



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated September 5, 2022 which reads as follows:

“A.C. No. 13515 [Formerly CBD Case No. 17-5324] (*Dolores Rosario-Perez v. Atty. Alona D. Gazmen*). — This is a Petition for Disbarment¹ dated 31 March 2017 filed by complainant Dolores Rosario-Perez (complainant) against respondent Atty. Alona D. Gazmen (respondent) for allegedly violating the 2004 Rules on Notarial Practice, Rule 10.01 of the Code of Professional Responsibility, and the Lawyer’s Oath.

Antecedents

The controversy arose from a Motion for Reconsideration (MR)² filed by a certain Atty. Pastor C. Ligas, Jr. (Atty. Ligas) in Civil Case No. 33-517-2015. In said MR, Atty. Ligas attached a document denominated as “Certificate of Treatment/Confinement” (certificate) dated 03 February 2017, signed and executed by Dr. Nicasio M. Galano, Jr., M.D. (Dr. Galano). The document was notarized by respondent.³

Complainant claimed that respondent violated the 2004 Rules on Notarial Practice when she notarized the certificate without requiring the affiant, Dr. Galano, to present a competent proof of his identity. Complainant asserted further that respondent’s omission also amounted to a falsehood, and therefore a violation of Canon 10, Rule 10.01 of the Code of Professional Responsibility.⁴ Consequently, complainant filed a complaint before the Integrated Bar of the Philippines (IBP) Committee on Bar Discipline (CBD).⁵

¹ *Rollo*, pp. 2-6.

² *Id.* at 9-11.

³ *Id.*

⁴ 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. x x x

⁵ *Rollo*, pp. 9-10.



For her part, respondent admitted to notarizing the certificate but denied violating the 2004 Rules on Notarial Practice or the Lawyer's Oath. She explained that she personally knows Dr. Galano due to her closeness to the affiant's cousin, Atty. Haxley Galano. In any case, respondent claimed that when the certificate was notarized, Dr. Galano brought with him his Professional Regulation Commission (PRC) license card. She also pointed out that Dr. Galano's PRC license number was clearly indicated below his name and signature appearing on the certificate.⁶

Report and Recommendation of the IBP

Investigating Commissioner Emanuelle Aves Ebarle (Commissioner Ebarle) submitted the Report and Recommendation endorsing the dismissal of the complaint for lack of merit. Commissioner Ebarle found that Atty. Gazmen did not violate the 2004 Rules on Notarial Practice. Atty. Gazmen's omission to state that she personally knows Dr. Galano is not enough to declare her administratively liable. This, considering it was established that Dr. Galano showed to Atty. Gazmen his PRC license, a competent proof of identity. Further, the number of the license was indicated in the certificate. Commissioner Ebarle also gave weight to Dr. Galano's sworn statement attesting to the fact that personally knows Atty. Gazmen and that he presented his PRC license to Atty. Gazmen.⁷

On 18 March 2022, the Board of the Governors of the IBP issued a Resolution approving and adopting the Report and Recommendation of Commissioner Ebarle.⁸ Thus:

RESOLVED to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner to DISMISS the complaint against the Respondent for lack of merit.⁹

Ruling of the Court

We adopt the findings and recommendation of the IBP.

⁶ Id. at 16-17.

⁷ Id. at 99-105.

⁸ Id. at 106-107.

⁹ Id.



Section 2 (b), paragraph 2, Rule IV of the 2004 Rules on Notarial Practice¹⁰ prohibits a notary public from performing a notarial act if the affiant is not in the notary’s presence at the time of the notarization, and 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, while respondent notarized the certificate without stating in the *jurat* that affiant Dr. Galano was personally known to him, she was able to adduce evidence in support of this allegation. Dr. Galano’s sworn statement corroborated respondent’s claim that they know each other. Further, the same sworn statement proved that Dr. Galano was also identified through a competent proof of identity. Section 12, Rule II of the 2004 Rules on Notarial Practice, as amended, enumerated those considered as “competent evidence of identity. Thus:

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) x x x

Indeed, the IBP correctly observed that Dr. Galano’s PRC identification card (ID) number was indicated in the face of the certificate notarized by respondent. This fact was confirmed by the copy of Dr. Galano’s PRC ID that he attached to his sworn statement. Dr. Galano also stated in his sworn statement that he presented his PRC ID to Atty. Gazmen. This remains uncontroverted.

¹⁰ SECTION 2. *Prohibitions.* — x x x
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.

It must be noted that the present complaint is an administrative case where a fact is deemed established if it is supported by substantial evidence, or that amount of relevant evidence which a reasonable mind might accept to justify a conclusion.¹¹ Respondent was successful in providing substantial and convincing proof of her defense that affiant is in fact personally known her; and that she required him to present competent evidence of identity before notarizing the certificate.

WHEREFORE, premises considered, the instant Petition for Disbarment against respondent Atty. Alona D. Gazmen is hereby **DISMISSED** for lack of merit.

SO ORDERED.”

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court¹⁰

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

81
FEB 13 2023

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¹¹ See *Cruz-Sillano v. Atty. Pangan*, 592 Phil. 219, 227 (2008).

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