



Republic of the Philippines
Supreme Court
Manila

EN BANC

JOY CADIOGAN CALIXTO,
Complainant,

A.C. No. 13911

-versus-

ATTY. CORA JANE P. BALEROS,
Respondent.

X-----X

RIMAS GAWIGAEN CALIXTO
Complainant,

A.C. No. 13912

-versus-

ATTY. CORA JANE P. BALEROS,
Respondent.

Present:

GESMUNDO, C.J.,
LEONEN,
CAGUIOA,
HERNANDO,
LAZARO-JAVIER,*
INTING,
ZALAMEDA,
LOPEZ, M.,
GAERLAN,
ROSARIO,
LOPEZ, J.,
DIMAAMPAO,*
MARQUEZ,
KHO, JR., and
SINGH, JJ.

Promulgated:

October 3, 2023

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DECISION

LOPEZ, J., J.:

* On official business

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Fundamental is the rule that the Supreme Court is the constitutional institution empowered to promulgate rules concerning the admission and practice of law. In line with its constitutionally mandated duty, this Court is likewise the prime authority in determining the discipline and the disbarment of erring lawyers. However, in the exercise of its authority, this Court must ensure that all of its issued guidelines are expansive enough to allow its application to unforeseeable circumstances that may so arise. In this regard, this Court shall resolve a novel issue of when a lawyer's period of suspension shall commence should the latter's whereabouts be unknown, thus preventing actual receipt of the Decision imposing such penalty.

For this Court's consideration are consolidated complaints against Atty. Cora Jane P. Baleros (Atty. Baleros) for allegedly violating the 2004 Rules on Notarial Practice (2004 Rules).¹

Antecedents

The consolidated complaints sprang from the same factual backdrop.

Complainants Joy Cadiogan Calixto (Joy) and Rimas Gawigaen Calixto (Rimas) are married, and are currently residing in No. 383-D, Purok 6, Pinsao Proper, Baguio City, covered by Transfer Certificate of Title (TCT) No. 79981 (subject property). Joy and Rimas' union produced seven children.²

In her Complaint-Affidavit³, Joy alleged that their daughter, Jerrilyn Calixto-Fonite (Jerrilyn), contracted Kawasaki disease. Desperate, she was constrained to seek help from a neighbor, Daria Olawan Bentayen-Daging (Daria), disclosing that she was in need of PHP 2,000,000.00 for Jerrilyn's medical treatments. In turn, Daria connected her to Michael Tomad (Michael), a private financier.⁴ She was able to secure the loan, but without her knowledge, Daria and Michael went to the Office of Councilor Atty. Benny Bomogao (Atty. Benny) and surreptitiously transferred the subject property to Michael. Further, she also recalled having signed a document which was represented to her as a document to prove that she had borrowed money from Michael.⁵

Additionally, Joy contended that she was subsequently made subject of several fraudulent dealings. More particularly, she used significant portions of her loan to finance the business ventures of a certain Wilma

¹ A.M. No. 02-8-13-SC, July 6, 2004.

² *Rollo* (A.C. No. 13911), pp. 1-2.

³ *Id.* at 1-8.

⁴ *Id.* at 2.

⁵ *Id.*

Aquino (Wilma), who duped her into opening up a travel agency and to fund her treasure hunting activities.⁶

Rimas soon discovered his wife's money problems. He found out about Joy's predicament when Atty. Benny invited him to his office to inquire about the sale of his house and lot. Surprised, Rimas informed him that he had no intention to sell the subject property, as his family, including his grandchildren, continued to reside in the house built thereon. Atty. Benny then showed to him several documents, particularly a Deed of Absolute Sale⁷ and a Special Power of Attorney⁸ notarized by Atty. Baleros, by which Rimas allegedly authorized Joy to sell or mortgage the subject property.⁹

Rimas also alleged that he was informed by one Editha Ramos (Editha) that she had paid the loan incurred by Joy in favor of Michael, and that she now had possession of the title of their subject property. Editha attempted to transfer the title of the subject property using the Deed of Absolute Sale purportedly entered by Joy and a certain Rufo Catambing. Such transfer however failed to materialize, as Atty. Benny intervened, having written the Office of the Register of Deeds, manifesting that the Deed of Absolute Sale was fake, as he did not notarize the same, nor did any of the parties involved in the sale personally appear before him to execute the document.¹⁰

To clear the confusion, Atty. Benny organized a meeting between Rimas and Editha sometime in 2020. Editha insisted that Rimas had executed a Special Power of Attorney to authorize Joy to sell or mortgage the house. Rimas maintained that he had never executed any such document, as the subject property continues to be where his family lived. Editha reassured Rimas that she would consult with Joy in order to find ways to resolve the dispute.¹¹

On August 13, 2020, Joy and Rimas' daughter, Sharon, informed Rimas that the title to the subject property was transferred in the name of Editha, and that the same was used to pay off a debt to a certain Walter Segwaben Fagcangan (Walter). Rimas immediately called Walter and informed him that all the documents to prove Editha's ownership were fake.¹² More, Rimas was also surprised to find out that his title, TCT No. 79981, was cancelled¹³ and that a new one was issued, TCT No. 018-

⁶ *Id.* at 2-3.

⁷ *Id.* at 14-15.

⁸ *Id.* at 21-22.

⁹ *Rollo* (A.C. No. 13912), p. 1.

¹⁰ *Rollo* (A.C. No. 13911), pp. 12-13.

¹¹ *Rollo* (A.C. No. 13912), p. 2.

¹² *Id.* at 2-3.

¹³ *Id.* at 8-15.

2020000893,¹⁴ in the name “EDITHA R. RAMOS married to Alexander K. Ramos.”¹⁵

Seeking recourse, Joy and Rimas filed the instant complaint-affidavits, docketed as CBD Case Nos. 22-6644 and 22-6648, respectively,¹⁶ in December 2021 before the Integrated Bar of the Philippines Committee on Bar Discipline (IBP CBD), praying that Atty. Baleros be held administratively liable for wrongfully notarizing the Special Power of Attorney purportedly authorizing Joy to sell or mortgage the subject property. In her complaint-affidavit, Joy insisted that while she succumbed to dealing with unscrupulous individuals, she had no knowledge or participation in the issuance of the Special Power of Attorney notarized by Atty. Baleros.¹⁷

For his part, Rimas contended that the Special Power of Attorney was falsified as he did not personally appear before Atty. Baleros during the supposed execution of the document because he was in Besao, Mountain Province tending to his mother.¹⁸ He further pointed out that the signature appearing above his name on the document was not his. Further missing on the document was the required information regarding Atty. Baleros’s notarial commission, as follows: (1) the serial number of her commission; (2) her office; and (3) the place of issuance of her professional tax receipt and IBP number.¹⁹ To further prove Atty. Baleros’s propensity for misconduct, Rimas cited that the latter was previously meted out a penalty of suspension for six months for violating the 2004 Rules,²⁰ in light of the ruling in *Dr. Malvar v. Atty. Baleros*.²¹

In February 2022, the IBP CBD issued Orders²² for CBD Case Nos. 22-6644 and 22-6648, requiring Atty. Baleros to submit her verified Answer. The Orders likewise warned Atty. Baleros that failure to file an Answer would constrain the IBP CBD to consider her in default and to hear the case *ex parte*. The IBP CBD sent the Orders to Atty. Baleros’s address, “c/o Integrated Bar of the Philippines (La Union Chapter), G.E. Antonio Memorial Hall, San Fernando City, La Union.”²³

On July 1, 2022, the IBP CBD received a letter²⁴ from the IBP-La Union Chapter, informing the latter that as per their records, Atty. Baleros had left the country together with her family in 2015. Aside from closing her

¹⁴ *Id.* at 16–18.

¹⁵ *Id.* at 3.

¹⁶ *Rollo* (A.C. No. 13911), pp. 1–8; *rollo* (A.C. No. 13912), pp. 1–7.

¹⁷ *Rollo* (A.C. No. 13911), p. 5.

¹⁸ *Rollo* (A.C. No. 13912), p. 3.

¹⁹ *Id.* at 4.

²⁰ *Id.*

²¹ 807 Phil. 16 (2017) [Per J. Reyes, Third Division].

²² *Rollo* (A.C. No. 13912), p. 26.

²³ *Id.* at 31.

²⁴ *Rollo* (A.C. No. 13911), pp. 33–34.

office, she failed to inform the IBP-La Union Chapter of any forwarding address or means to contact her.²⁵

Thus, the IBP CBD was prompted to issue another Order²⁶ practically containing the same directives as in the previous Orders. However, the Order was sent via registered mail on August 23, 2022 to the address she furnished the IBP National Office, in Sevilla Center, San Fernando City, La Union.²⁷

On September 8, 2022, as per the Philippine Postal Office's tracking records, there was an unsuccessful delivery of the Order to Atty. Baleros for the following reason: "RTS REASON: Insufficient/Non-Existing Address."²⁸

Nonetheless, the IBP CBD issued a Report and Recommendation²⁹ with the following recommendation:

In view of all the foregoing, undersigned respectfully recommends that respondent ATTY. CORA JANE P. BALEROS be, effective from notice, SUSPENDED INDEFINITELY from the practice of law until she shows remorse and reformation in her law practice and FOREVER BARRED from being appointed as Notary Public.

RESPECTFULLY SUBMITTED.³⁰

At the outset, the IBP CBD held that there was sufficient notice on the part of Atty. Baleros, notwithstanding the absence of proofs of service of the Orders. The IBP CBD invoked the ruling in *Stemmerik v. Atty. Mas*,³¹ where this Court explained that the notice requirement was complied with if notices or orders are sent to the office or residential address appearing in the records of the IBP National Office.³² Thus, Atty. Baleros only had herself to blame for failing to update her records,³³ as was her incumbent responsibility as a member of the IBP.

On the merits, the IBP CBD was convinced that Atty. Baleros had indeed violated the 2004 Rules for notarizing the Special Power of Attorney, without the presence of Rimas and Joy. Finally, the IBP CBD reasoned that

²⁵ *Id.* at 33.

²⁶ *Id.* at 35–36. The August 17, 2022 Order in CBD Case Nos. 22-6644 and 22-6648 was penned by Commissioner Raul G. Coralde of the Commission on Bar Discipline, Integrated Bar of the Philippines, Pasig City.

²⁷ *Rollo* (A.C. No. 13912), p. 31

²⁸ *Rollo* (A.C. No. 13911), p. 37.

²⁹ *Rollo* (A.C. No. 13912), pp. 30–38. The October 5, 2022 Report and Recommendation in CBD Case Nos. 22-6644 and 22-6648 was penned by Commissioner Raul G. Coralde of the Commission on Bar Discipline, Integrated Bar of the Philippines, Pasig City.

³⁰ *Id.* at 38.

³¹ 607 Phil. 89 (2009) [Per Curiam, *En Banc*].

³² *Id.* at 95–96.

³³ *Rollo* (A.C. No. 13912), pp. 34–35.

in light of her earlier suspension from the practice of law, Atty. Baleros deserved to be meted a stiffer penalty for her subsequent offense.³⁴

In a Resolution,³⁵ the IBP Board of Governors approved and adopted the recommendation of the IBP CBD, to wit:

RESOLVED, to APPROVE and ADOPT, as it is hereby APPROVED and ADOPTED, the Report and Recommendation of the Investigating Commissioner to mete out upon Respondent Atty. Cora Jane P. Baleros the penalty of INDEFINITE SUSPENSION from the practice of law, and PERPETUAL DISQUALIFICATION from being appointed as Notary Public.³⁶ (Emphasis in the original)

The Court's Ruling

To begin with, this Court has time and again reminded lawyers commissioned as notaries public to exercise their duties with utmost carefulness and faithfulness, pursuant to the bounden duties that they swore to faithfully respect and observe. Any action falling short of such exacting standards would have dire consequences, not only to them, but to the persons whose rights may be dependent on the documents seeking authentication.

In this vein, this Court adopts the findings and recommendation of the IBP CBD with modifications, only with respect to the penalty:

This Court agrees that Atty. Baleros was given due notice with regard to the complaints against her. To recall, the IBP CBD issued its Report and Recommendation despite the absence of proofs of service of the Orders to Atty. Baleros and the latter's Answer. Still, a review of the records prove that there was no violation of Atty. Balero's due process rights that would serve to nullify the proceedings against her.

In *Roces v. Aportadera*,³⁷ this Court stressed that the essence of due process is "simply an opportunity to be heard."³⁸ Thus, "[t]here is no violation of due process even if no hearing was conducted, where the party was given a chance to explain [one's] side of the controversy and . . . waived [the] right to do so."³⁹ As further clarified in *Shu v. Dee*,⁴⁰ "what the law

³⁴ *Id.* at 37.

³⁵ *Id.* at 28–29. The February 17, 2023 Resolution in CBD Case Nos. 22-6644 and 22-6648 was penned by Doroteo Lorenzo B. Aguila of the Board of Governors, Integrated Bar of the Philippines, Pasig City.

³⁶ *Id.* at 28.

³⁷ 312 Phil. 1035 (1995) [Per Curiam, *En Banc*].

³⁸ *Id.* at 1043.

³⁹ *Id.*

⁴⁰ 734 Phil. 204 (2014) [Per J. Brion, Second Division].

prohibits is not the absence of previous notice but its absolute absence and lack of opportunity to be heard.”⁴¹

In the present case, it is of no question that Atty. Baleros was given every opportunity to explain her side. As correctly found by the IBP CBD, it first sent two Orders on different dates in February 2022, requiring her to submit her verified Answer. The Order likewise apprised her that failure to file the same would constrain the IBP CBD to consider her in default and to hear the case *ex parte*.⁴² Upon being informed by the IBP-La Union Chapter that Atty. Baleros had left the country and closed her office without updating her address or contact details,⁴³ the IBP CBD went the extra mile and sent anew an Order dated August 17, 2022 containing the same instructions as the previous Orders. As an assurance that Atty. Baleros would receive the new Order, the IBP CBD sent the same via registered mail to the address she furnished to the IBP National Office in Sevilla Center, San Fernando City, La Union.⁴⁴ Notwithstanding several attempts to inform Atty. Baleros, tracking records of the Philippine Postal Office revealed that there was an unsuccessful delivery for the following reason: “RTS REASON: Insufficient/Non-Existing Address.”⁴⁵

Despite non-receipt, this Court finds nothing erroneous in deeming Atty. Baleros constructively notified. Invariably, numerous attempts were made to afford her an opportunity to defend herself from the allegations, but all these efforts were only met with silence. Whether her transfer of residence was an unscrupulous move on her part to evade responsibility, only she would certainly know. It bears stressing that Atty. Baleros’s failure to receive the Orders and other processes were her own doing. As instructed in *Stemmerik*.⁴⁶

Indeed, since he himself rendered the service of notice on him impossible, the notice requirement cannot apply to him and he is thus considered to have waived it. The law does not require that the impossible be done. *Nemo tenetur ad impossibile*. The law obliges no one to perform an impossibility. Laws and rules must be interpreted in a way that they are in accordance with logic, common sense, reason and practicality.

In this connection, lawyers must update their records with the IBP by informing the IBP National Office or their respective chapters of any change in office or residential address and other contact details. In case such change is not duly updated, service of notice on the office or residential address appearing in the records of the IBP National Office shall constitute sufficient notice to a lawyer for purposes of administrative proceedings against him.⁴⁷ (Citations omitted)

⁴¹ *Id.* at 213.

⁴² *Rollo* (A.C. No. 13911), p. 42.

⁴³ *Id.*

⁴⁴ *Id.*

⁴⁵ *Id.* at 37.

⁴⁶ 607 Phil. 89 (2009) [Per Curiam, *En Banc*].

⁴⁷ *Id.* at 95-96.

Accordingly, as far as this Court is concerned, the IBP CBD sufficiently exhausted all avenues to provide Atty. Baleros the due process rights she deserves. Consequently, her failure to file an Answer will not be a hindrance for this Court to mete out an appropriate sanction. After all, it is well to remember the ruling in *Dizon v. Atty. De Taza*,⁴⁸ that “disciplinary proceedings are investigations by this Court to ascertain whether a lawyer is fit to be one. There is neither a plaintiff nor a prosecutor therein.”⁴⁹

For another, as duly found by the IBP CBD, and as adopted by the IBP Board of Governors, Atty. Baleros failed to faithfully comply with her duties as a notary public.

This Court, in *Bernardo v. Atty. Ramos*,⁵⁰ underscored the implications of a notary public’s duty and function, to wit:

The principal function of a notary public is to authenticate documents. When a notary public certifies to the due execution and delivery of the document under his hand and seal he gives the document the force of evidence. Indeed, one of the purposes of requiring documents to be acknowledged before a notary public, in addition to the solemnity which should surround the execution and delivery of documents, is to authorize such documents to be given without further proof of their execution and delivery. Where the notary public is a lawyer, a graver responsibility is placed upon him by reason of his solemn oath to obey the laws and to do no falsehood or consent to the doing of any. Failing in this, he must accept the consequences of his unwarranted actions.⁵¹ (Citations omitted)

Pertinent to this case, a notary public should not notarize a document unless the persons who signed the same are the very persons who executed and personally appeared before him or her, to attest to the contents and truth of what are stated therein. The purpose of the requirement of personal appearance by the acknowledging party before the notary public is to “enable the latter to verify the genuineness of the signature of the former.”⁵² Further, such personal appearances “are the core of the ritual that effectively convert a private document into a public document, making it admissible in court without further proof of its authenticity.”⁵³

This duty is embodied in Rule IV, Section 2(b) of the 2004 Rules:

....

⁴⁸ 736 Phil. 60 (2014) [Per J. Reyes, *En Banc*].

⁴⁹ *Id.* at 67.

⁵⁰ 433 Phil. 8 (2002) [Per J. Bellosillo, Second Division].

⁵¹ *Id.* at 17–18.

⁵² *Flores v. Atty. Chua*, 366 Phil. 132, 152 (1999) [Per Curiam, *En Banc*]. (Citation omitted)

⁵³ *Id.* at 152–153. (Citation omitted)

(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.

Also, in the 2004 Rules, and to further emphasize on the significance of this duty, the Executive Judge is empowered to revoke the commission of a notary public, or impose the corresponding administrative sanctions; if it fails to comply with the personal presence requirement:

RULE XI

Revocation of Commission and Disciplinary Sanctions

SECTION 1. *Revocation and Administrative Sanctions.* - (a) The Executive Judge shall revoke a notarial commission for any ground on which an application for a commission may be denied.

- (b) In addition, the Executive Judge may revoke the commission of, or impose appropriate administrative sanctions upon, any notary public who:

....

(7) fails to require the presence of a principal at the time of the notarial act[.] (Emphasis in the original)

The consequences for the failure to observe this rule is recognized in jurisprudence. In *Dela Cruz-Sillano v. Atty. Pangan*,⁵⁴ where the notarial commission of respondent Atty. Pangan was revoked for authenticating a document without the physical presence of the affiants, this Court had this to say:

The Court is aware of the practice of not a few lawyers commissioned as notary public to authenticate documents without requiring the physical presence of affiants. However, the adverse consequences of this practice far outweigh whatever convenience is afforded to the absent affiants. Doing away with the essential requirement of physical presence of the affiant does not take into account the likelihood that the documents may be spurious or that the affiants may not be who they purport to be. A notary public should not notarize a document unless the persons who signed the same are the very same persons who executed and personally appeared before him to attest to the contents and truth of what are stated therein. The purpose of this requirement is to enable the notary public to verify the

⁵⁴ 592 Phil. 219 (2008) [Per J. Carpio Morales, First Division].

genuineness of the signature of the acknowledging party and to ascertain that the document is the party's free act and deed.⁵⁵

In the instant case, this Court is persuaded, based on the submissions of both Rimas and Joy, that Atty. Baleros notarized the Special Power of Attorney without requiring the presence of Rimas. It has been satisfactorily established that Rimas could not have been physically present when the Special Power of Attorney was executed and notarized, as he was in Besao, Mt. Province, tending to his mother. Joy herself corroborated this to bolster such theory. Rimas asserted that Besao was five hours and nine minutes away from the supposed area where the Special Power of Attorney was notarized.⁵⁶ Lamentably for Atty. Baleros, such assertion was left uncontroverted. Indeed, Atty. Baleros cannot escape the commensurate consequences of her lack of diligence, which resulted in jeopardizing Rimas and Joy's rights over their subject property. Further, she should be held liable for her professional indiscretion, not only as a notary public, but also as a lawyer, for exhibiting such manifest disregard to the integrity and dignity owing to the legal profession.

This Court adds posthaste that this is not Atty. Baleros's first administrative case concerning her commission as notary public. In *Dr. Malvar*,⁵⁷ Atty. Baleros failed to record the notarized document in her notarial book. She likewise failed to retain an original copy of the said document in her records and to submit the duplicate copy of the documents of the Clerk of Court. For such inexcusable omissions, Atty. Baleros was found guilty of violating the 2004 Rules, the Code of Professional Responsibility and the Lawyer's Oath. More, she was likewise suspended from the practice of law for six months. This Court held thus:

WHEREFORE, respondent Atty. Cora Jane P. Baleros is **GUILTY** of violating the 2004 Rules on Notarial Practice, the Code of Professional Responsibility and the Lawyer's Oath. Her notarial commission, if still existing, is hereby **REVOKED**, and she is hereby **DISQUALIFIED** from reappointment as Notary Public, for a period of two (2) years. She is likewise **SUSPENDED** from the practice of law for six (6) months effective immediately. Further, she is **WARNED** that a repetition of the same or similar acts in the future shall be dealt with more severely.

SO ORDERED.⁵⁸

⁵⁵ *Id.* at 227.

⁵⁶ *Rollo* (A.C. No. 13911), p. 44.

⁵⁷ 807 Phil. 16 (2017) [Per J. Reyes, Third Division].

⁵⁸ *Id.* at 31.

Finally, this Court deems it imperative to remind notaries public that the act of notarization is not an empty, meaningless and routinary act. As illuminated in *Sps. Aldea v. Atty. Bagay*:⁵⁹

Notaries public are constantly reminded that notarization is not an empty, meaningless, and routinary act. A private document is converted into a public document once it has undergone notarization and makes it admissible in evidence. Consequently, a notarized document is by law, entitled to full faith and credit upon its face; for this reason, notaries public must observe with utmost care the basic requirements in the performance of their duties.⁶⁰ (Citations omitted)

On another point, it is well to note that in the realm of legal ethics, a breach of the Notarial Rules would also constitute a violation of the now newly codified Code of Professional Responsibility and Accountability (CPRA), which took effect on May 29, 2023. Notably, Section 1 of its General Provisions is explicit that its provisions shall be applied to all pending and future cases. As explained in *Sanchez v. Atty. Inton*,⁶¹ “an erring lawyer who is found to be remiss in [their] functions as a notary public is also considered to have violated [their] oath as a lawyer.”⁶² More so, “[they do] not only fail to fulfill his solemn oath of upholding and obeying the law and its legal processes, but he also commits an act of falsehood and engages in an unlawful, dishonest, and deceitful conduct.”⁶³

Accordingly, as held in the recent case of *Ascano v. Atty. Panem*,⁶⁴ notaries public who violate the Notarial Rules are also held to have breached Canon III, Section 2 of the CPRA, to wit:

CANON III FIDELITY

Fidelity pertains to a lawyer’s duty to uphold the Constitution and the laws of the land, to assist in the administration of justice as an officer of the court, and to advance a client’s cause, with full devotion, genuine interest, and zeal in the pursuit of truth and justice

....

SECTION 2. *The responsible and accountable lawyer.* — A lawyer shall uphold the constitution, obey the laws of the land, promote respect for laws and legal processes, safeguard human rights, and at all times advance the honor and integrity of the legal profession.

As an officer of the court, a lawyer shall uphold the rule of law and conscientiously assist in the speedy and efficient administration of justice.

⁵⁹ 888 Phil. 24 (2020) [Per J. Zalameda, Third Division]

⁶⁰ *Id.* at 29.

⁶¹ 866 Phil. 1 (2019) [Per J. Perlas-Bernabe, *En Banc*].

⁶² *Id.* at 12.

⁶³ *Id.* (Citation omitted)

⁶⁴ A.C. No. 13287, June 21, 2023 [per J. Inting, Third Division].

As an advocate, a lawyer shall represent the client with fidelity and zeal within the bounds of the law and the CPRA. (Emphasis in the original)

Withal, given Atty. Baleros's clear culpability, this Court shall now turn to the penalty.

In determining the proper penalties, this Court appropriately applies the CPRA. Consistent with prevailing jurisprudence, this Court adheres to the recent ruling in *Mendoza v. Atty. Santiago*,⁶⁵ that the violation of the 2004 Rules is considered a serious offense under the CPRA:

SECTION 33. *Serious offenses.* — Serious offenses include:

-
- (p) Violation of the notarial rules, except reportorial requirements, when attended by bad faith[.] (Emphasis in the original)

Therefore, a lawyer violating the notarial rules may be met with the following sanctions, as provided by Canon VI, Section 37(a), thereof, to wit:

SECTION 37. *Sanctions.* —

(a) If the respondent is found guilty of a serious offense, any of the following sanctions, or a combination thereof, shall be imposed:

- (1) Disbarment;
- (2) Suspension from the practice of law for a period exceeding six (6) months;
- (3) Revocation of notarial commission and disqualification as notary public for not less than two (2) years; or
- (4) A fine not exceeding [PHP] 100,000.00.

In light of Atty. Baleros's previous offense which functions as an aggravating circumstance consistent with Canon VI, Section 38⁶⁶ in relation to Section 39,⁶⁷ this Court deems it proper to impose the following penalties:

⁶⁵ A.C. No. 13548, June 14, 2023. [Per J. Gaerlan, Third Division]

⁶⁶ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, sec. 38 states:

SECTION 38. *Modifying circumstances.* — In determining the appropriate penalty to be imposed, the Court may, in its discretion, appreciate the following mitigating and aggravating circumstances:

....
(b) Aggravating Circumstances:

(1) Finding of previous administrative liability where a penalty is imposed, regardless of nature or gravity[.]

⁶⁷ CODE OF PROF. RESPONSIBILITY & ACCOUNTABILITY, sec. 39 states:

(1) suspension from the practice of law for two years; (2) immediate revocation of her notarial commission, if subsisting; and (3) permanent disqualification from being commissioned as notary public.

Given that this Court meted out a penalty of suspension, a question arises as to when Atty Balero's suspension shall begin to run, in light of the IBP-La Union's letter dated June 14, 2022 that as per their records, Atty. Baleros has left the country without informing the latter of any forwarding address or means to contact her.

To be sure, this Court is cognizant that in *Re: Order dated 01 October 2015 in Crim. Case No. 15-318727-34, Regional Trial Court (RTC), Branch 49, Manila against Atty. Severo L. Brillantes*,⁶⁸ this Court laid down definitive guidelines that shall govern the lifting of the penalty of suspension imposed against members of the Bar. Included in such guidelines, this Court made it plain that the order of suspension “shall be immediately executory **upon receipt thereof by the respondent lawyer.**”⁶⁹

The provision under the new guidelines concerning the commencement of the suspension echoes the previous practice of this Court to suspend a lawyer from the practice of law “effective immediately upon [one's] receipt of [the] Decision.”⁷⁰ The spirit behind this rule perhaps lies in the due process rights accorded to lawyers to be notified not only of the administrative proceedings against him or her, but also the penalty to be imposed after a conclusive finding of wrongdoing on his or her part.

The determination of when the suspension shall begin is particularly important in the lifting thereof. The CPRA itself requires that in order to lift the period of suspension, the lawyer shall file a Sworn Statement to this Court as proof of his or her willful compliance to this Court's directive for the entire period of the suspension. Such Sworn Statement is a condition *sine qua non* and serves as proof for the lawyer to resume the practice of law. As detailed by Canon VI, Sections 45 and 46 of the CPRA:

SECTION 45. Sworn statement after service of suspension. —

Upon the expiration of the period of suspension from the practice of law, the lawyer shall file a Sworn Statement with the Supreme Court, through the Office of the Bar Confidant, to show that the petitioner, during the period of suspension:

SECTION 39. Manner of imposition. — If one (1) or more aggravating circumstances and no mitigating circumstances are present, the Supreme Court may impose the penalties of suspension or fine for a period or amount not exceeding double of the maximum prescribed under this Rule. The Supreme Court may, in its discretion, impose the penalty of disbarment depending on the number and gravity of the aggravating circumstances.

⁶⁸ A.C. No. 11032, January 10, 2023 [Per J. Zalameda, *En Banc*].

⁶⁹ *Id.* (Emphasis supplied)

⁷⁰ *Jacobia v. Atty. Panganiban*, 871 Phil. 33, 43 (2020) [Per J. Perlas-Bernabe, *En Banc*].

- (a) has not appeared before any court, tribunal or other government agency, whether in respect of current, former or prospective clients;
- (b) has not signed or filed any pleading or other court submission;
- (c) has duly informed his or her clients, law firm, law school where the lawyer is teaching, legal clinic, or other legal service organization of which he or she is a member, regarding the suspension; and
- (d) has not otherwise performed any act, directly or indirectly, that amounts to the practice of law.

The Sworn Statement shall state the date of the lawyer's receipt of the order, decision or resolution imposing the penalty of suspension, as well as a list of the lawyer's engagements affected by the suspension, indicating the relevant court, tribunal or other government agency, if any.

Copies of the Sworn Statement shall be furnished to the Local Chapter of the IBP, to the Executive Judge of the courts where the suspended lawyer has pending cases handled by him or her, and/or where he or she has appeared as counsel.

SECTION 46. Resumption of practice of law. — The Sworn Statement shall be considered as proof of the suspended lawyer's compliance with the order of suspension. Such lawyer shall be allowed to resume the practice of law upon the filing of the Sworn Statement before the Supreme Court.

However, any false statement in the Sworn Statement shall be a ground for a complaint for disbarment.

Within five (5) days from the filing of the Sworn Statement and the Office of the Bar Confidant determines that there is a false statement stated therein, it shall refer the same to the Court for its immediate action.

The sufficiency of the submission of a Sworn Statement to signal the end of the suspension was affirmed in *Brillantes*. Consistent with the precedent set in *Maniago v. Atty. De Dios*,⁷¹ this Court put to rest its previous rulings that required independent proof of compliance by finally declaring that the "submission of a sworn certificate of suspension shall be deemed sufficient compliance" to enable lawyers to return to the practice of law.⁷² Thus, the submission of supporting certifications from other bodies, such as the IBP, the courts, and other quasi-judicial agencies, are now optional, the non-submission of which shall not hamper their resumption of practice.

⁷¹ 631 Phil. 139 (2010) [Per J. Nachura, *En Banc*].

⁷² Re: Order dated 01 October 2015 in Crim. Case No. 15-318727-34, Regional Trial Court (RTC), Branch 49, Manila, against Atty. Severo L. Brillantes A.C. No. 11032, January 10, 2023 [Per J. Zalameda, *En Banc*].

Concomitantly, in making supporting certifications optional, this Court took stock of the present reality that the application and processing of such certifications have resulted in prolonging the suspension of requesting lawyers.⁷³ Ultimately then, this Court liberalized and therefore eased the lifting of a lawyer's suspension—that while their professional indiscretions are not tolerated, it did not make disciplinary sanctions disproportionately burdensome, by ensuring that “a lawyer may not be deprived of the freedom and right to exercise his profession unreasonably.”⁷⁴

In equal measure, this Court shall apply the same reasoning in determining the reckoning period for the suspension to commence. While the *Brillantes* guidelines established that the period of suspension shall be effective upon receipt of the order by the respondent lawyer, certain situations that may otherwise occur were left unaccounted for. For instance, as in the case at bench, Atty. Baleros, after exhaustive efforts of the IBP, was discovered to have moved to another country without leaving any forwarding address or means to contact her.

Clearly, the literal interpretation of *Brillantes* finds no application in such a situation. As such, the guidelines may be rendered ineffective in the face of present realities and other analogous conditions. At the same time, this non-application should not operate as to allow Atty. Baleros to evade suspension. Besides, no law or statute provides that the penalties against a lawyer cannot be imposed if the latter is considered inactive in the practice of law in this jurisdiction by any reason, or as applied to this case, moving to another country. Therefore, despite being out of reach, the fact remains that Atty. Baleros continues to be a member of the legal profession, thus subject to this Court's disciplinary authority. As emphasized in *Ang v. Atty. Belaro*:⁷⁵

[This] is in accordance with the Court's power to call upon a member of the Bar to account for his actuations as an officer of the Court in order to preserve the purity of the legal profession and the proper and honest administration of justice. The Court may therefore strip off the profession of members or impose other forms of sanctions upon them who by their misconduct have proved themselves no longer worthy to be entrusted with the duties and responsibilities pertaining to the office of an attorney.⁷⁶

On this score, this legal lacuna warrants that this Court carve out additional guidelines to provide for unforeseeable circumstances, as in this case. Hence, when a respondent lawyer who has been meted out the penalty of suspension cannot be located and whose whereabouts are unknown despite diligent efforts and having utilized different avenues, **this Court shall construe the phrase “upon receipt thereof by the respondent**

⁷³ *Id.*

⁷⁴ *Id.* (Citation omitted)

⁷⁵ 867 Phil. 917 (2019) [Per J. Hernando, Second Division].

⁷⁶ *Id.* at 935.

lawyer” under the *Brillantes* guidelines to also mean constructive receipt.

Stated otherwise, the decision or resolution imposing suspension shall be deemed received upon service to the respondent lawyer’s address as manifested with the IBP, if after diligent and exhaustive efforts from the IBP and other concerned authorities, the latter’s whereabouts remain unknown, or if the lawyer, by his or her own fault, failed to update his or her address in the official records. Besides, if the service of notice on the office or residential address appearing in the IBP records is considered sufficient to apprise a lawyer of the administrative proceedings against him or her as in *Stemmerik*,⁷⁷ the same logic should necessarily be applied in determining the commencement of the period of suspension.

As a last point, lest this Court be believed to hamper procedural due process, this new rule on constructive receipt also requires that the decision or resolution imposing suspension should be sent **at least twice** to the address of the lawyer as found in his or her official records with the IBP. In this case, such notice was sent *thrice* to Atty. Baleros, but to no avail.

To close, lawyers may not benefit from their own inadvertence which may work to allow them to escape disciplinary action. Verily, the commencement of the penalty must be placed beyond the power of the erring lawyer and should not be made dependent on his or her convenience. As already forewarned in *Vill Transport Service, Inc. v. Court of Appeals*,⁷⁸ “a lawyer should so arrange matters that official and judicial communications sent by mail will reach [them] promptly and should [they] fail to do so, not only [them] but [their] client as well, must suffer the consequence of [their] negligence.”⁷⁹

ACCORDINGLY, respondent Atty. Cora Jane P. Baleros is found **GUILTY** of violating the 2004 Rules on Notarial Practice and Canon VI of the Code of Professional Responsibility and Accountability. Accordingly, this Court imposes the following sanctions against her:

1. **SUSPENSION** from the practice of law for a period of two years effective upon receipt in accordance with this Decision, after

⁷⁷ 607 Phil. 89 (2009) [Per Curiam, *En Banc*].

⁷⁸ 271 Phil. 25 (1991) [Per J. Fernan, Third Division].

⁷⁹ *Id.* at 32.


service on her address as manifested in the official records of the IBP;

2. **REVOCA**TION of notarial commission, *if existing*; and
3. **PERMANENT DISQUALIFICATION** from being commissioned as a notary public, effective immediately, for violation of the 2004 Rules on Notarial Practice

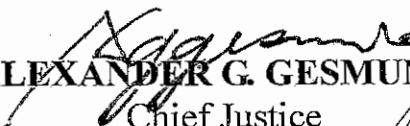
Respondent Atty. Cora Jane P. Baleros is likewise **STERNLY WARNED** that a repetition of the same or similar act in the future will be dealt with more severely.

Let copies of this Decision be furnished to the Office of the Bar Confidant to be attached to the personal record of respondent Atty. Cora Jane P. Baleros; the Office of the Court Administrator for dissemination to all lower courts; and the Integrated Bar of the Philippines, for proper guidance and information.

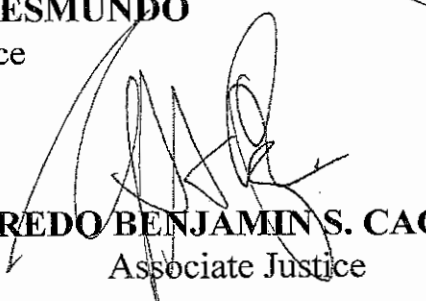
SO ORDERED.

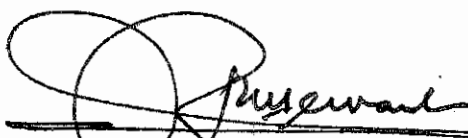

JHOSEPY V. LOPEZ
 Associate Justice

WE CONCUR:



ALEXANDER G. GESMUNDO
 Chief Justice


MARVIC M.V.F. LEONEN
 Senior Associate Justice



ALFREDO BENJAMIN S. CAGUIOA
 Associate Justice


RAMON PAUL L. HERNANDO
 Associate Justice

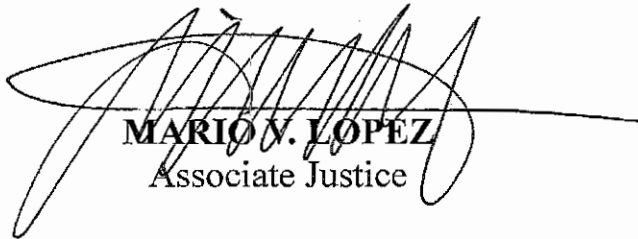
on official business
AMY C. LAZARO-JAVIER
 Associate Justice



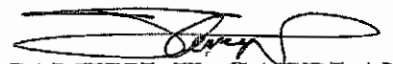
HENRI JEAN PAUL B. INTING
Associate Justice



RODIL V. ZALAMEDA
Associate Justice



MARIO N. LOPEZ
Associate Justice




SAMUEL H. GAERLAN
Associate Justice



RICARDO R. ROSARIO
Associate Justice

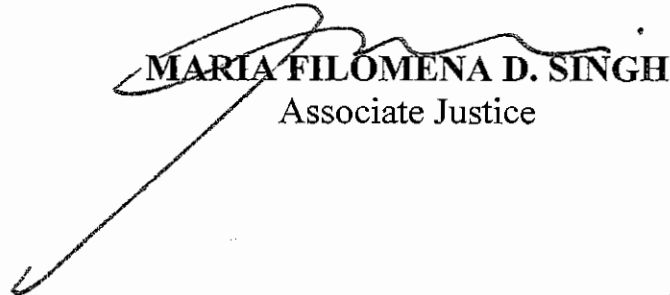
on official business
JAPAR B. DIMAAMPAO
Associate Justice



JOSE MIDAS P. MARQUEZ
Associate Justice



ANTONIO T. KHO, JR.
Associate Justice



MARIA FILOMENA D. SINGH
Associate Justice