



Republic of the Philippines  
Supreme Court  
Baguio City

FIRST DIVISION

NOTICE

Sirs/Mesdames:

*Please take notice that the Court, First Division, issued a Resolution dated April 19, 2023 which reads as follows:*

**“A.C. No. 8996 [Formerly CBD Case No. 07-2045] (Jona L. Natividad v. Atty. Roem J. Arbolado).**—This resolves the Complaint-Affidavit<sup>1</sup> filed by Jona L. Natividad against Atty. Roem J. Arbolado for violation of the Lawyer’s Oath and Canons 1 and 10 of the Code of Professional Responsibility (CPR).

Complainant claimed that she is the widow of Reg Natividad (Natividad). Sometime in 2000, and prior to her husband’s death, Kenneth Decena (Decena), a second cousin of Natividad, sought financial help from the latter in the amount of PHP 390,000.00, to be used to redeem a foreclosed property under Decena’s name, covered by Transfer Certificate of Title (TCT) No. T-74669. As security for the payment of the money advanced by Natividad, Decena executed a Deed of Absolute Sale with Right to Repurchase within 15 months, and delivered the original duplicate copy of TCT No. T-74669 to Natividad.<sup>2</sup>

Prior to the expiration of the redemption period, respondent, on behalf of Decena, wrote a letter dated September 8, 2001, demanding for Natividad to furnish Decena a copy of the Deed of Absolute Sale and a statement of account of the latter’s obligation. In this letter, complainant noted that respondent mentioned that the owner’s duplicate copy of TCT No. T-74669 was delivered by Decena to Natividad. Respondent again sent a letter dated September 20, 2001, to which Natividad replied in a letter dated September 29, 2001, wherein he explained to respondent his arrangement with Decena, and the latter’s outstanding obligation which already amounted to PHP 541,515.00.<sup>3</sup>

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<sup>1</sup> *Rollo*, pp. 3-25.

<sup>2</sup> *Id.* at 3.

<sup>3</sup> *Id.*

To complainant's surprise, she found out at the Register of Deeds that Decena caused the issuance of a second owner's duplicate copy of TCT No. T-74669 by petitioning the court and falsely alleging that he lost his copy of the said title.<sup>4</sup> To support his claim, Decena presented an Affidavit of Loss dated on September 12, 2002 and notarized by respondent on the same date. A Petition for the Issuance of the Second Owner's Duplicate Copy was prepared by respondent and signed by Decena on September 16, 2002, which was then filed on July 13, 2003 (Petition).<sup>5</sup> According to complainant, respondent notarized the Affidavit of Loss and used it in the Petition despite knowing that the copy of the title was in their possession. Complainant likewise argued that respondent allowed Decena to falsely testify in court and failed to make the necessary corrections despite knowing the circumstances surrounding the case.<sup>6</sup>

In his answer, respondent averred that he acted in good faith when he notarized the Affidavit of Loss. He claimed that he was never informed by Decena that the subject title and/or property was the same one referred to in the demand letters dated September 8 and 20, 2001. He further alleged that he merely relied on the representations of Decena who is allegedly a scion of a prominent family known to own several lands in Negros Occidental.<sup>7</sup> Respondent likewise interposed, among others, that he is a member of the Bar in good standing and has never been the subject of any complaint, and was even elected President of the Integrated Bar of the Philippines (IBP) Negros Occidental Chapter.<sup>8</sup>

### **Report and Recommendation of the Integrated Bar of the Philippines**

On November 20, 2008, the Commission on Bar Discipline issued its Report and Recommendation<sup>9</sup> where it found respondent guilty of violating Rules 1.01 and 10.01 of the CPR. The Investigating Commissioner took into consideration the timeline of the demand letters, Affidavit of Loss, and the Petition in concluding that it was inexcusable for respondent to not have known the nature of the transactions, or to have not inquired regarding the title and/or property subject of these documents. His negligence, whether willful or not, led Decena to commit perjury, and misled the court into believing that the title was indeed lost.

Considering the circumstances of the case, the Investigating Commissioner was of the view that the acts were deliberately committed in

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<sup>4</sup> Id. at 3-4.

<sup>5</sup> Id. at 257.

<sup>6</sup> Id. at 4.

<sup>7</sup> Id. at 268.

<sup>8</sup> Id.

<sup>9</sup> Id. at 249-262. Penned by Commissioner Elpidio G. Soriano III.

connivance with Decena as the latter could not have planned and executed the same without the assistance of someone knowledgeable in the intricacies of the law.<sup>10</sup> While respondent's actions warrant a disbarment, the Investigating Commissioner took into consideration his good standing as a lawyer for three decades. Thus, it was recommended that respondent be suspended for three years.<sup>11</sup>

On August 28, 2010, the IBP Board of Governors issued Resolution No. XIX-2010-450 adopting and approving the Investigating Commissioner's recommendation with modification that respondent be suspended from the practice of law for one year.<sup>12</sup> The Court took note of the IBP's resolution and referred the case to the Office of the Bar Confidant (OBC) for its evaluation, report, and recommendation.

### **Report and Recommendation of the Office of the Bar Confidant**

On April 26, 2012, the OBC issued its Report and Recommendation<sup>13</sup> where it recommended the suspension of respondent from the practice of law for three years and the revocation of his notarial commission, if existing; and respondent's disqualification from being commissioned as a notary public for three years following service of his suspension.<sup>14</sup>

While the case was pending with the Court, respondent died on June 1, 2018.<sup>15</sup>

### **Issue**

The sole issue to be resolved by this Court, therefore, is whether the death of respondent Atty. Arbolado warrants the dismissal of the instant administrative complaint lodged against him.

We rule in the affirmative.

As held by this Court, proceeding further with the administrative complaint against a respondent despite his/her death would be a gross violation of his/her constitutionally guaranteed right to due process.<sup>16</sup> Every person is guaranteed the right to substantive and procedural due process before any judgment against him/her is issued.<sup>17</sup>

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<sup>10</sup> Id. at 260.

<sup>11</sup> Id. at 262.

<sup>12</sup> Id. at 248.

<sup>13</sup> Id. at 267-272.

<sup>14</sup> Id. at 272.

<sup>15</sup> See Compliance of Atty. Kristine T. Bartolome, Officer-in-Charge, Legal Service, Philippine Statistics Authority submitting the attached certificate of death of Roem Jovenes Arbolado, temporary *rollo*.

<sup>16</sup> *Flores-Concepcion v. Judge Castañeda*, A.M. No. RTJ-15-2438, September 2, 2020.

<sup>17</sup> Id., citing 1987 Constitution, Art. III, Sec. 1.

In administrative cases, the essence of procedural due process is one's right to be given the opportunity to be heard;<sup>18</sup> and this opportunity must be present at every single stage of the proceedings; it cannot be lost even after judgment.<sup>19</sup> Administrative proceedings require that the respondent be informed of the charges and be given an opportunity to refute them.<sup>20</sup> Even after judgment is rendered, due process requires that the respondent not only be informed of the judgment but also be given the opportunity to seek reconsideration of that judgment.<sup>21</sup>

This Court's disciplinary powers must always be read alongside the guarantee of any respondent's fundamental rights.<sup>22</sup> Any attempt to exercise Our disciplinary powers must always consider the provisions of the Constitution, from which these disciplinary powers are derived.<sup>23</sup>

In *Camsa v. Judge Rendon*,<sup>24</sup> this Court found it inappropriate to investigate a judge who could no longer be in any position to defend himself; otherwise, it would be a denial of his right to be heard.<sup>25</sup> Meanwhile, in *Government Service Insurance System v. Civil Service Commission*,<sup>26</sup> this Court pronounced that a respondent's death during the pendency of an administrative proceeding was cause to dismiss the case, due to the futility of the imposition of any penalty.<sup>27</sup>

We note that the infractions of respondent in this case are severe as conclusively found by the Commission on Bar Discipline, the IBP, and the OBC. However, respondent is no longer in a position to refute their findings. Indeed, this case against respondent is rendered moot by his untimely death. This forecloses any opportunity to be heard and continuing the proceedings would be a violation of respondent's right to due process.

While We sympathize with complainant, it would be callous for Us to rule on the merits of this case when respondent could no longer defend himself, nor seek reconsideration or beg for clemency. Further, the imposition of the penalty of disbarment or suspension from the practice of law, and/or disqualification from notarial service would be futile and impractical. Verily, there is no more lawyer to be punished, and the penalties would serve no other purpose but to increase the emotional burden of those he left behind. Thus, for these reasons, it is but prudent for Us to terminate the proceedings and dismiss this case.

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<sup>18</sup> *Id.*, citing *Legarda v. Court of Appeals*, 345 Phil. 890, 905 (1997).

<sup>19</sup> *Flores-Concepcion v. Judge Castañeda*, *supra*.

<sup>20</sup> *Id.*

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> 427 Phil. 518 (2002).

<sup>25</sup> *Id.* at 525.

<sup>26</sup> 279 Phil. 866 (1991).

<sup>27</sup> *Id.* at 876.

**WHEREFORE**, the Complaint-Affidavit against respondent Atty. Roem J. Arbolado is **DISMISSED** in view of his demise. Accordingly, the case is deemed **CLOSED** and **TERMINATED**.

**SO ORDERED.”**

**By authority of the Court:**



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

by:

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

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**MAY 03 2023**

Ms. Jona L. Natividad  
Complainant  
Hinigaran, 6106 Negros Occidental

Atty. Roem J. Arbolado  
Respondent  
*(Deceased)*

Integrated Bar of the Philippines  
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