



REPUBLIC OF THE PHILIPPINES
SUPREME COURT
Manila

SECOND DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, Second Division, issued a Resolution dated **14 February 2022** which reads as follows:*

“**A.C. No. 12885** (*Francisco A. Chang and Concepcion C. Villasis v. Atty. Wilfredo T. Albarico, Sr.*). — Complainants Francisco A. Chang (Chang) and Concepcion C. Villasis (Villasis; collectively, complainants), instituted a disbarment complaint¹ against respondent Atty. Wilfredo T. Albarico, Sr. (respondent) for violation of the 2004 Rules on Notarial Practice (Notarial Rules)² and the Code of Professional Responsibility (CPR).

In their complaint,³ complainants averred that Jonathan L. Labiste (Labiste) introduced respondent to Chang on December 27, 2016. Back then, Chang was looking for a counsel in Civil Case No. 16-2704-M⁴ where he was a party-defendant.⁵ Even if no retainer agreement was established, respondent was able to secure a ₱40,000.00 loan from Chang⁶ which respondent would use to pay for the hospital bills of his wife. Labiste also obtained a loan⁷ from Chang in the amount of ₱29,000.00.⁸ Labiste and respondent promised to pay the total amount of ₱69,000.00 weekly until fully paid.⁹ Respondent and Labiste were able to pay the amount of ₱53,400.00.¹⁰ The balance of ₱15,600.00 remained unpaid despite Chang’s calls and demand for payment. Complainants asserted that respondent even threatened Chang with a court action and asserted that Labiste was answerable for the remaining obligation.¹¹

¹ *Rollo*, pp. 2-5.

² A.M. No. 02-8-13-SC. Promulgated July 6, 2004.

³ *Rollo*, pp. 2-5.

⁴ *Id.* at 6.

⁵ *Id.* at 2.

⁶ *Id.* at 15.

⁷ *Id.* at 2.

⁸ *Id.* at 16.

⁹ *Id.* at 15-16.

¹⁰ *Id.* at 15.

¹¹ *Id.* at 2-3.

Furthermore, complainants alleged that respondent had made himself scarce and never appeared at his notarial office in Tanay, Rizal, leaving Labiste and his common-law wife to prepare and sign legal documents¹² and perform notarial services.¹³ Labiste even notarized Chang's answer¹⁴ in Civil Case No. 16-2704-M. Worse, no hard copy of said answer was submitted to the Regional Trial Court (RTC) in Antipolo City per Certification¹⁵ dated February 8, 2018 of Atty. Norberto M. Mingao, Jr. (Atty. Mingao), the Assistant Clerk of Court of RTC Antipolo City.¹⁶

Complainants likewise contended that respondent's secretary¹⁷ performed the notarial works at his law office in Antipolo City. Several documents such as Affidavits of Loss,¹⁸ *Kasunduan*,¹⁹ and *Kontrata sa Pag-Upa*²⁰ were notarized by persons other than respondent.²¹ Additionally, a number of documents contained similar notarial registration details, to wit: (1) a *Kasunduan*²² dated October 25, 2016 and a Special Power of Attorney²³ dated July 11, 2016 were both registered as Doc. No. 488, Page 98, Book 10, Series of 2016;²⁴ and (2) an Affidavit of Delayed Registration²⁵ dated October 25, 2016 and a Deed of Sale of Motor Vehicle²⁶ were both recorded as Doc. No. 490, Page No. 98, Book No. 10, Series of 2016.²⁷

Complainants disclosed that several other documents²⁸ were notarized by Labiste at Albarico Law Office in Tanay, Rizal but were recorded at Albarico Law Office in Antipolo City.²⁹ Complainants pointed out that respondent's appointment as a notary public covered only the City of Antipolo and the municipalities of Taytay and Cainta, and did not cover Tanay, Rizal, as shown in the appointment³⁰ issued by Executive Judge Ruth C. Santos of RTC Antipolo City.³¹ Complainants insisted that these acts of respondent were in violation of the Notarial Rules and the CPR, hence, respondent should be disbarred from practicing law.³²

¹² Id. at 19-20.

¹³ Id. at 3.

¹⁴ Id. at 6-10.

¹⁵ Id. at 31.

¹⁶ Id. at 3.

¹⁷ Id. at 21.

¹⁸ Id. at 22, 27-28.

¹⁹ Id. at 23.

²⁰ Id. at 24-26.

²¹ Id. at 3.

²² Id. at 38-39.

²³ Id. at 37.

²⁴ Id. at 35-36.

²⁵ Id. at 44.

²⁶ Id. at 42-43.

²⁷ Id. at 41 and 45. See also Id. at 3-4.

²⁸ Id. at 48-66.

²⁹ Id. at 4.

³⁰ Id. at 69.

³¹ Id. at 4.

³² Id. at 4-5.

In his answer,³³ respondent denied having violated any law or rule. He averred that Labiste, his legal assistant, introduced him to Chang, a person from whom he could secure a loan for his wife's hospital bill. Respondent claimed that he already paid his ₱40,000.00 personal loan to Chang, and that he never threatened any person in his entire life.³⁴

Respondent opined that his decision to open a law office in Tanay, Rizal was aimed towards the convenience of his clients in Pililla and Morong, Rizal. Moreover, he argued that his secretary and staff were authorized to attend to his clients' needs, and that he would just randomly drop by at the Tanay, Rizal law office to check and confirm by way of his signature the documents that his staff initially prepared.³⁵

Report and Recommendation of the Integrated Bar of the Philippines (IBP):

In its February 18, 2019 Report and Recommendation,³⁶ the IBP Commission on Integrity and Bar Discipline (CIBD) proposed to suspend respondent from the practice of law for two years and to disqualify him from reappointment as a notary public during the same period.³⁷ The IBP-CIBD observed that respondent admitted his violations and merely justified his infractions by putting forward the convenience of his clients. In sum, respondent admitted to having performed notarial services beyond the confines of his notarial commission. It was also proven through photographs that other individuals, who were not authorized by the rules, performed notarial acts on his behalf in his office. And finally, there were documents bearing similar notarial details, and which were not accurately recorded in respondent's notarial register.³⁸ The IBP-CIBD thus recommended:

WHEREFORE, premises considered, it is respectfully recommended that Atty. Wilfredo T. Albarico, Sr. be **SUSPENDED** from the practice of law for a period of two (2) years, and he is **DISQUALIFIED** from reappointment as a notary public during the same period.

RESPECTFULLY SUBMITTED.³⁹

The IBP Board of Governors (BOG), in its Notice of Resolution,⁴⁰ adopted the findings of the CIBD, with modification that respondent's

³³ Id. at 93-95.

³⁴ Id. at 93-94.

³⁵ Id.

³⁶ Id. at 161-164. Pinned by IBP Commissioner Sherwin C. De Joya.

³⁷ Id. at 164.

³⁸ Id. at 163-164.

³⁹ Id. at 164.

⁴⁰ Id. at 160.

suspension from the practice of law be reduced to only one year. The *fallo* reads:

*RESOLVED to ADOPT the findings of fact and recommendation of the Investigating Commissioner, with modification, to impose upon the Respondent the penalty of SUSPENSION from the practice of law for one (1) year.*⁴¹

Issue:

The issue before Us is whether respondent violated the 2004 Rules on Notarial Rules and the CPR.

Our Ruling

We adopt the findings of the IBP with modification as to the recommended penalty.

At the outset, it bears stressing the significance of notarization and the sacred duty imposed upon commissioned notaries public especially in the performance of notarial services and their corresponding responsibility. *Roa-Buenafe v. Lirazan*⁴² declares, *viz.*:

The act of notarization is impressed with public interest. A notary public is mandated to discharge with fidelity the duties of his office, such duties being dictated by public policy. Moreover, a lawyer commissioned as a notary public has a responsibility to faithfully observe the rules governing notarial practice, having taken a solemn oath under the Code of Professional Responsibility (Code) to obey the laws and to do no falsehood or consent to the doing of any.

It is settled that notarization is not an empty, meaningless or routinary act, but rather an act invested with substantive public interest. **Notarization converts a private document into a public document, making it admissible in evidence without further proof of its authenticity. Thus, a notarized document is, by law, entitled to full faith and credit upon its face. It is for this reason that a notary public must observe with utmost care the basic requirements in the performance of his notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined.**⁴³ (Emphasis supplied; Citations omitted)

On July 6, 2004, the Notarial Rules⁴⁴ was promulgated to regulate and guide, and to be complied with by commissioned notaries public. Section 2, Rule IV of the Notarial Rules, reads:

⁴¹ Id.

⁴² A.C. No. 9361, March 20, 2019.

⁴³ Id.

⁴⁴ A.M. No. 02-8-13-SC. Promulgated July 6, 2004.

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.

(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. (Emphasis supplied)

Clearly, the notarial acts and services of a notary public shall be performed only within the territorial jurisdiction set forth in one's notarial commission, subject only to certain exceptions. Notarial acts performed outside the regular place of work are prohibited as a rule, unless they clearly fall under the exceptions. Similarly, a person shall not notarize a document if the signatory to said instrument or document is not in the presence of the notary public at the time of the notarization.

It cannot be denied that the acts of respondent were in violation of the Notarial Rules.

First, his notarial services were conducted in Tanay, Rizal, which is outside the territorial jurisdiction of his Appointment⁴⁵ as a notary public, which covers only the City of Antipolo and the Municipalities of Taytay and Cainta, Rizal. Tanay, Rizal is thus not within the territorial jurisdiction of his appointment as notary public. Consequently, any notarial services conducted therein were in violation of Section 2, Rule IV of the Notarial Rules. Not only did respondent himself admit to committing said infractions, complainants also submitted photographs⁴⁶ showing that respondent indeed maintained a

⁴⁵ *Rollo*, p. 69.

⁴⁶ *Id.* at 17-21.

law office in Tanay, Rizal where his secretary and staff performed notarial services, and where respondent randomly dropped by to sign the documents prepared by his staff.⁴⁷ Respondent's justification that maintaining an office in Tanay, Rizal was for the convenience of his clients⁴⁸ fails to persuade. While legal services may be conducted in said law office, notarial services may not be performed thereat as it is outside of respondent's territorial jurisdiction as a notary public. Respondent's admission, coupled with photographs⁴⁹ showcasing a woman signing documents, lead Us to believe that respondent's notarial services were made available outside the jurisdiction of his appointment, and that the notarial acts were not done in his presence.

Furthermore, Chang and Villasis averred that several documents bore the same notarial details such as the document, page, book, and series numbers.⁵⁰

*Orenia III v. Gonzales*⁵¹ (*Orenia*) holds that notaries public should be circumspect in the handling of their notarial register and in recording the details thereon:

Failure to enter a notarial act in one's notarial register and **the assignment of erroneous notarial details in a notarized instrument constitute dereliction of a notary public's duties** which warrants the revocation of a lawyer's commission as a notary public.⁵² (Emphasis supplied; citation omitted)

As may be gleaned from the documents⁵³ attached by complainants to their complaint, these documents indeed bear similar document, page, book and series numbers. *Orenia* clarified that assignment of erroneous notarial details amounts to a notary public's dereliction of duty. Notaries public are expected to be prudent and cautious in all notarial acts, from the time a certain document is presented for notarial services up to the time their notarial register is submitted to the executive judge as part of their compliance to their duties. By having documents bearing similar notarial details, respondent was shown to have been utterly delinquent in his duties.

This Court also finds that respondent violated Rule 9.01, Canon 9 of the CPR when he allowed his secretary to perform notarial acts. Evident from the photographs⁵⁴ is his secretary's act of signing documents, and worse, an exposed notary seal embosser may also be recognized in one of the photographs. Rule 9.01 provides:

⁴⁷ Id. at 94.

⁴⁸ Id. at 93.

⁴⁹ Id. at 18-19.

⁵⁰ Id. at 3-4.

⁵¹ A.C. No. 12766, October 7, 2020.

⁵² Id.

⁵³ *Rollo*, pp. 35-45.

⁵⁴ Id. at 21.

CANON 9 — A lawyer shall not, directly or indirectly, assist in the unauthorized practice of law.

RULE 9.01 A lawyer shall not delegate to any unqualified person the performance of any task which by law may only be performed by a member of the Bar in good standing.

Respondent's secretary is certainly not qualified or authorized to perform notarial services and acts. Only a commissioned notary public is authorized to perform these services, otherwise, the notary public-lawyer commits a violation of Rule 9.01.

As to respondent's alleged non-payment of his loan obligation, We hold that this administrative complaint is not the proper forum to collect the same. Complainants must institute the proper suit in another forum.⁵⁵

All told, respondent committed violations of Section 2, Rule IV of the Notarial Rules and Rule 9.01, Canon 9 of the CPR. As for the penalty to be imposed against Atty. Albarico, *Orenia* is instructive:

Jurisprudence provides that a notary public who fails to discharge his duties as such is meted out the following penalties: (1) revocation of notarial commission; (2) disqualification from being commissioned as notary public; and (3) suspension from the practice of law — the terms of which vary based on the circumstances of each case.⁵⁶

Under the circumstances of this case and considering the COVID-19 pandemic's impact to everyone's livelihood and source of income, in particular the members of the bar whose bread and butter is the practice of law, this Court, out of compassion, deems it proper to impose upon respondent the penalty of suspension from the practice of law for three months, the revocation of notarial commission, if existing, and disqualification from being commissioned as notary public, for a period of two years.

WHEREFORE, the Court finds respondent Atty. Wilfredo T. Albarico, Sr. **GUILTY** of violating the 2004 Rules on Notarial Practice and the Code of Professional Responsibility. Consequently, he is **SUSPENDED** from the practice of law for a period of three months. His notarial commission, if existing, is **REVOKED** and he is **DISQUALIFIED** from being commissioned as a notary public for a period of two years. He is **STERNLY WARNED** that a repetition of the same or similar acts shall be dealt with more severely.

The suspension from the practice of law and the prohibition from being commissioned as a notary public shall take effect immediately upon receipt of

⁵⁵ See *Fajardo v. Alvarez*, 785 Phil. 303, 334 (2016).

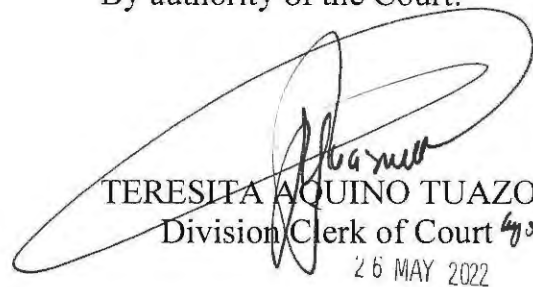
⁵⁶ A.C. No. 12766, October 7, 2020.

this Resolution by Atty. Albarico. He is **DIRECTED** to immediately file a Manifestation to the Court that his suspension has started, copy furnished all courts and quasi-judicial bodies where he has entered his appearance as counsel.

Let copies of this Resolution be furnished to the Office of the Bar Confidant to be appended to Atty. Albarico's personal record as an attorney; the Integrated Bar of the Philippines for its information and guidance; and the Office of the Court Administrator for circulation to all courts in the country.

SO ORDERED.

By authority of the Court:


 TERESITA AQUINO TUAZON
 Division Clerk of Court *by s/n*
 26 MAY 2022

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