a stationary office in the city or province wherein the notary public renders legal and notarial services.⁴³ However, on certain exceptional occasions, a

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⁴⁰ *Id.*

⁴¹ *Gayo v. Atty. Causing*, A.C. No. 12618 (Formerly CBD Case No. 15-4579), January 26, 2021.

⁴² *Supra* note 33.

⁴³ Rule II, Section 11 of A.M. No. 02-8-13-SC.

notarial act may be performed at the request of the parties in: (1) public offices, convention halls and similar places where oaths of office may be administered; (2) hotels and similar places for signing ceremonies; (3) hospitals where a party is confined for treatment; and (4) places where a party is under detention.

In this case, both parties have mentioned that the Joint Affidavit of Desistance was notarized by Atty. Santos at the house of Jingky's aunt at #71 Ipil, Street, Sitio Seville, Fairview, Quezon City. The said place is not among the recognized exceptions where notarization can be performed outside the regular place of work or business of the notary public.

Despite the aforesaid irregularity, the Court finds that Atty. Santos did not deliberately intend to violate the notarial rules. It must be recalled that it was the Menorcas who chose the venue when they requested to be transferred from the central compound of the INC, where Atty. Santos has his regular place of work, to the house of Jingky's aunt in Ipil Street. Considering further that Atty. Santos has not committed any other prohibitions⁴⁴ and disqualifications⁴⁵ under A.M. No. 02-8-13-SC in notarizing the document, the Court is of the view that the recommendation of the IBP Board of Governors to give him a stern warning and to compel him to follow the right process when acting as a notary public is proper under the circumstances.

Settled is the rule that the appropriate penalty for an errant lawyer depends on the exercise of sound judicial discretion based on the surrounding facts.⁴⁶ Further, the Court recognizes that disbarment, being the most severe form of disciplinary sanction⁴⁷ should never be

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⁴⁴ Section 2. *Prohibitions.* -
x x x x.

(b) A person shall not perform a notarial act if the person involved as signatory to the instrument or document –

1. is not in the notary's presence personally at the time of the notarization; and
2. is not personally known to the notary public or otherwise identified by the notary public through competent evidence of identity as defined by these Rules.

⁴⁵ Section 3. *Disqualifications.* - A notary public is disqualified from performing a notarial act if he:

- (a) is a party to the instrument or document that is to be notarized;
- (b) will receive, as a direct or indirect result, any commission, fee, advantage, right, title, interest, cash, property, or other consideration, except as provided by these Rules and by law; or
- (c) is a spouse, common-law partner, ancestor, descendant, or relative by affinity or consanguinity of the principal within the fourth civil degree.

⁴⁶ *Portuguese, Jr. v. Atty. Centro*, A.C. No. 12875, January 26, 2021.


⁴⁷ *Cansino v. Atty. Sederiosa*, A.C. No. 8522, October 06, 2020.

imposed unless it is evidently clear that the lawyer, by his serious misconduct, should no longer remain a member of the bar.⁴⁸ The Court held in an array of cases that “removal from the Bar should not really be decreed when any punishment less severe – reprimand, temporary suspension or fine – would accomplish the end desired.”⁴⁹

WHEREFORE, premises considered, the Court **ADOPTS** and **APPROVES** the Resolution dated December 6, 2018 of the Integrated Bar of the Philippines Board of Governors to **DISMISS** the Complaint for Disbarment against Atty. Wilfredo M. Santos but with a **STERN WARNING** for him to follow the right process when acting as a notary public.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court¹²³
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Ms. Jingky Menorca
Complainant
(Forwarding address unknown)

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⁴⁸ *Tabang v. Atty. Gacott*, 713 Phil. 578, 588 (2013).

⁴⁹ *Dr. Malvar v. Atty. Baleros*, 807 Phil. 16, 31 (2017).

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