



Republic of the Philippines  
Supreme Court  
Cagayan de Oro City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated **March 6, 2023** which reads as follows:*

**“A.C. No. 13599 [Formerly CBD Case No. 18-5633] (Maria Delia C. O’Brien v. Atty. Asterio A. Villero).** — This administrative case stemmed from a verified Complaint<sup>1</sup> filed by Maria Delia C. O’Brien (O’Brien) before the Integrated Bar of the Philippines (IBP)- Commission on Bar Discipline (CBD) against respondent Atty. Asterio A. Villero (Atty. Villero) for violation of the 2004 Rules on Notarial Practice in relation to the Lawyer’s Oath and Canon 1 of the Code of Professional Responsibility (CPR).

**Antecedents**

In the Complaint, O’Brien alleged that she was the owner of a Mitsubishi Montero Sport GLS with Plate No. UQW 384. This became the subject of a Deed of Sale purportedly fabricated by Teodulo Armada (Armada), as buyer, for the amount of ₱862,390.00. According to O’Brien, she never executed and signed the said Deed of Sale, nor did she ever appear before Atty. Villero who notarized it.<sup>2</sup>

In support of her claim, O’Brien presented a Certification issued by the City Treasurer of Borongan City stating that Residence Certificate No. 4326790 dated 20 May 2014, the certificate of identity indicated as used by her in the Deed of Sale, was never issued by such office. Additionally, O’Brien presented the alleged handwritten note of one Pros. Cordovez to Atty. Villero, to “accommodate” the notarization of the Deed for only ₱100.00. Likewise, she included a Certification dated 15 February 2018 issued by the Clerk of Court of the 8<sup>th</sup> Judicial Region, Regional Trial Court (RTC) Branches 6, 7, 8, 9, 34, 43, and 44 of Tacloban City stating that the Notarial Register Book No. XIII, Series of 2014 of Atty. Villero, that should have

<sup>1</sup> *Rollo*, pp. 1-7.

<sup>2</sup> *Id.*

listed the Deed among the notarized documents, is not in its office.<sup>3</sup>

O'Brien mentioned that Armada filed a criminal case for Estafa against her, which was allegedly brought about by the negligence of Atty. Villero in the performance of his duties as a notary public. In this regard, O'Brien included the Judicial Complaint-Affidavit of Armada for the Estafa case, executed on 23 February 2015. O'Brien stated that the said Judicial Complaint-Affidavit has been referred to the City Prosecutor of Tacloban City.<sup>4</sup>

Accordingly, O'Brien claimed that she sought the help of then President Rodrigo Duterte about the fabricated Deed of Sale by sending a Letter to him through the Presidential Complaint Center (PCC) on 18 January 2018. The said Letter was referred by the PCC to the Public Attorney's Office.<sup>5</sup>

For his part, Atty. Villero admitted the notarization of the Deed of Sale. However, he claimed that O'Brien was present when he notarized the document.<sup>6</sup> In support of this, Atty. Villero presented an Affidavit executed by Alan Casio (Casio) who allegedly accompanied O'Brien and Armada on the date of notarization and signed the document as a witness.<sup>7</sup> Atty. Villero claimed that O'Brien was furious at him when he refused to testify for her in the Estafa case. He maintained that he did not want to testify as there was no fabrication done by Armada.<sup>8</sup> Allegedly, O'Brien signed it in his presence, as witnessed by Casio.

Notably, Atty. Villero presented a valid ID of Casio and the Deed of Sale as part of his evidence. He vehemently denied the assertion that he only collected ₱100.00 as notarial fee. Allegedly, the Estafa case is now undergoing trial before RTC Branch 9, Tacloban City, docketed as Criminal Case No. 2015-04-185. Hence, he presented the Transcript of Stenographic Notes (TSN) of a hearing conducted on 01 October 2018 in the said Estafa case, where Armada was subjected to direct and cross-examination. Lastly, Atty. Villero claimed that he submitted a copy of the Deed of Sale together with his notarial books for 2014 to the proper Office of the Clerk of Court.<sup>9</sup>

### **Report and Recommendation of the IBP**

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<sup>3</sup> Id.

<sup>4</sup> Id.

<sup>5</sup> Id.

<sup>6</sup> Id.

<sup>7</sup> Id. at 144-145.

<sup>8</sup> Id. at 145.

<sup>9</sup> Id.

On 29 April 2019, the IBP-CBD issued its Report and Recommendation<sup>10</sup> for the dismissal of the Complaint, *viz*:

Cognizant of the above premises, the dismissal of the instant administrative case is respectfully recommended to the Board of Governors because the complaint does not merit an action and is likewise not meritorious considering that the respondent does not appear to have committed any of the acts or causes specified in the 2004 Rules on Notarial Practice in relation to Section 27, Rule 138 of the Rules of Court or the Code of Professional Responsibility or the Lawyer's Oath.

Respectfully submitted.<sup>11</sup>

In ruling for Atty. Villero, the Commissioner explained that the circumstances surrounding the Complaint and the physical evidence presented show that the case lacks merit.<sup>12</sup> The Commissioner stated that evidentiary weight must be given to the signature of O'Brien in the Deed of Sale *vis-à-vis* her signatures in the minutes of the hearings conducted before the IBP and the documents she submitted in support of her allegations.<sup>13</sup> While the Commissioner admitted not having formal education in handwriting analysis, he submitted that based on the font, arch, lines, size, style, and shape, the signature of O'Brien in the Deed of Sale is identical to her signatures in the mentioned documents. Thus, it is reasonable to believe that O'Brien appeared before Atty. Villero for the notarization of the Deed of Sale.<sup>14</sup>

Likewise, the Commissioner gave credence to the narration of Casio claiming that he personally saw O'Brien affix her signature on the Deed of Sale in front of Atty. Villero. Further, he stated that the narrative of Atty. Villero is more believable. As early as the supposed execution of the Deed of Sale on 22 July 2014, Armada was already claiming ownership of O'Brien's vehicle. O'Brien filed this administrative case on 02 April 2018, and sought the help of then President Duterte on 18 January 2018. The Commissioner noted that O'Brien acted on the alleged fabrication of the Deed after almost three years from its execution. In contrast, Armada lodged the Estafa case on 23 February 2015, or after six months from the execution of the Deed.<sup>15</sup>

Lastly, the Commissioner stated that Atty. Villero cannot be held liable for failure to observe the rule on "Competent Evidence of Identity." He reasoned that there is no law that specifically excludes a residence certificate from being used as a competent evidence of identity.<sup>16</sup>

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<sup>10</sup> Id. at 143-148. Penned by Commissioner Abelardo P. De Jesus.

<sup>11</sup> Id. at 148.

<sup>12</sup> Id. at 145.

<sup>13</sup> Verification and Certification of Non-Forum Shopping attached to the Verified Complaint; 08 November 2018 Minutes of the Hearing; 05 December 2018 Minutes of the Hearing; 10 January 2019 Minutes of the Hearing; Letter to then President Duterte; O'Brien's Passport with number 548692793.

<sup>14</sup> *Rollo*, p. 145.

<sup>15</sup> Id. at 146.

<sup>16</sup> Id. at 147.

On 28 July 2021, the IBP Board of Governors reversed the recommendation of the IBP-CBD.<sup>17</sup> The dispositive portion of its Extended Resolution<sup>18</sup> reads:

WHEREFORE, premises considered, this Board **REVERSES** the recommendation of the Investigating Commissioner Abelardo P. de Jesus and instead recommend the penalty of **IMMEDIATE REVOCATION** of the Respondent's Notarial Commission, if subsisting, with **DISQUALIFICATION** from being commissioned as a Notary Public for a period of two (2) years.

SO ORDERED.<sup>19</sup>

The IBP Board of Governors stated that upon review of the case, it appears that Atty. Villero committed the following violations of the 2004 Rules of Notarial Practice: (1) failure to require the party to produce competent evidence of identity; (2) failure to furnish the Office of the Clerk of Court of Tacloban with a copy of the Deed of Sale; and (3) failure to enter in the notarial register the instrument involved.

### Issue

The issue for resolution of the Court is whether the IBP Board of Governors correctly found Atty. Villero liable for violation of the 2004 Rules on Notarial Practice.

### Ruling of the Court

The Court adopts the recommendation of the IBP Board of Governors with modification.

It is settled that notarization is not an empty, meaningless, or routinary act.<sup>20</sup> Through notarization, a private document is converted into a public document and makes it admissible as evidence.<sup>21</sup> Consequently, a notary public is expected to observe the highest degree of care in complying with the basic requirements in notarial practice, in order to preserve the public's confidence in the integrity of the notarial system.<sup>22</sup>

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<sup>17</sup> Id. at 149.

<sup>18</sup> Id. at 149-151. Penned by CBD Task Force Commissioner Oliver A. Cachapero.

<sup>19</sup> Id. at 150-151.

<sup>20</sup> *Lopez v. Mata*, A.C. No. 9334, 28 July 2020.

<sup>21</sup> *Spouses Aldea v. Bagay*, A.C. No. 12733, 14 October 2020.

<sup>22</sup> *Dionisio, Jr. v. Padernal*, A.C. No. 12673, 15 March 2022.

A notary public is proscribed from performing a notarial act, unless the person involved as a signatory of the instrument or document is personally known to him or her, or identified through competent evidence of identity.<sup>23</sup> In this regard, Section 12(a) of Rule II of the 2004 Rules on Notarial Practice, as amended, defines the term “competent evidence of identity,” *viz.* :

Section 12. Competent 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) the oath or affirmation of one credible witness not privy to the instrument, document or transaction who is personally known to the notary public and who personally knows the individual, or of two credible witnesses neither of whom is privy to the instrument, document or transaction who each personally knows the individual and shows to the notary public documentary identification. (Emphasis supplied.)

Jurisprudence provides that a residence certificate, otherwise known as community tax certificate or *cedula* can no longer be considered as a competent evidence of identity for purposes of notarizing a document.<sup>24</sup> A residence certificate is not included in the list of allowable competent evidence of identity under the 2004 Rules on Notarial Practice, as amended.<sup>25</sup> While the said list is not exclusive, a residence certificate still fails to comply with the categorical requirement that it should bear the “photograph and signature of the individual.”<sup>26</sup> Clearly therefore, Atty. Villero failed to comply with the Section 12 of Rule II above in notarizing the document on the basis of O’Brien’s purported residence certificate.

Further, it appears that Atty. Villero failed to submit his notarial book together with a copy of the subject Deed of Sale to the Office of the Clerk of Court of Tacloban, in violation of Section 2(h), Rule VI of the 2004 Rules of

<sup>23</sup> *Ladrera v. Osorio*, A.C. No. 10315, 22 January 2020.

<sup>24</sup> *Dandoy v. Edayan*, 832 Phil. 132, 140 (2018).

<sup>25</sup> *Id.*

<sup>26</sup> *Id.*

Notarial Practice.<sup>27</sup> This is based on the Certification issued by the Clerk of Court of the 8<sup>th</sup> Judicial Region RTC Branches 6, 7, 8, 9, 34, 43, and 44 of Tacloban City, confirming that the Notarial Register Book No. XIII, Series of 2014 of Atty. Villero is not among the documents found in its office.<sup>28</sup> Notably, Atty. Villero did not dispute the validity of the mentioned Certification. He stated that he submitted the original Deed of Sale together with his notarial books for the year 2014.<sup>29</sup> However, he cannot explain why there is no copy with the Office of the Clerk of Court, as it may have been lost due to the devastation caused by Super Typhoon *Yolanda*.<sup>30</sup>

It bears noting that the IBP Board of Governors likewise concluded that Atty. Villero failed to enter the subject Deed of Sale in his notarial register. However, it failed to provide the basis for this finding.<sup>31</sup> Markedly, this was not part of the allegations of O'Brien<sup>32</sup> and neither was it discussed by the IBP-CBD.<sup>33</sup> With that said, the Court cannot adopt this part of the recommendation of the IBP Board of Governors as it was unsubstantiated.

Nonetheless, what remains clear is that Atty. Villero failed to faithfully discharge his duties as a notary public, by: (1) failing to require O'Brien to produce competent evidence of identity; and (2) failing to furnish the Office of the Clerk of Court of Tacloban his notarial book together with the Deed of Sale.

To emphasize, the Court has been consistent in reminding notaries public that their solemn duties are imbued with public interest and should not be taken lightly.<sup>34</sup> Based on the facts of the case, it was established that Atty. Villero was negligent in the discharge of his duties not only as a notary public, but also as a lawyer.<sup>35</sup> His negligence has the effect of degrading the function of notarization.<sup>36</sup> Hence, his acts are also deemed in violation of Canon 1 of the Code of Professional Responsibility, which calls on lawyers to uphold the Constitution, obey the laws of the land, and promote respect for law and legal processes, and the Lawyer's Oath, which commands him to obey the laws and to do no falsehood or give his consent thereto.<sup>37</sup>

Lastly, anent the penalty, the Court has ordered the suspension from the practice of law for a period of six months to one year, revocation of notarial commission, and disqualification from being commissioned as a notary public for a period of two years, in cases involving notaries public who failed to

<sup>27</sup> *Iringan v. Gumangan*, 816 Phil. 820, 835-836 (2017).

<sup>28</sup> *Rollo*, p. 11.

<sup>29</sup> *Id.* at 30.

<sup>30</sup> *Id.* at 100.

<sup>31</sup> *Id.* at 150.

<sup>32</sup> *Id.* at 1-7.

<sup>33</sup> *Id.* at 143-148.

<sup>34</sup> *Malvar v. Baleros*, 807 Phil. 16, 30 (2017).

<sup>35</sup> *Spouses Aldea v. Bagay*, A.C. No. 12733, 14 October 2020.

<sup>36</sup> *Id.*

<sup>37</sup> *Ladrera v. Osorio*, A.C. No. 10315, 22 January 2020.

discharge their duties.<sup>38</sup> Thus, the penalty recommended by the IBP Board of Governors should be modified accordingly.

Considering that Atty. Villero exhibited a lack of basic understanding of the notarial rules,<sup>39</sup> he is suspended from the practice of law for a period of six months, his incumbent commission as notary public, if still subsisting, is revoked, and he is hereby prohibited from being commissioned as a notary public for a period of two years.


**WHEREFORE**, premises considered, respondent **Atty. Asterio A. Villero** is hereby found **GUILTY** of violating the 2004 Rules on Notarial Practice, Canon 1 of the Code of Professional Responsibility, and the Lawyer's Oath. Accordingly, the Court resolves to: **SUSPEND** him from the practice of law for a period of six months; **REVOKE** his notarial commission, if any; and **PROHIBIT** him from being commissioned as a notary public for a period of two years. He is **STERNLY WARNED** that a repetition of a similar violation will be dealt with more severely.

The suspension in the practice of law, the revocation of his notarial commission, and disqualification from being commissioned as notary public shall take effect immediately upon receipt of this Resolution by respondent. He is **DIRECTED** to **REPORT** the date of his receipt of this Resolution to enable this Court to determine when the penalties shall take effect.

Let copies of this Resolution be furnished to the Office of the Bar Confidant, to be appended to Atty. Asterio A. Villero's personal record as attorney. Likewise, let copies of this Resolution be furnished to the Integrated Bar of the Philippines and the Office of the Court Administrator for dissemination to all courts in the country for their information and guidance.

**SO ORDERED."**

**By authority of the Court:**

  
**LIBRADA C. BUENA**  
Division Clerk of Court

by:

**MARIA TERESA B. SIBULO**  
Deputy Division Clerk of Court

**182-A**

**APR 04 2023**

<sup>38</sup> See *Roa-Buenafe v. Lirazan*, 850 Phil. 1, 11 (2019).

<sup>39</sup> *Yuchengco v. Angare*, A.C. No. 11892, 22 June 2020.

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