



Republic of the Philippines
Supreme Court
Manila

FIRST DIVISION

NOTICE

Sirs/Mesdames:

Please take notice that the Court, First Division, issued a Resolution dated March 1, 2023 which reads as follows:

“A.C. No. 13339 [Formerly CBD Case No. 15-4609] (Edgardo C. De Guzman v. Atty. Virgilio R. Batalla).—A Petition for Disbarment¹ was filed by Edgardo C. De Guzman (De Guzman) before the Commission on Bar Discipline (CBD) of the Integrated Bar of the Philippines (IBP) against Atty. Virgilio R. Batalla (respondent) for two counts of Violation of the 2004 Rules on Notarial Practice under A.M. No. 02-8-13; Rule 10.01 of the Code of Professional Responsibility (CPR) and the Lawyer’s Oath.

Factual Antecedents

De Guzman averred that sometime in September of 2010, one Jovencio Navarro (Jovencio) filed a criminal complaint for three counts of Violation of Batas Pambansa Blg. 22 against him.²

During the presentation of evidence by the prosecution, Jovencio, through a private prosecutor, submitted to the court a Judicial Affidavit dated April 24, 2013 as well as the Judicial Affidavit of a witness, Philip Darjuan (Darjuan). The Judicial Affidavits consisted of three pages each duly notarized by respondent on April 24, 2013,³ who is a commissioned notary public for Makati until December 31, 2014.⁴

However, in the Jurat of the two Judicial Affidavits, the space intended for the identification card number of the affiants was left unfilled. De Guzman thus concluded that respondent, as notary public, did not require affiants to present identification cards issued by a government agency bearing their

¹ *Rollo*, pp. 1-8.

² *Id.* at 1-3.

³ *Id.* at 2.

⁴ *Id.*

photographs and signatures as required in the 2004 Rules on Notarial Practice.⁵

In an Order dated May 12, 2015, the CBD directed respondent to file an Answer,⁶ to which respondent moved for an extension of time.⁷ On September 1, 2015, De Guzman filed before the CBD a Motion to Declare Respondent in Default and to Hear the Case *Ex-Parte*⁸ for failure of respondent to file an answer despite the extended period.⁹ On February 11, 2016, the CBD issued a Notice of Mandatory Conference/Hearing for March 18, 2016.¹⁰ On March 18, 2016, respondent filed an Answer.¹¹

Respondent argued that the present charge against him is utterly baseless. He claimed that when he was notarizing the subject Judicial Affidavits, both affiants were required to show their valid identification cards. However, respondent's staff inadvertently failed to fill in the blanks. In fact, photocopies of the Senior Citizen and Driver's License of both affiants were submitted to the Notarial Section of the Office of the Clerk of Court (OCC), Regional Trial Court (RTC) of Makati. Thus, the 2004 Rules on Notarial Practice has been sufficiently complied with. Similarly, the document number of the Judicial Affidavit of Darjuan was listed in the Books/Records submitted at the Notarial Section of the RTC-OCC of Makati as Document No. 65.¹² As proof, respondent submitted a Certification prepared by the OCC of the Makati RTC stating that the Judicial Affidavit of Jovencio consists of seven pages while Darjuan's has five pages, including annexes which were the identification cards.¹³ Further, in his Mandatory Conference Brief, respondent alleged that there were no irregularities in the notarization of the subject Judicial Affidavits.¹⁴

During the scheduled mandatory conference on March 18, 2016, only De Guzman and his counsel were present. The CBD reset the conference to April 11, 2016.¹⁵

On April 8, 2016, De Guzman filed a Comment/Reply¹⁶ to respondent's Answer. He alleged that the Certification issued by the OCC is irrelevant to the issue and not supportive of respondent's defense. Further, the 2004 Rules on Notarial Practice do not require the submission of, attachment to, and production of, the competent evidence of identity to the document sought to

⁵ Id.

⁶ Id. at 20; Order issued by the Commission on Bar Discipline in CBD Case No. 15-4609.

⁷ Id. at 21-24; Motion for Extension of Time to File Verified Answer.

⁸ Id. at 23-25.

⁹ Id. at 23.

¹⁰ Id. at 26; Notice of Mandatory Conference/Hearing.

¹¹ Id. at 32-41.

¹² Id. at 32; Verified Answer of Atty. Batalla in CBD Case no. 15-4609.

¹³ Id. at 35-48.

¹⁴ Id. at 49-50; Mandatory Conference Brief.

¹⁵ Id. at 53; Minutes of the Hearing of March 18, 2016 and Order dated March 18, 2016.

¹⁶ Id. at 57-60.

be notarized but merely supplying the necessary information in the document to ascertain the identities of the parties appearing before the notary public.¹⁷ During the preliminary conference scheduled on April 11, 2016, only De Guzman and counsel were around. Thus, the CBD again reset the mandatory conference to June 1, 2016.¹⁸ However, on June 1, 2016, respondent again failed to attend. Thus, the CBD terminated the mandatory conference and the parties were directed to submit their position papers. Thereafter, the case shall be deemed submitted for report and recommendation.¹⁹

On December 18, 2019, the administrative case remains pending before the CBD, thus, De Guzman filed an Urgent Motion to Resolve²⁰ considering that the case has been submitted for resolution/recommendation since August 1, 2018.²¹ A Second Motion to Resolve²² was filed by De Guzman on June 8, 2021.

Report and Recommendation of the Integrated Bar of the Philippines

In its October 9, 2019 Report and Recommendation,²³ the CBD opined that the matter was merely an inadvertence on the part of the firm's staff and a simple oversight in the encoding of the document number for which respondent ought to be admonished. Notaries public must observe with utmost care the basic requirements in the performance of their duties, otherwise the confidence of the public in the integrity of the notarization process would be undermined. Respondent is duty-bound to see to it that the details of the documents he is notarizing are duly encoded and/or recorded.²⁴ However, as regards respondent's delay in filing the Answer and Mandatory Conference Brief, failure to appear at mandatory conferences, and failure to file the required memorandum, the CBD noted that respondent failed to show the highest respect for judicial authority, or to obey court orders and processes, of which he was expected to uphold.²⁵ Citing *Radial Golden Marine Services Corporation v. Atty. Cabugoy*,²⁶ wherein the respondent lawyer was suspended from the practice of law for two years for his "nonchalant attitude in complying with the IBP's directives, as well as the Court's numerous Resolutions, the CBD recommended that respondent be suspended from the practice of law for a period of one year.

¹⁷ Id. at 58; Comment and/or Reply to the Belatedly Filed Answer of Respondent.

¹⁸ Id. at 56; Order of the Commission dated April 11, 2016.

¹⁹ Id. at 62; Order of the Commission dated June 1, 2016.

²⁰ Id. at 124-127.

²¹ Id. at 124; Urgent Motion to Resolve.

²² Id. at 126; Second Urgent Motion to Resolve.

²³ Id. at unpaginated; Report and Recommendation, pp. 1-6.

²⁴ Id.

²⁵ Id.

²⁶ A.C. No. 8869, June 25, 2019.

On June 19, 2021, the IBP Board of Governors (Board) resolved to reverse and set aside the Report and Recommendation of the Investigating Commissioner as to the imposition of the penalty of admonition upon respondent.²⁷ Instead, the Board recommended that the case be dismissed with warning, considering that the document number error was clearly unintentional and inadvertent, as confirmed by the Certificate issued by the Notarial Section of the OCC, Makati RTC.

Further, in view of respondent's inexplicable noncompliance with the CBD's directives, it recommended that a fine in the amount of PHP 15,000.00 be imposed upon respondent.²⁸

Issue

The essential issue for the Court's resolution is whether respondent should be administratively sanctioned for the acts complained of.

Our Ruling

It is settled that "notarization is not an empty, meaningless routinary act, but one 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 [or her] notarial duties; otherwise, the public's confidence in the integrity of a notarized document would be undermined."²⁹

A notary public is authorized by law to perform various notarial acts, such as a jurat. Section 6, Rule II of the Rules on Notarial Practice defines a jurat as:

Section 6. *Jurat*. — "Jurat" refers to an act in which an individual on a single occasion:

- (a) appears in person before the notary public and presents an instrument or document;
- (b) is personally known to the notary public or identified by the notary public through competent evidence of identity as defined by these Rules;
- (c) signs the instrument or document in the presence of the notary; and
- (d) takes an oath or affirmation before the notary public as to such instrument or document.

²⁷ *Rollo*, unpaginated; Extended Resolution of the Board of Governors, pp. 1-4.

²⁸ *Id.*

²⁹ *Kiener v. Atty. Amores*, A.C. No. 9417, November 18, 2020, citing *Tabao v. Lacaba*, A.C. No. 9269, March 13, 2019.

We adopt the findings of the IBP that the document number error was unintentional and merely an inadvertence on the part of the firm's staff. However, respondent should be admonished to be more prudent in encoding or recording the details of documents he is notarizing. Further, We find proper the imposition of a fine of PHP 15,000.00 for respondent's cavalier and consistent disregard and noncompliance with the CBD's directives.

We note that respondent was unable to sufficiently justify his disobedience to the orders and directives of the CBD. First, respondent committed delay in filing the Answer. Thereafter, for two consecutive instances, respondent failed to appear during the mandatory conference hearings that have been scheduled beforehand and for which respondent was properly and timely notified. Lastly, respondent failed to file the required memorandum by the CBD.

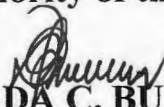
In *Ngayan v. Atty. Tugade*,³⁰ the Court has ruled that "a lawyer's failure to answer the complaint against him [or her] and his [or her] failure to appear at the investigation are evidence of his flouting resistance to lawful orders of the court and illustrate his [or her] despicency for his [or her] oath of [office] in violation of Sec. 3, Rule 138, Rules of Court."

In administrative cases against lawyers, the determination of whether an attorney should be disbarred or merely suspended involves the exercise of sound judicial discretion. This Court has imposed the penalties ranging from reprimand, warning with fine, suspension and, in grave cases, disbarment for a lawyer's failure to file a brief or other pleading.³¹

WHEREFORE, respondent Atty. Virgilio R. Batalla is **ADMONISHED** and **FINED** the amount of PHP 15,000.00, with a **STERN WARNING** that a repetition of the same or similar acts will be dealt with more severely.

SO ORDERED."

By authority of the Court:


LIBRADA C. BUENA
Division Clerk of Court¹⁸

by:

MARIA TERESA B. SIBULO
Deputy Division Clerk of Court

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³⁰ 271 Phil. 654, 659 (1991).

³¹ *Figueras v. Atty. Jimenez*, 729 Phil. 101, 108 (2014).

Mr. Edgardo C. De Guzman
Complainant
No. 107 Xavierville Avenue cor.
Xavierville & Katipunan Roads,
Loyola Heights, 1108 Quezon City

Atty. Virgilio R. Batalla
Respondent
The Executive Building Center
Makati Avenue cor. Jupiter Street
1200 Makati City

LEOVILLO C. AGUSTIN LAW OFFICE
Counsel for Complainant
Rooms 10-14M, The Barristers Inn 2000
No. 77 Esteban Abada cor. Fabian dela
Rosa Streets, 1100 Quezon City

Integrated Bar of the Philippines
15 Doña Julia Vargas Avenue
Ortigas Center, 1605 Pasig City

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